

## THE RE-EMERGENCE OF 'REFLECTION': CAUTIOUS NEW STEPS FOR THE TREATY BODY SYSTEM IN 2009

### INTRODUCTION

2009 was an eventful year for the treaty bodies. There was expansion in the ranks with the first meeting of the Committee on the Rights of Persons with Disabilities (CRPD) in February 2009, and an extension of the international legal framework through the opening for signature of the optional protocol to the *International Covenant on Economic, Social and Cultural Rights* in September 2009. 2009 also marked the 30th anniversary of the entering into force of the *Convention on the Elimination of Discrimination against Women* and the 10th anniversary of its optional protocol. While backlogs in reporting and scarcities of resources continued to affect the system's functioning, many treaty bodies also made significant advances in their own working methods, including in relation to drafting lists of issues, the development of media strategies, and strengthening follow-up. Many also adopted important general comments in 2009 that contribute to the development of international human rights law standards, including in relation to the scope of non-discrimination and the meaning of 'special measures', among others.

Nonetheless, the treaty body system continued to struggle with issues of cohesion, and although

the Inter-Committee Meeting of treaty bodies (ICM) finally acted on a long-standing recommendation to convene a working group on follow-up to concluding observations, generally the ICM continued to fall short of requirements. It was therefore timely that a new initiative to reinvigorate the debate on treaty body reform took place outside of the UN in Dublin in November 2009, and that present and former treaty body members were at the forefront of this effort to look at broader reform outside of the confines of simple harmonisation. It was also promising to see that the new High Commissioner for Human Rights (the High Commissioner) continued in her second year to give high priority to improving the treaty body system. While a small number of States made aggressive noises pertaining to the independence and transparency of certain treaty bodies, and while the outcomes of the Dublin meeting offered no clear indication of next steps, there is nonetheless reason to be cautiously optimistic that momentum is gathering to strengthen the system of treaty bodies in 2010 and the coming years.

## HIGHLIGHTS OF THE WORK OF TREATY BODIES IN 2009

The **Committee on the Rights of Persons with Disabilities** met for the first time in Geneva in February 2009. It did not get off to a good start, unfortunately, with lengthy disagreements over the appointment of the Committee's first chairperson at the expense of time that should have been used to develop the Committee's rules of procedure. Nor did it contribute to a good working atmosphere within the Committee. On a more positive note, the sessions of the Committee were also notable for the large and very high-quality participation of NGOs working on the rights of persons with disabilities, many of which had not previously engaged with the UN human rights system. This raises expectations of better engagement of these organisations with the treaty bodies as a whole.<sup>1</sup> At the close of 2009, the Committee had yet to conclude the drafting of its rules and working methods, but it had at least managed to adopt its reporting guidelines for State parties.<sup>2</sup> The Committee is hopeful that it may begin considering State reports in late 2010.

Committees had very different experiences in 2009 in relation to **backlogs** of reports awaiting examination. The Committee on the Elimination of Discrimination against Women (CEDAW), which had suffered from major congestion in previous years, clarified in its report to the General Assembly that this had now been overcome through 'using efficient working methods, including time management'.<sup>3</sup> However, the Committee on the Elimination of Racial Discrimination (CERD) and the Committee on the Rights of the Child (CRC) found themselves in the opposite position. The CRC now has a backlog in excess of 100 reports, and decided therefore in 2009 that it would revert to functioning in two separate chambers in 2010. Rather than split its examinations, CERD instead decided that it would extend its sessions to four weeks in 2010. This will allow the Committee to examine three to four additional States per session in 2010. All of the above, of course, puts considerable strain on already overstretched human resources in the Office of the High Commissioner for Human Rights (OHCHR), further exacerbated by the competing demands of the universal periodic review (UPR).

How committees deal with **long-overdue reports** from States also remained an issue in 2009, although a number of Committees made concerted efforts to encourage submissions. This included, in the case of the Human Rights Committee (HRC), a decision to table the review of one long-overdue State per session. The expectation is that States will have sufficient time from the date of notification of review to submit information to the Committee and/or written responses to the Committee's list of issues. CEDAW also took the initiative of examining Dominica in the absence of a national report or any written responses to the Committee's list of issues, although the State did present a delegation, as the Committee had still not received Dominica's initial report, due in 1980. CERD also examined Kuwait and the Maldives in closed sessions in August 2009 in the absence of State reports.

The treaty bodies have also collectively experienced an increase in the **absence of States from examinations**. 2009 was unprecedented for the fact that Chad was requested to appear before five separate committees in one year, as well as the UPR. While such demands would have been difficult for the most well-resourced of States to honour, it proved impossible for one of the world's least developed countries.<sup>4</sup> Chad was forced to postpone its Human Rights Committee examination in March and was examined in the absence of a delegation by the Committee on Economic, Social and Cultural Rights (CESCR) in November. This scenario raised questions about the level of coordination within OHCHR, and why examinations of Chad were not more reasonably staggered to give due regard to the State's resources. Other States that had a busy year in Geneva included Azerbaijan (CMW, CAT, CERD, HRC and UPR), Chile (CERD, CAT and UPR) and the Democratic Republic of the Congo (CESCR, CRC and UPR).

Different difficulties arose in the case of the non-appearance of Yemen before the Committee against Torture (CAT). The first related to the rationale of the State that it need not appear before the Committee as it had already taken part in the UPR in February 2009, which raises concern about certain States' priorities and the differences between the nature of treaty body examinations and peer reviews. This then led to a disagreement within the Committee about

<sup>1</sup> This was already noted by the Committee on the Elimination of Discrimination against Women secretariat in a meeting with NGOs on 19 January 2010.

<sup>2</sup> CRPD/C/2/3, available at [www.ohchr.org/Documents/HRBodies/CRPD/CRPD-C-2-3.pdf](http://www.ohchr.org/Documents/HRBodies/CRPD/CRPD-C-2-3.pdf).

<sup>3</sup> A/64/342, 8 September 2009, Para. 55.

<sup>4</sup> Human Development Index 2007/2008 ranking: 170 out of 177. See [www.unohrls.org/en/orphan/331/](http://www.unohrls.org/en/orphan/331/).

the practice of examining a State in the absence of the delegation, with Committee member Mr Wang insisting that doing so would prevent the Committee from engaging in a proper dialogue with Yemen. Despite it being made clear by Committee member Ms Gaer that there is no provision in the *Convention against Torture* requiring the Committee to engage in a dialogue with the State party at all, but rather that the Committee considers reports in the presence of State parties as a courtesy, Mr Wang nonetheless refused to take part in the examination. This did not reflect well on the competency of the Committee against Torture as a whole.

### States' responses to the work of treaty bodies in 2009

2009 also witnessed increased scrutiny on the part of State parties of the work of the Committees. The annual meeting of State parties with the Committee against Torture in May 2009 was particularly notable, as China retaliated to what was an uncomfortable examination for them in November 2008. The issue of the Committee's transparency dominated the discussion, with China and Egypt questioning the transparency of nomination of country rapporteurs (the latter particularly in relation to Israel) and challenging the role of NGOs in the reporting process. China raised the problem of using reports from NGOs which allegedly 'distort facts and spread lies to pursue a hidden political agenda', and sought an explanation of how the Committee assessed the validity of NGO reports 'in order to be convinced of CAT's independence'. Algeria also considered that the Committee should provide an explanation of how it arrived at its conclusions, including publishing the dissenting views of individual members.

The Human Rights Committee faced similar criticism from the Russian Federation during the ICM in December 2009. It alleged that the Committee had ignored views of the delegation, provided 'unacceptable politicised and biased concluding observations' which 'can undermine the cooperation between the Committee and States parties', including inserting recommendations related to one specific group that do not relate to the Covenant (not directly referenced but most likely related to sexual orientation),<sup>5</sup> and relied

on NGO information that called into question the independence of the Committee. Such antagonism was also evident in States' responses to the content of new general comments, as discussed below.

Likewise, a number of States used the meeting of the ICM with State parties to stress that committees should avoid the use of NGO information that is 'politically motivated and unreliable',<sup>6</sup> while Egypt called into question whether independence and integrity was always met when experts are elected by States.

### General comments

2009 was a relatively busy year for the drafting and adoption of general comments by treaty bodies. CERD finally changed its terminology from 'general recommendations' to 'general comments' following a recommendation on harmonisation from the ICM,<sup>7</sup> and adopted an important lengthy general comment on the meaning and scope of special measures in the Convention. This was interesting also in its referencing during the drafting of CEDAW's General Recommendation No. 25 on temporary special measures.<sup>8</sup> CERD also took advantage of developments elsewhere in 2009 to draft a general comment on follow-up to the Durban Review Conference, calling on States to be mindful of the *Durban Declaration and Programme of Action* when implementing the Convention, and vice versa. It also contained the first reference in a general comment to the UPR, recommending that 'States include in their national reports to the universal periodic review mechanism of the Human Rights Council information on measures to prevent and combat racism, racial discrimination, xenophobia and related intolerance'.

CESCR adopted comments on the right to culture (No. 21) and on non-discrimination (No. 20). The latter was notable, among other important contributions, for its **express recognition of sexual orientation as grounds of discrimination**, drawn from ICESCR Article 2(2)'s reference to 'other status'.<sup>9</sup> This immediately met with stiff response from a number of States, including for example South Africa, which claimed that 'comments adopted by experts but not adopted at GA levels are not legally binding. These sources

<sup>5</sup> ISHR notes from Inter-Committee Meeting, 30 November 2009.

<sup>6</sup> Pakistan, Algeria, China, the Russian Federation.

<sup>7</sup> CEDAW, however, has yet to do so.

<sup>8</sup> General Recommendation No. 25, 30th session, 2004, Article 4(1) - temporary special measures, available at [www.un.org/womenwatch/daw/cedaw/recommendations/General%20recommendation%2025%20\(English\).pdf](http://www.un.org/womenwatch/daw/cedaw/recommendations/General%20recommendation%2025%20(English).pdf). Note that CEDAW has yet to change the name 'general recommendations' to 'general comments'.

<sup>9</sup> See E/C.12/GC/20, 10 June 2009, Paras 11 and 32: 'States parties should ensure that a person's sexual orientation is not a barrier to realising Covenant rights, for example, in accessing survivor's pension rights. In addition, gender identity is recognized as among the prohibited grounds of discrimination'.

cause controversy because of the manner in which these principles have been imposed on the international human rights system.’<sup>10</sup>

The Human Rights Committee finalised its general comment on the obligations of State parties under the optional protocol in 2008 and began the first reading of a timely new general comment on freedom of expression in October 2009. However, there were already indications that Egypt and the United States (the US), joint sponsors of the Human Rights Council Resolution on freedom of expression,<sup>11</sup> were unhappy with the Committee’s decision to progress on this topic. The US in particular has given little support to the need for new principles in the area, claiming that more empirical research is needed, and that, in relation to general comments as whole, it was ‘only up to States Parties to interpret the legal provisions to which they voluntarily acceded’.

The Committee on the Rights of the Child also adopted two general comments on the right of the child to be heard and on indigenous children,<sup>12</sup> while the Committee on Migrant Workers (CMW) sought input and recommendations for its forthcoming General Comment on migrant domestic workers.<sup>13</sup>

The culture of widening distrust among States was even more apparent in New York around the **General Assembly’s standard resolution on the international covenants**, where the resolution was put to a vote for the first time in 40 years. The first challenge arose in the 3rd Committee, where the African Group sought to remove reference to ‘taking note’ of the new general comments of the Human Rights Committee and CESCR. The vote on removing the General Comment on State responsibilities to report under the optional protocol of the Human Rights Committee was successful, by one vote,<sup>14</sup> and the vote to remove reference to CESCR’s General Comment on non-discrimination was defeated, also only by one vote.<sup>15</sup> However, the resolution was then subjected to oral amendments in the General Assembly plenary, introduced by Iraq (on behalf of the Arab Group) to remove reference to CESCR’s General Comment on non-discrimination as it made reference to sexual orientation. This time it passed by four votes (76 in favour; 72 against; 26 abstentions).

Finland, as core sponsor of this traditional resolution, expressed serious regret that the Arab Group’s amendments sent a message of ‘strong mistrust’ by the General Assembly in the work of the experts on the treaty bodies, and had nothing to do with procedural matters, as is the purpose of the resolution. It was left to ask rhetorically whether the General Assembly was prepared to say that it could not recognise such a fundamental articulation of the need to tackle all forms of discrimination.

### Reporting guidelines and the ‘list of issues’

Another area of developing harmonisation following discussions within the ICM related to discussions in the Human Rights Committee on **revised reporting guidelines**. The Committee is giving serious consideration to following the example of the Committee against Torture’s new optional reporting procedure,<sup>16</sup> which consists of the preparation and adoption of **lists of issues** to be transmitted to State parties prior to the submission of their respective periodic report, whereby the State’s written responses to the list of issues would then constitute the official State report. CAT agreed in May 2009 to pursue this approach on a regular basis and has to date drafted initial lists of issues for 19 States.<sup>17</sup> It received its first response from Turkey in June 2009, plus four others in 2009,<sup>18</sup> and will conduct its first examinations on this basis in November 2010.

While there was general support within the Human Rights Committee to adopt this approach, concerns were also raised, including the increased workload in drafting the list of issues in the absence of a report and the increased difficulty for NGOs and other stakeholders to know when to submit information (a problem which CAT has now recognised). Because of this concern, it was suggested that NGOs should be given an opportunity to provide their views about the proposed model before its implementation. In the alternative, some members raised concerns that the new procedure, by concentrating on a list of questions sent prior to the submission of the report, opened the Committee up to the risk of being accused of relying on ‘outside sources’, whereas the Committee tra-

<sup>10</sup> These comments were made at the ICM of June 2009, which also included that ‘...sources which are not accepted by the UN member States create problems especially if these sources are a basis for the general comments made.’ See ISHR report on 9th Inter Committee Meeting, June 2009, at [www.ishr.ch/component/docman/doc\\_download/439-ishr-report-on-the-9th-inter-committee-meeting-and-21st-meeting-of-chairpersons-of-treaty-bodies](http://www.ishr.ch/component/docman/doc_download/439-ishr-report-on-the-9th-inter-committee-meeting-and-21st-meeting-of-chairpersons-of-treaty-bodies).

<sup>11</sup> A/HRC/12/L.14/Rev.1, 30 October 2009. See chapter on the Human Rights Council in the present edition, pp. 9-31.

<sup>12</sup> Available at [www2.ohchr.org/english/bodies/crc/comments.htm](http://www2.ohchr.org/english/bodies/crc/comments.htm).

<sup>13</sup> See [www2.ohchr.org/english/bodies/cmw/cmw\\_migrant\\_domestic\\_workers.htm](http://www2.ohchr.org/english/bodies/cmw/cmw_migrant_domestic_workers.htm).

<sup>14</sup> Recorded vote on amendment to operative paragraph 9 of draft resolution A/C.3/64/L.22, available at [www.un.org/ga/3rd/64/votingsheets.shtml](http://www.un.org/ga/3rd/64/votingsheets.shtml).

<sup>15</sup> Recorded vote on amendment to operative paragraph 10 of draft resolution A/C.3/64/L.22, *ibid*.

<sup>16</sup> A/62/44, Paras 23 and 24.

<sup>17</sup> See [www2.ohchr.org/english/bodies/cat/reporting-procedure.htm](http://www2.ohchr.org/english/bodies/cat/reporting-procedure.htm).

<sup>18</sup> See [www2.ohchr.org/english/bodies/cat/reports2009.htm](http://www2.ohchr.org/english/bodies/cat/reports2009.htm).

ditionally bases its consideration on information furnished by the State party. Nonetheless, the Committee has 'agreed to move forward with the new streamlined procedure' and requested that Committee member Ms Keller 'draft a short clarifying text for submission to the Committee at its next session' responding to concerns expressed throughout the discussions.<sup>19</sup>

### Inter-Committee Meetings and Meeting of Chairpersons

The ICM took place in both June and December 2009 for three days each, while the Annual Meeting of Chairpersons of the Human Rights Treaty Bodies took place on 2-3 July 2009. The ICM continued to struggle to find direction in the June meeting, not helped by the lack of available documentation prior to the meeting, the absence of a published programme of work, and loose chairpersonship throughout the meeting.<sup>20</sup> The problem of a changeover in representatives also meant that there was a lot of repetition in the content of discussions. Unstructured discussions took place around the identity and role of the country rapporteur or task force, the standardisation of terminology, cross-referencing the work of other treaty bodies, more effective cooperation with the Human Rights Council and the UPR, engagement with civil society, and the role of the ICM itself.

Concrete outcomes from the 9th meeting of the ICM focused on future processes rather than the present and included that: the ICM would revert back to meeting once a year, with the attendance of the chair and one additional member of each treaty body; committees would appoint one mandate holder to assess follow-up to concluding observations on the basis of information received, and that each committee should provide an assessment of their current follow-up; that a sub-group on follow-up to individual communications also be set up and that individual communications be published in a regular and systematic way. The 10th meeting of the ICM then focused on the question of follow-up almost exclusively, dispensing with the scheduled discussion on the UPR, and was better served in doing so. Various committee members explained their approach and committed to looking at ways to reach harmonisation in relation to follow-up.

The most telling critique of the ICM's lack of institutional memory, however, occurred when the 10th ICM debated the relative merits of establishing a Working Group on follow-up to concluding observations for two hours, when finally a member interjected that he felt that such a decision had already been made by the ICM in a previous meeting and that it had never been acted upon. The secretariat did not appear to be in a position to verify this, and so was dispatched to find out. It was then eventually clarified that the ICM had in fact agreed at its 8th meeting in December 2008 'that a working group/task force on follow-up to concluding observations be established inter-sessionally' and that this had been reiterated in the recommendations of the 9th meeting in June 2009 also. However, nothing had been done and only one committee member in the room in December 2009 appeared to be aware that these discussions and recommendations had taken place.

While the ICM had taken a positive decision in December 2009 to change the structure of meetings so that non-governmental organisations (NGOs) would be entitled to take the floor at any time during future ICM meetings, the quality of interaction between the ICM and NGOs nonetheless diminished from the previous year. NGOs submitted an updated paper to the 9th meeting in June 2009<sup>21</sup> addressing all issues on the agenda of the meeting, with a strong focus on harmonisation of working methods related to NGO participation in the work of the treaty bodies, including NGO participation before, during and after the consideration of a State party report, individual communications and inquiry procedures, general comments, and follow-up to the implementation of concluding observations. This paper was presented by the Centre for Civil and Political Rights, and OHCHR responded that issues such as a master calendar and webcasting of sessions were already underway.<sup>22</sup> However, the ICM spent more time discussing whether or not they should discuss the NGO paper, than actually addressing its content. When it did touch on contributions by NGOs, members focused on the review of States in the absence of reports and the issue of confidentiality of NGO submissions. There were no definitive outcomes or recommendations related to the submissions of NGOs from the 9th meeting. At the December meeting the group of NGOs therefore decided to reiterate the call for members to

<sup>19</sup> See press release at [www.unog.ch/unog/website/news\\_media.nsf/\(httpNewsByYear\\_en\)/60605A9080884E70C125765E003E02F9?OpenDocument](http://www.unog.ch/unog/website/news_media.nsf/(httpNewsByYear_en)/60605A9080884E70C125765E003E02F9?OpenDocument).

<sup>20</sup> The summary report and recommendations of the previous ICM meeting, for example, was not available until the day before the June meeting. OHCHR has since explained to committee members that the ICM is not separately funded and so all resources have to be drawn from OHCHR's core budget, which makes it difficult to fulfill requirements for the meeting.

<sup>21</sup> 9th Inter Committee Meeting and 21st Meeting of Treaty Body Chairpersons, 29 June to 2 July 2009, contribution by NGOs, available at [www.ishr.ch/component/docman/doc\\_download/437-joint-ngo-submission-to-9th-inter-committee-meeting](http://www.ishr.ch/component/docman/doc_download/437-joint-ngo-submission-to-9th-inter-committee-meeting). NGOs represented were Alkarama for Human Rights, Amnesty International, ARC International, Association for the Prevention of Torture, Centre for Civil and Political Rights, Human Rights House Network, International Disability Alliance, International Federation of Action by Christians for the Abolition of Torture, International Federation for Human Rights, International Service for Human Rights, International Women's Rights Action Watch, International Women's Rights Action Watch Asia Pacific, Mental Disability Advocacy Centre, NGO Group for the Convention on the Rights of the Child, the Quaker UN Office, Save the Children, and the World Organization against Torture.

<sup>22</sup> There is yet any development on these recommendations at the time of writing, January 2010.

consider the previous recommendations, all outstanding. In this instance, there was little to no response to NGO engagement beyond welcoming its existence in the broadest possible terms.

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### The Dublin statement

The most significant development related to reform of the UN treaty body system took place in Dublin on 18 and 19 November 2009. At the initiative of the University of Nottingham, over 20 present and former members of the treaty bodies were invited to consider how best to move forward in strengthening the treaty body system following the last attempt by the former High Commissioner in 2006. The Dublin meeting was also attended by the current High Commissioner, who presented her views on what she saw as the two challenges of resources and coherence, and she considered that treaty body experts were 'optimally placed to initiate such reflection and achieve the requisite balance between specificity of tasks and coherence of outcome'. The outcome of the meeting was the 'Dublin Statement on the Process of Strengthening of the United Nations Human Rights Treaty Body System', which was signed by the participants to the meeting. The statement recognised the need for strengthening the treaty body system beyond simply harmonising working methods in order to enhance protection of human rights at the national level. It noted that reform needed to be a continual process involving all stakeholders at multiple levels, and that the treaty bodies act as a 'central anchor'. It also called on States and NGOs to multilaterally consider reform proposals. It finally called on the High Commissioner to 'facilitate consultation among them with a view to devising a process to develop specific proposals for the strengthening of the treaty body system'.

OHCHR convened a briefing for NGOs in Geneva on 15 December 2009 'to exchange views on the process to strengthen the treaty body system', although no summary was provided of the content of the Dublin meeting or the statement, as was expected. The Head of the Treaty Bodies Branch, Mr Ibrahim Salama, also went to great lengths to clarify that this was not an OHCHR initiative, but that OHCHR would act as a repository for proposals deriving from future consultations conducted by all stakehold-

ers. He did, however, consider that collected information may be presented to the ICM as the appropriate forum for decisions on reform. The main concern expressed by NGOs present was that the process appeared to be so open-ended, and OHCHR appeared reluctant to be seen as driving the process, that it was difficult to see where any proposals would go and what would be done with them. Thus, perversely, the process would have the 'effect of creating additional and cumbersome layers', which is precisely contrary to what it is intended to do. These concerns were not adequately addressed in the briefing, and so NGOs will need to consider in 2010 to what degree investment is merited in a process that presently appears to lack ownership or direction.

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### CONSIDERATION OF COUNTRY REPORTS

The section below provides a brief summary of the examination of States by the treaty bodies during 2009, focusing on the issues that were discussed by the committees in their dialogue with State parties. There are limited references to the concluding observations of the treaty bodies, and the summaries are selective rather than exhaustive. ISHR has also produced online reports on the work of the treaty bodies in 2009 (with the exception of the Committee on the Rights of the Child, which is monitored by the NGO Group for the Convention on the Rights of the Child) that contain more detailed information on the examination of States.<sup>23</sup>

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#### Armenia

Armenia appeared before CEDAW in January 2009.<sup>24</sup> An active dialogue occurred between the Committee and the Armenian delegation (composed of women only as the male head of the delegation left ten minutes into the session). The discussion mainly focused on the following issues: the lack of visibility of the Convention and limited awareness among women of their rights; the weak institutional machinery dealing with gender issues; the delegation's weak understanding of the difference between formal

23

These reports can be accessed under the relevant committee and session at [www.ishr.ch/treaty\\_body\\_monitor](http://www.ishr.ch/treaty_body_monitor). All of the relevant State reports, lists of issues, and concluding observations of the treaty bodies can be accessed by visiting [www.ohchr.org](http://www.ohchr.org) and following these links: 'Human rights bodies', [choose the relevant treaty body], 'Sessions'. The number of the session can be cross-referenced from this chapter.

24

Armenia's 3rd and 4th periodic reports, 43rd session of CEDAW. NGO reports were submitted by the Armenian Association of Women with University Education (AAWUE) and Democracy Today and All Armenian Union of Women. These reports as well as the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cedaw/cedaws43.htm](http://www2.ohchr.org/english/bodies/cedaw/cedaws43.htm).

equality and substantive equality between men and women; the Government's misunderstanding of the difference between temporary special measures and special measures; the omission of information on domestic violence from the State report; the use of abortion as a means of family planning, a subject of concern for the Committee at the previous examination; the weak participation and under-representation of women in politics; the national security approach to trafficking; the feminisation of poverty; the high infant mortality rate; and the unequal marital age for women and men that had also been raised at the previous examination.

It appeared that the State has engaged in an energetic policy to put its legislation and national plans in line with the Convention, but that its vision of equality between men and women still needed to evolve to go beyond gender neutrality, as advocated by some members of the delegation. The Committee decided to request information, within two years, on recommendations relating to lack of adequate national machinery for the advancement of women in Armenia, and the need to adopt comprehensive measures to eliminate all forms of violence against women.

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## Australia

Australia appeared before the HRC in March 2009.<sup>25</sup> The relatively small delegation, led by the Ambassador to the UN in New York Mr Andrew Golezdzinowski, engaged in a constructive dialogue with the Committee and indicated a new more positive approach to dealing with UN treaty body reviews. However, there were still major areas of disagreement between the Committee and the delegation and the Committee explicitly expressed its discontent with the limited specificity of information contained in the State report. Among the key issues addressed during the interactive dialogue were: the lack of direct domestic application and enforceability of the Covenant under Australian law and Australia's reservations to the Covenant; torture, especially in relation to the use of evidence obtained through torture, *refoulement*, and the use of diplomatic assurances; extradition of citizens to countries where they might face the death penalty; counter-terrorism related detention practices, including prolonged periods of detention

on remand and the use of solitary confinement and incommunicado detention; detention practices for migrants and asylum seekers; treatment of indigenous peoples and possible initiatives for reparations for previous human rights violations; and concern over lack of a comprehensive non-discrimination law.

The Committee decided to request information, within one year, on recommendations relating to the following issues: counter-terrorism related legislation and practices including the definition of terrorist and various detention practices; the need to redesign the Northern Territory Emergency Response (NTER) measures to avoid discrimination and conflict with the Covenant; violence against women; and detention practices for migrants and asylum seekers.

Australia was examined by CESCR in May 2009.<sup>26</sup> The delegation was led by Ms Caroline Millar, Ambassador and Permanent Representative to the UN, and included representatives from the Department of Families, Housing, Community Services and Indigenous Affairs, the Department of Foreign Affairs and Trade, the Australian delegation to the OECD, and the Permanent Mission to the UN. The delegation generally engaged constructively in the review and strived to provide detailed answers to the Committee's questions.

The Committee tended not to draw from its list of issues to Australia. Several Committee members highlighted the limitations of the current legal framework to protect economic, social and cultural rights and criticised the fact that the Covenant is not fully incorporated into domestic law. Another key focus for the Committee was the enjoyment of economic and social rights of indigenous peoples and the need to promote their empowerment to assert these rights. Among the other key issues addressed during the review were: an increase in homelessness; realisation of workers' rights, particularly in relation to restrictions and inconsistencies concerning the right to strike; lack of appropriate mental health services for indigenous peoples, people in detention centres and general health services for prisoners; shortcomings in the social security system and the need to ensure universal coverage encompassing asylum seekers, immigrants and indigenous peoples; the high incidence of domestic violence; the lack of increase in devel-

25  
Australia's 5th periodic report, 95th session of HRC. NGO reports were submitted by Amnesty International, Conscience and Peace Tax International, Human Rights Law Resource Centre, ICAN, International Human Rights Law Society of Indiana University School of Law-Indianapolis, National Association of Community Legal Centres, New South Wales Council for Civil Liberties, Law Council of Australia. These reports and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/hrc/hrcs95.htm](http://www2.ohchr.org/english/bodies/hrc/hrcs95.htm).

26  
Australia's 4th periodic report, 42nd session of CESCR. NGO reports were submitted by Freedom Respect Equality Dignity, Global Initiative to End All Corporal Punishment of Children, National Aboriginal Community Controlled Health Organisation, Human Rights Law Resource Centre Ltd, Freedom, Respect, Equality, Dignity, Amnesty International, World Vision Australia, Australian Human Rights Commission Submission, and Australian Human Rights Commission. These reports and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cescr/cescrs42.htm](http://www2.ohchr.org/english/bodies/cescr/cescrs42.htm).

opment assistance; the persistence of trafficking in human beings; and the high poverty rate despite economic prosperity.

The Committee expressed general concern that Australia did not submit a specific report for the Committee but only provided cross-reference to its common core document.<sup>27</sup> Committee members therefore argued that the report lacked in-depth information, treaty-specific obligations, and contained no information on follow-up to previous concluding observations. Ms Millar acknowledged the concerns regarding the format of the report and pledged to provide the Committee with a separate report rather than simply the common core document for the next review.

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## Azerbaijan

Azerbaijan appeared before **CERD** in August 2009.<sup>28</sup> The very high-level Azerbaijani delegation engaged in a constructive dialogue with the Committee. The Committee paid particular attention to the situation of asylum seekers, refugees, and internally displaced persons (IDPs) and asked questions relating to their enjoyment of economic, social and cultural rights; possible conflicts between the fight against illegal migration and terrorism and the principle of *non-refoulement*; and prejudice of Islamic extremism against irregular migrants. The Committee also raised the following issues: discrimination against the Armenian minority, including the need to protect their language and access to justice; efforts to combat human trafficking; representation of minorities in public life, including Parliament and the police force; the lack of effective enjoyment of economic, social and cultural rights among specific ethnic groups; and the lack of implementation of existing anti-discrimination policies.

The Committee requested information, within one year, on recommendations relating to the following issues: discrimination against asylum seekers, refugees and internally displaced persons in the areas of employment, education, housing and health; effective implementation of a national plan of action against human trafficking; and the need to prevent and combat hostile attitudes against the Armenian population. The Committee also requested that detailed informa-

tion be provided in the next periodic report on the following issues: disparities in the enjoyment of economic, social and cultural rights by certain rural ethnic groups; the need to identify the reasons for a low number of complaints of racial discrimination; and the need for statistical data on the ethnic composition of the population.

The human rights situation in Azerbaijan was examined by the **Human Rights Committee** in July 2009.<sup>29</sup> Azerbaijan was represented by a large, relatively high-level delegation with diverse ministerial representation. The delegation interacted with the Committee in a cooperative manner and almost all members took the floor. However, there was significant overlap among the responses provided by different members of the delegation and it seemed that many responses were not to the satisfaction of Committee members.

The two key issues addressed by the Committee related to freedom of expression and various practices prohibited under the *Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment*. The Committee urged Azerbaijan to put an end to both direct and indirect restrictions on freedom of expression, including through the protection of media workers, removal of restrictions on independent media, and the alignment of defamation legislation with Article 19 of the Covenant. In addressing various torture-related practices, the Committee called for an effective investigation of all complaints of torture and ill-treatment, including through the establishment of independent mechanisms to investigate excessive use of force by the police and monitor places of detentions. This issue gave rise to a rather heated debate between the delegation and several Committee members. Other focus areas included: the excessive number of expulsions from Azerbaijan, especially in relation to the risk of torture in receiving countries; the problems faced by IDPs in obtaining address registration and pursuant entitlement to various social benefits; police harassment based on sexual orientation; irregularities during the 2005 and 2008 elections; and the need to improve measures to eliminate violence against women.

The Committee requested information, within one year, on recommendations relating to: effective protection against *refoulement*; effec-

<sup>27</sup> See E/C.12/AUS/4, 7 January 2008, at [www2.ohchr.org/english/bodies/cescr/cescrs42.htm](http://www2.ohchr.org/english/bodies/cescr/cescrs42.htm).

<sup>28</sup> Azerbaijan's 5th and 6th periodic report, 75th session of CERD. An NGO report was submitted by the Internal Displacement Monitoring Centre. The NGO report and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cerd/cerds75.htm](http://www2.ohchr.org/english/bodies/cerd/cerds75.htm).

<sup>29</sup> Azerbaijan's 3rd periodic report, 96th session of HRC. NGO reports were submitted by Citizens' Labor Rights Protection League, Democracy Monitor, Education on Human Rights Public Association, Norwegian Refugee Council Internal Displacement Monitoring Centre, LGBT, and South Caucasus Network for Human Rights Defenders. These reports and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/hrc/hrcs96.htm](http://www2.ohchr.org/english/bodies/hrc/hrcs96.htm).

tive investigation of all allegations of torture and ill-treatment and the establishment of relevant monitoring mechanisms; elimination of direct and indirect limitations on freedom of expression; and denial of basic rights for IDPs through obstacles to obtaining address registration.

Azerbaijan appeared before the **CMW** in May 2009.<sup>30</sup> While the interactive dialogue was generally constructive, the Committee regretted the lack of information in the State report, which made it difficult for the Committee to conduct an informed review. Nevertheless, it raised a number of key issues, including: the lack of ratification of International Labour Organization conventions protecting migrant workers such as Conventions No. 97, No. 118 and No. 143; the perceived high percentage (90%) of undocumented migrant workers partly due to difficulties in obtaining work permits; the absence of a definition of ‘migrant worker’ reflecting Article 2 of the Convention; the continued existence of burdensome and complex migration procedures; the lack of recognition of the Committee’s competence to receive individual communications; the need to intensify training in and dissemination of the Convention especially targeting relevant migration officials; discrimination against undocumented and irregular migrant workers especially relating to employment, education, and housing; *de facto* limitation of access to justice for undocumented and irregular migrant workers due to lack of awareness; lack of information on protection measures for Azerbaijani migrant workers abroad; the immediate termination of residence permits in case of unemployment; the absence of measures to support the voluntary return of Azerbaijani migrant workers abroad; and the persistence of human trafficking and lack of information on effective measures of prevention.

In his concluding remarks, the Committee’s country rapporteur noted his concern about whether migrants had access to all the rights and benefits set out in part three of the Convention. The Committee had special concern with regards to unemployment, social security, work permits, and education.

Azerbaijan was examined by **CAT** in November 2009.<sup>31</sup> Despite appearing with a large high-level delegation and engaging constructively in the review, Azerbaijan did not manage to provide

the level of detailed information requested by the Committee. Noticeably, the delegation allocated substantive time to providing updates on the status of individual cases, which is a practice rarely seen during CAT reviews. One of the key focus areas of the Committee was the lack of fundamental safeguards to protect detainees against torture. The Committee recommended effective registration of all detainees, prompt access to the right to challenge detention before trial and access to independent legal council and medical examinations. These views were not shared by the delegation.

During the review, the Committee addressed a broad range of issues, including: the inadequate definition of torture under domestic law; concerns over allegations of torture and ill-treatment used for investigatory purposes and the lack of effective investigations into these crimes; the need to ensure independent and effective monitoring of all places of detention and to which extent this is fulfilled by civil society initiatives; domestic violence against women and children and the lack of effective legal protection against such practices; targeting of journalists and human rights defenders in connection with the elections in 2003 and 2005; violations of the principle of *non-refoulement*; the independence of the Ombudsman’s Office and of the judiciary; and conditions in places of detention.

The Committee decided to request information, within one year, on recommendations relating to: violence and ill-treatment of conscripts in the army; prompt, impartial, and effective investigations of all allegations of torture and ill-treatment and an adequate sanctions regime; implementation of all basic legal safeguards for detainees; and independent monitoring of places of detention through an unrestricted right to conduct unimpeded and unannounced visits to all places of detention in the country.

Azerbaijan presented its 4th periodic report during **CEDAW**’s 44th session.<sup>32</sup> Key issues addressed by the Committee were discriminatory laws in a variety of areas, including the age of marriage, pensions, and military service. Also discussed were: the proper use of temporary special measures as presented in Article 4(1) of the Convention; hate speech campaigns on the basis of sexual orientation in the media; discriminatory traditional cultural stereotypes; and a lack

30 Azerbaijan’s initial report, 10th session of CMW. NGO reports were submitted by Citizens’ Labor Rights Protection League and Javadova. NGO reports and the Committee’s concluding observations are available at [www2.ohchr.org/english/bodies/cmw/cmws10.htm](http://www2.ohchr.org/english/bodies/cmw/cmws10.htm).

31 Azerbaijan’s 3rd periodic report, 43rd session of CAT. NGO reports were submitted by South Caucasus Network for Human Rights Defenders, Human Rights House Azerbaijan in Baku, HRCA/FIDH and Education on Human Rights Public Association. These reports and the Committee’s concluding observations are available at [www2.ohchr.org/english/bodies/cat/cats43.htm](http://www2.ohchr.org/english/bodies/cat/cats43.htm).

32 Azerbaijan’s 4th periodic report, 44th session of CEDAW. Concluding observations are available at [www2.ohchr.org/english/bodies/cedaw/cedaws44.htm](http://www2.ohchr.org/english/bodies/cedaw/cedaws44.htm). NGO reports were submitted by the Gender & Development Social Union, the Internal Displacement Monitoring Centre, Women Position in Labour Market, Human Rights Center of Azerbaijan, Civic Organization Call for Healthy Lifestyle, and Monitoring the Implementation of CEDAW in Azerbaijan. They are available at [www2.ohchr.org/english/bodies/cedaw/cedaws44.htm](http://www2.ohchr.org/english/bodies/cedaw/cedaws44.htm).

of effective legislation addressing domestic violence. The Committee also noted the importance of implementing a timetable for adoption of the new domestic violence bill and its contents, and encouraged efforts to address the root causes of trafficking and the causes of underrepresentation of women in public and political life.

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### Bhutan

Bhutan's 7th periodic report was examined during CEDAW's 44th session.<sup>33</sup> The examination addressed: persisting discriminatory patriarchal roles and values; the need for national legislation prohibiting discrimination against women; the importance of amending national legislation still in conflict with the Convention; law enforcement's and the judiciary's treatment of gender-based violence; the need for assistance for victims of gender-based violence; and improving women's access to healthcare and education, particularly in remote areas. The Committee also recommended that further financial and human resources be allocated to the National Commission for Women and Children and strongly urged the State party to intensify efforts to eliminate all forms of trafficking and domestic child labour abuse.

<sup>33</sup> Bhutan's 7th periodic report, 44th session of CEDAW. Concluding observations are available at [www2.ohchr.org/english/bodies/cedaw/cedaws44.htm](http://www2.ohchr.org/english/bodies/cedaw/cedaws44.htm). An NGO report was submitted by the Tarayana Foundation and is available at [www2.ohchr.org/english/bodies/cedaw/cedaws44.htm](http://www2.ohchr.org/english/bodies/cedaw/cedaws44.htm).

<sup>34</sup> Bosnia and Herzegovina's initial report, 10th session of CMW. An alternative report was submitted by the Ombudsman of Bosnia and Herzegovina. This report and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cmw/cmws10.htm](http://www2.ohchr.org/english/bodies/cmw/cmws10.htm).

<sup>35</sup> Brazil's 2nd periodic report, 42nd session of CESCR. NGO reports were submitted by Brazilian Civil Society on the Brazilian State, COHRE, Global Initiative to End All Corporal Punishment of Children, OMCT, VIA CAMPESINA BRASIL, IPAS Brasil, Joint alternative report, O'Neill Institute, CLADEM, Amnesty International, Center for Reproductive Rights, and Preventing and Reducing Tobacco Use in Brazil. These reports and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cescr/cescrs42.htm](http://www2.ohchr.org/english/bodies/cescr/cescrs42.htm).

<sup>36</sup> Bulgaria's 15th to 19th periodic reports, 74th session of CERD. NGO reports were submitted by Bulgarian Helsinki Committee and the European Roma Rights Centre, COHRE, and EOA. NGO reports and the Committee's concluding observations can be found at [www2.ohchr.org/english/bodies/cerd/cerds74.htm](http://www2.ohchr.org/english/bodies/cerd/cerds74.htm).

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### Bosnia-Herzegovina

Bosnia-Herzegovina appeared before the CMW in April 2009.<sup>34</sup> The delegation was led by Saliha Djuder, Acting Assistant Minister of Human Rights and Refugees of Bosnia and Herzegovina. Among the issues raised by the Committee were: identifying the Ministry responsible for the implementation of the *Convention on Migrant Workers*; the existence of a national policy on migrant workers and their families; the difference in regulations within the diverse State structures; access to education, health, and enjoyment of culture of migrant workers; the rights of irregular workers to appeal expulsion decisions, and to claim social security and pension benefits; the right of Bosnian citizens working abroad to vote in national elections; human trafficking; and the treatment of Roma migrants. The Committee recommended that Bosnia-Herzegovina harmonise its legislation with the Convention and ensure that irregular

migrant workers and members of their families enjoy the rights of the Convention in law and in practice. In its concluding observations, the Committee criticised Bosnia and Herzegovina for the limited NGO involvement in preparing the report and recommended that all necessary measures be taken to ensure effective civil society participation in the implementation of the Convention and in the preparation of the next periodic report to the Committee.

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### Brazil

Brazil appeared before CESCR in May 2009.<sup>35</sup> The large, medium-level delegation covered a wide range of thematic areas and appeared open and well-prepared throughout the review.

During the review, the Committee paid particular attention to the following issues: discrepancies in the enjoyment of economic, social and cultural rights by the white, black and indigenous populations in Brazil, especially in relation to health, poverty, illiteracy and equal access to the employment market; protection and implementation of the rights of women in relation to violence against women, access to healthcare, protection against clandestine and unsafe abortions, and equal access to the employment market; the rights of children with a special focus on sexual abuse, child labour, and the root causes of the phenomenon of street children; and increased access to social security coverage for disenfranchised populations. In addition to these cross-cutting themes, the Committee also touched on issues related to trafficking of women; the absence of a national human rights institution in compliance with the Paris Principles; the lack of progress with land reforms; inhuman and degrading conditions of employment; harassment and killings of union leaders; and continuing deforestation in Brazil. In its concluding observations, the Committee requested Brazil to provide detailed information on the possibility of direct application of Covenant provisions in domestic courts.

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### Bulgaria

Bulgaria appeared before CERD in February 2009.<sup>36</sup> The dialogue was generally constructive

and the Committee commended Bulgaria for its detailed responses. The Committee paid particular attention to the situation of the Roma population in the country in relation to their access to work, housing, healthcare, education and participation in public life, and specifically focused on the placing of Roma children in schools for children with mental and physical disabilities. The Committee also addressed the following issues: the domestic definition of national minority; representation of minority groups at the National Assembly and in the police force; the need to strengthen the role of institutions mandated to combat discrimination; ill-treatment and excessive use of force against minority groups, especially Roma people; ineffective application of the prohibition of racist acts; and a lack of knowledge of the Convention within the judiciary.

The Committee requested information, within one year, on recommendations relating to the following issues: the placing of Roma children in schools for children with disabilities; access to work, housing, healthcare, and education for the Roma population; ill-treatment by Bulgarian police of minority groups; and the propagation of racist stereotypes, hate speech, and racist acts against minority groups.

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## Cambodia

Cambodia appeared before CESCR in May 2009 for the consideration of its initial report 17 years after ratification of the Covenant.<sup>37</sup> The Committee expressed its disappointment that there was no representative from the capital and also voiced dissatisfaction with many of the answers supplied by Cambodia, both oral and written. The Committee stressed the importance of providing information that included concrete results, specific initiatives and details on developments, statistics, and disaggregated data in order to evaluate the actual implementation of economic, social and cultural rights for the ordinary people of Cambodia.

The Committee addressed many issues of concern. Among the most important were: corruption in the judiciary and how this limits and endangers the exercise of justice, even if the Covenant is fully applicable in domestic law; forced land evictions and the need for transpar-

ency, gender equality, and respect for the rights of indigenous peoples in land reform processes; foreign investment in Cambodia and the need to balance the Government's desire to create employment on the one hand with the overall best interests of Cambodian citizens on the other; and poverty levels and the right to food – 30% of people in Cambodia are living below the poverty line and many cannot afford the World Health Organization (WHO) standard of 2,100 calories per day, despite the fact that there is no acute food shortage in the country.

Further matters addressed by the Committee included the serious problem of violence against women, which was reported to affect 95% of women in 1996 and remained a civil rather than criminal offence; the negative effects of the destruction of the Pralong rainforest on the realisation of economic, social and cultural rights; the future establishment of a Human Rights Commission whose draft enabling legislations does not comply with the Paris Principles; homelessness and the fact that four out of five urban Cambodians are living in slums; and finally, freedom of association, in particular the murder of trade unionists, the culture of impunity and the unaddressed concerns of the International Labour Organization (ILO) on this matter.

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## Cameroon

Cameroon was examined by CEDAW during its 43rd session in January 2009. The delegation was led by Mr Innocent Berlin Bidima, the First Secretary to the Permanent Mission of Cameroon in Geneva, and included representatives from the Ministry of Justice, the Ministry of the Promotion of Rights of Women and Children, the Prime Minister's cabinet, and civil society. While the delegation was organised in its responses and good-humoured throughout the examination, the head of the delegation answered a lot of the questions himself and did not always provide candid or well-informed answers. Several responses demonstrated a lack of knowledge of basic gender equality principles and a general misunderstanding of the questions asked.

One of the most prominent issues raised by the Committee was the need to enact major legis-

37 Cambodia's initial periodic report, 42nd session of CESCR. NGO reports were submitted by COHRE, Amnesty International, Center for Economic and Social Rights, Land and Housing Working Group, Franciscans International, Indigenous Community Support Organization, and a joint report by a coalition of 36 NGOs. These reports and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cescr/cescrs42.htm](http://www2.ohchr.org/english/bodies/cescr/cescrs42.htm).

lative changes. The Committee emphasised the importance of accelerating the legal review process that the State is currently conducting; creating a timeline for the legal reforms; ensuring that all discriminatory legislation, including laws on inheritance, polygamy, and marriage age, is repealed; harmonising civil and customary law; and enacting legislation for the prevention and punishment of all forms of violence against women. The Committee requested that Cameroon provide written information on its progress in this regards within two years. The Committee also recommended that the State adopt temporary special measures and enact laws to specifically prohibit discrimination against women and harmful traditional practices such as female genital cutting. Other areas the Committee focused on included: raising awareness of the Convention and its provisions in the legal community and judiciary; raising awareness of the importance of women's participation in public and political life, particularly in rural areas; raising awareness of reproductive health issues and promoting sex education; considering reform or modification of abortion's legal status; assessing the independence of the National Human Rights Commission and its compliance with the Paris Principles; and ensuring equal opportunities for women in the labour market and for girls in schools, especially in rural areas.

The Committee asked at numerous points during the review for more data and statistical information which the delegation was unable to provide. The Committee recommended that Cameroon strengthen its systems of data collection and asked to be provided with more and improved data at the next review.

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## Chad

Chad appeared before the HRC in Geneva in July 2009, having been unable to appear before the Committee in New York in March 2009.<sup>38</sup> The small but relatively high-level delegation was led by the Minister for Human Rights and the Promotion of Fundamental Freedoms. Two of the key focus areas of the Committee were the promotion and protection of the rights of women and a range of torture-related issues. Under these headings, the Committee specifically focused on violence against women; female genital mutila-

tion; access to education for girls; torture and ill-treatment especially taking place in police stations; and deplorable conditions of detention.

Among the other issues addressed during the interactive dialogue were: the inadequate functioning of the National Human Rights Commission due to its inadequate structures and the lack of compliance with the Paris Principles; the lack of domestic publication of the Covenant preventing its *de facto* justiciability; the treatment of IDPs from Darfur in eastern Chad; the continued practice of rushed execution of death penalty sentences; the prevalent impunity for serious human rights violations such as murder, rape, enforced disappearance, arbitrary detention, torture, destruction of property, forced displacement and attacks on the civilian population taking place in connection with the armed conflict; the practice of enforced disappearances and use of secret detention; dysfunctional judicial institutions due to a shortage of judges and prosecutors; restrictions on freedom of expression and assembly through the use of states of emergency and requirements for prior approval of peaceful assembly; targeting of human rights defenders; and the treatment of Chadian children which includes commercial sexual exploitation, recruitment of child soldiers, kidnapping, trafficking, early marriage, and modern forms of slavery in the case of child cattle-herders and domestic workers.

The Committee requested information, within one year, on recommendations relating to the following issues: measures to combat impunity including effective investigations; protection of victims and effective access to reparations; measures to promote and protect the rights of IDPs on Chadian territory; ensuring accountability for serious human rights violations including enforced disappearances; and a request for information on measures taken to protect and remedy violations including rape of imprisoned girls.

Chad appeared before CAT in May 2009.<sup>39</sup> The small but high-level delegation, which was led by Mr Djasnabaille, Minister for Human Rights and the Promotion of Fundamental Freedoms, engaged in a relatively open and constructive dialogue with the Committee. However, the dialogue did reveal significant differences of opinion in relation to the issue of child soldiers, which the delegation claimed did not exist.

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Chad's 3rd periodic report, 96th session of HRC. NGO reports were submitted by FIDH, Conscience and Peace Tax International, FIACAT-ACAT, International Human Rights Law Society of Indiana University School of Law-Indianapolis, and Franciscans International. These reports and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/hrc/hrcs96.htm](http://www2.ohchr.org/english/bodies/hrc/hrcs96.htm).

39

Chad's Initial report, 42nd session of CAT. An NGO report was submitted by FIACAT-ACAT. This report and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cat/cats42.htm](http://www2.ohchr.org/english/bodies/cat/cats42.htm).

One of the key issues addressed by the Committee was the inadequate domestic criminalisation of torture. The Committee provided specific recommendations on a number of issues, including that acts by all public officials are covered by law and that command responsibility should not be used as an extenuating circumstance. In a display of very constructive engagement with the review process, the delegation engaged in a specific dialogue with Committee members on rewording of a current draft law.

The Committee raised a number of other pertinent issues, including: persistent reports of torture and ill-treatment and prevailing impunity for these crimes; inadequate response to the finding of the Commission of Inquiry on the events of February 2008; violence against women and children, especially corporal punishment, rape, forced marriage, female genital mutilation, and recruitment as child soldiers; the need for reinforced training for all relevant officials including on human rights standards and torture documentation; ill-treatment during detention including overcrowding, inadequate registration of detainees, lack of access to health services, and prolonged pre-trial and remand detention; and the need to open up detention facilities for NGO or other independent monitoring.

During the final remarks, the head of the delegation pleaded for extra technical assistance to overcome the task of implementing human rights standards. Maybe encouraged by this request, the Committee asked for follow-up within one year on a high number of recommendations, focusing on reinforcement of efforts to prevent recruitment of child soldiers; urgent adoption of a bill providing for material compensation for torture victims; addressing the numerous shortcomings in the administration of justice; ensuring effective investigations and access to full reparation in all cases of torture; and adoption of a domestic criminalisation of torture in compliance with the Convention.

Chad was examined by CERD in August 2009.<sup>40</sup> The delegation of Chad, again headed by the Minister for Human Rights and the Promotion of Fundamental Freedoms, Mr Djasnabaille, was commended by several Committee members for its honest self-assessment. A key focus area of the Committee was the inadequate incorpora-

tion of the Convention in domestic law. While commending Chad for adopting legislation on equal rights and non-discrimination, the Committee expressed concern about the absence of explicit criminalisation of racial discrimination and a definition in conformity with Article 1 of the Convention.

Among the other issues addressed by the Committee were: the need to ensure effective independence of the National Commission on Human Rights in accordance with the Paris Principles; the need to conduct an effective investigation of events that took place during the attempted *coup d'état* in February 2008; the existence of a caste system within certain ethnic groups; customary practices exercised within certain ethnic groups such as female genital mutilation and denial of property rights for women; discrimination and violence against the refugee population from Darfur; discrimination against albinos; equal access to education between different ethnic groups; and various problems related to the effective functioning of the judiciary.

The Committee requested information, within one year, on recommendations relating to the following issues: results of the ongoing investigation into violations relating to the February 2008 attempted coup d'état; measures to ensure the independence of the National Commission on Human Rights through adequate funding and a constitutional basis; and the adoption of legislative and practical measures to enhance protection of refugees and internally displaced persons.

CESCR considered the initial to 3rd periodic reports of Chad in November 2009 in the absence of the delegation.<sup>41</sup> In the absence of an interactive dialogue, the Committee conducted a more summary examination on the basis of the State report and its written replies, which resulted in a set of concluding observations.

Among the issues raised by the Committee were the functioning and independence of the National Commission on Human Rights and whether its mandate covered economic, social and cultural rights; various forms of discrimination against women including access to work and education and female genital mutilation; measures taken to combat desertification and dumping of toxic waste by foreign States or companies; a dysfunctional judiciary due to underfunding

40 Chad's 10th to 15th periodic reports, 75th session of CERD. No NGO reports were submitted for the review of Chad. The Committee's concluding observations can be found at [www2.ohchr.org/english/bodies/cerd/cerds75.htm](http://www2.ohchr.org/english/bodies/cerd/cerds75.htm).

41 Chad's initial to 3rd periodic reports, 43rd session of CESCR. No NGO reports were submitted for this review. The Committee's concluding observations can be found at [www2.ohchr.org/english/bodies/cat/cats43.htm](http://www2.ohchr.org/english/bodies/cat/cats43.htm).

and corruption; recruitment of child soldiers; labour, social security and welfare laws; and the existence of micro-financing schemes.

Chad was requested to present its next report to the Committee in 2012.

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## Chile

Chile appeared before CAT in May 2009.<sup>42</sup> The large high-level delegation, led by Vice Minister of Justice, Mr Jorge Frei, engaged in a constructive dialogue with the Committee. While the Committee noted progress in Chile's implementation of the Convention, it was regrettable that most of the key issues raised by the Committee repeated concerns raised during the 2004 review. One of the key focus areas of the Committee was the lack of a comprehensive criminalisation of torture in domestic law. The Committee specifically noted the need to expand the coverage beyond places of detention, to remove the ten-year statute of limitation, and to include attempted torture as an offence. Despite several exchanges on this issue, the delegation remained dismissive of these recommendations. Among the other issues raised by the Committee were the use of statutes of limitation and the amnesty law resulting in impunity for crimes committed during the dictatorship; reform of the Code of Military Justice; reparations, including compensation and rehabilitation for victims of torture during the dictatorship; allegations of torture committed by the police and the need for an effective oversight mechanism; and overcrowding of prisons.

The Committee requested information within one year on implementation of the following recommendations: effective access to reparations for all victims of torture during the dictatorship; access to rehabilitation for victims of torture residing abroad; effective investigation and prosecution of torture allegations and abrogation to the amnesty law; training on the Convention to law enforcement personnel and effective supervision of this group; and reform of the Military Code of Justice.

Chile appeared before CERD in August 2009.<sup>43</sup> Chile had a high-level delegation comprised of numerous experts in areas relevant to the Con-

vention and despite its ten-year absence they entered into a very open and frank dialogue with the Committee. The Committee raised several critical issues including: the lack of an institutional framework for human rights in Chile; the use of anti-terrorist law 18314 especially in cases involving indigenous people; regulations and provisions affecting indigenous peoples; land issues; the adoption of ILO *Convention No. 169* and obstacles to its implementation; and the situation of immigrants primarily concerning healthcare, work, and education.

The Committee requested information, within one year, on recommendations relating to the following issues: establishment of a national human rights institution in accordance with the Paris Principles; ill-treatment and abuse of members of the Mupache people; regulating investment in indigenous lands and development areas; and the situation of Mupache communities in the Araucanía region. The Committee also requested detailed information in the next periodic report on the following issues: racial discrimination in Chilean law; amendments to anti-terrorism legislation; and efforts made to combat poverty.

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## China

China was examined by CERD in August 2009.<sup>44</sup> While the extremely large Chinese delegation included diverse thematic and regional representation, the dialogue was largely conducted by representatives of the ministries of foreign affairs and justice reflecting the very serious and controlled approach taken by the Chinese delegation to the review. Unfortunately, this cannot be said of the Committee, where several Committee members played a very negative role by undermining questions by other Committee members or simply using their speaking time to praise unrelated economic developments instead of engaging in a substantive review.

Despite the undisciplined conduct of certain Committee members, a number of key issue areas did emerge from the review. These related to the lack of a comprehensive definition and protection against discrimination on the basis of descent or national origin; the lack of adequate data on the socio-economic status of members

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Chile's 5th periodic report, 42nd session of CAT. NGO reports were submitted by Redress Trust (REDRESS), CODEPU-FIDH, and Observatorio Ciudadano. These reports and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cat/cats42.htm](http://www2.ohchr.org/english/bodies/cat/cats42.htm).

43

Chile's 15th to 18th periodic reports, 75th session of CERD. NGO reports were submitted by Amnesty International, Centro Derechos Humanos, Centro Regional de Derechos Humanos y Justicia de Género, Observatoria Ciudadano y Wallmapuwen, Comunidades Mapuche, and Mesa Trabajo Mapuche sobre derechos colectivos. NGO reports and the Committee's concluding observations can be found at [www2.ohchr.org/english/bodies/cerd/cerds75.htm](http://www2.ohchr.org/english/bodies/cerd/cerds75.htm).

44

China's 10th to 13th periodic reports, 75th session of CERD. NGO reports were submitted by Amnesty International, Asociación Cubana de las Naciones Unidas, Human Rights in China, China Society for Human Rights Studies, Society for Threatened Peoples, Growing Together, Asian Migrants Coordinating Body – Hong Kong (AMCB-HK), Mission For Migrants Workers (MFMW Limited), Institute of Human Rights and Humanitarian Law, Research Center for Ethnic Issues in China, Zi Teng and Migrant Support Network, Hong Kong Bar Association, Hong Kong Human Rights Commission, Centre for Comparative and Public Law at the University of Hong Kong, and a Joint Submission from Hong Kong Organisations. NGO reports and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cerd/cerds75.htm](http://www2.ohchr.org/english/bodies/cerd/cerds75.htm).

of ethnic minorities, non-citizens, asylum seekers and refugees; instances of ethnic tension and slow economic development in the western regions of the country and the preferential treatment given to Han Chinese in these regions; equal access to work, social security, health and education benefits for internal and foreign migrant workers and refugees; the disproportionate use of administrative detention and re-education through labour programmes against ethnic minorities reflecting concerns previously expressed by the Committee against Torture; refusal of asylum and forced return of asylum seekers from the Democratic People's Republic of Korea; the need for equal access to education for ethnic minorities and the need for improved bilingual education; a suggestion to establish the regions of Tibet and Xinjiang as Special Administrative Regions (SARs) similar to Hong Kong and Macao; and the harassment of lawyers representing ethnic minorities in human rights cases.

The main issues of concern in relation to Hong Kong and Macao related to the treatment of migrants and refugees, which was addressed in the context of lack of legal protection; inadequate screening of asylum seekers; exclusion of migrant workers from social welfare systems; and the two-week deportation notice for unemployed domestic workers.

The Committee requested information, within one year, on recommendations relating to the following issues: the taking of measures to prevent discrimination against migrant workers in Hong Kong; ensuring that lawyers can exercise their profession freely; the restrictive and non-discriminatory use of administrative detention and re-education through labour programmes under judicial control; and the inclusion of provisions on racial discrimination in the National Human Rights Action Plan.

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## Colombia

Colombia appeared before CAT in November 2009.<sup>45</sup> The relatively low-level Colombian delegation engaged in a predominantly constructive dialogue with the Committee. While the Committee raised a wide range of issues, the main recurring themes related to activities of

the military and paramilitary groups linked to the Colombian Government. These included the use of children in the military and police; recurring incidents of sexual violence and rape and the absence of independent investigations of the conduct of military persons; torture including amputations committed by paramilitary groups; and lack of transparency in the military justice system.

The Committee also raised issues relating to the length of detention before being brought before a judge, which was 36 hours and in practice much longer; practice of pre-trial detention for more than one year; use of administrative preventive detention; torture committed against vulnerable groups such as women, children, indigenous peoples, and Afro-Colombians; lack of access to adequate healthcare for prisoners; threats against human rights defenders; instances of Supreme Court judges having to seek interim measures from the Inter-American Court of Human Rights to ensure their safety; forced displacement and land confiscations; and the lack of implementation of a judgment by the Constitutional Court of Justice and Peace requiring effective remedies and reparations for victims of torture by paramilitary groups.

The Committee's concluding observations request Colombia to submit information, within one year, on the need to improve the independence and effectiveness of torture investigations; establishment of selection criteria for appointments to the Attorney Generals Office to ensure its independence; implementation of effective penalties for perpetrators of torture; effective protection for judges; ensuring effective investigations of human rights violations committed by the military; and adequate implementation of a national plan to identify victims of enforced disappearances.

Colombia was examined by CERD in August 2009.<sup>46</sup> Overall, the Committee welcomed the report as good and detailed. Some experts however criticised the length of the report and the lack of information on implementation, as well as the delay in its submission.

The delegation of Colombia was led by Mr Angelino Garzon, Ambassador and Permanent Representative to the United Nations in Geneva, and comprised high-level representatives from sev-

45 Colombia's 4th periodic report, 43rd session of CAT. An NGO report was submitted by Colombian Coalition Against Torture. This report and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cat/cats43.htm](http://www2.ohchr.org/english/bodies/cat/cats43.htm).

46 Colombia's 10th to 14th periodic reports, 75th session of CERD. NGO reports were submitted by Afroamerica XXI Capitulo Colombia, Internal Displacement Monitoring Centre, AFRODES and a joint report by Observatorio de Discriminacion Racial and other organizations. The NGO reports and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cerd/cerds75.htm](http://www2.ohchr.org/english/bodies/cerd/cerds75.htm).

eral ministries. The delegation provided detailed responses to most of the questions raised in the list of issues and posed by Committee members during the dialogue. In cases where no reply could be given, the delegation pledged that information would be later provided in writing.

The Committee welcomed the Government's recognition of the existence of racial discrimination and its engagement with the international community and civil society. It took note of difficulties related to the armed conflict. Several Committee members stated that the main challenge for Colombia in combating racial discrimination is not the lack of legislation, but the actual implementation of existing laws.

The dialogue focused on the following issues: the protection of Afro-Colombians and indigenous communities against serious human rights violations, in particular violence by armed groups and the military, and the need for prevention and early warning measures to prevent such violations; impact of large-scale forced displacement of indigenous peoples and Afro-Colombians, in particular women and children; effective implementation of reparations to indigenous and Afro-Colombian victims of human rights violations; the right to prior consultation and consent for indigenous communities; the need for special measures to combat discrimination against indigenous peoples and Afro-Colombians; and the protection of indigenous groups in the Amazon that are close to extinction.

Colombia appeared before the **CMW** in May 2009.<sup>47</sup> The delegation of Colombia consisted of two persons, Ms Clara Ines Vargas, Director for Multilateral Affairs at the Ministry of Foreign Relations of Colombia and a representative of the Permanent Mission in Geneva. Some members of the Committee regretted that the small delegation was not supported by representatives from the capital but Ms Vargas managed to provide relatively clear answers to most questions posed during the review. Whereas most Committee members expressed their regrets regarding the late submission of Colombia's report, Mr Francisco Alba welcomed Colombia's 'very clear, frank and non-rhetorical presentation.' The Colombian delegation appeared extremely cooperative and engaged in a constructive, relatively self-critical interaction with the Committee.

Among the key issues raised by the Committee were: Colombia's reservations to the Convention regarding Articles 15, 46 and 47; the means employed by the Colombian Government to disseminate the Convention; the non-existence of retention/migration centres; the need for data on migration, especially on migrant children or children separated from their families; trafficking and illegal migration; and collective expulsions and the need to bring the national practices of expulsion and deportation in line with the provisions of the Convention. The Committee requested Colombia to submit its next report before May 2011 and include information on measures taken to give effect to the Committee's recommendations.

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## Congo

Congo appeared before **CERD** in February 2009.<sup>48</sup> The Committee expressed its appreciation for the constructive and self-critical approach taken by the delegation of Congo and recommended that it ensure a more regular submission of reports. The main focus of the Committee was the treatment of indigenous peoples, especially the Pygmies in relation to denial of land rights, violence and ill-treatment, modern forms of slavery, inadequate political representation, and a lack of access to health, education and the labour market. The Committee also addressed the following issues: an inadequate domestic definition of racial discrimination and the absence of legal cases with respect to such offences; protection of refugees and their access to work; the lack of independence of the National Human Rights Commission; and the lack of training on the Convention for relevant public officials.

The Committee requested information, within one year, on recommendations relating to the following issues: the need to ensure that the National Human Rights Commission is functioning in accordance with the Paris Principles; violence and ill-treatment committed against indigenous peoples; protection of indigenous peoples' land rights; and the acceleration of the adoption of the bill on the promotion and protection of the rights of indigenous peoples.

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Colombia's initial report, 10th session of CMW. NGO reports were submitted by Scalabrini Network and Caritas Colombia. NGO reports and the Committee's concluding observations can be found at [www2.ohchr.org/english/bodies/cerd/cerds75.htm](http://www2.ohchr.org/english/bodies/cerd/cerds75.htm).

48

Congo's initial to 9th periodic reports, 74th session of CERD. No NGO reports were submitted to the Committee. The Committee's concluding observations can be found at [www2.ohchr.org/english/bodies/cerd/cerds74.htm](http://www2.ohchr.org/english/bodies/cerd/cerds74.htm).

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## Croatia

Croatia appeared before **CERD** in February 2009.<sup>49</sup> The interactive dialogue was generally undertaken in a constructive spirit with a well prepared delegation providing expert responses to most questions posed by the Committee. As an exception to the constructive dialogue, the Croatian delegation responded rather defensively to a question relating to discrimination and ethnic violence against the Serb minority. The Committee paid particular attention to the issue of discrimination against Roma and Serb minorities and asked questions relating to the possibility of effective return for Serbs, participation in public life including local administration, access to electricity and regional development funds, and access to work, education, and citizenship.

The Committee also addressed the following issues: the need to ensure full implementation of the non-discrimination legislation and policies; the need to effectively prevent and prosecute hate crimes and other ethnically motivated crimes; minority representation in the prison system; and the disproportionate prosecution of Croatian Serbs in war crimes cases.

The Committee requested information, within one year, on recommendations relating to the following issues: the need to reinforce efforts to prevent and prosecute all incidents of hate crimes and other ethnically motivated violence; facilitation of return and reintegration of refugees, especially from the Serb minority; and the promotion of a more sustainable development of regions populated by minorities, especially Roma and Serbs.

Croatia was examined by the **HRC** in October 2009.<sup>50</sup> Croatia was represented by the Director General of the Ministry of Justice, Mr Kristian Turkalj, and included representatives from the Ministry of Justice, the Office for Gender Equality, Ministry of Interior, Ministry of Education, and the Office for National Minorities among others. The delegation was very well organised in its responses and addressed the issues according to each responsible department.

One of the most prominent issues raised by the Committee was the number of returnees from Serbia and available resources put in place by the Government to address this issue. The

Committee emphasised the importance of a detailed research on exact numbers of returnees and also those that return to Croatia but later decide to leave again. Other focus areas included: advancement of women in the public and private sphere; domestic violence; discrimination against minorities (including Serb and Roma communities) and their access to citizenship, education and representation in the public sector; allegations of attacks on journalists investigating war crimes; poor conditions of detention, including overcrowding and inadequate access to medical care; and the need for an effective and non-discriminatory prosecution of perpetrators of war crimes.

During the session, the Croatian Government provided examples of measures taken to tackle all matters put forth by the Committee. The Committee acknowledged the improvement made by the State since the last examination. The Committee decided to request information, within one year, on follow-up to recommendations relating to the following issues: discrimination and physical and verbal attacks against members of ethnic minorities, especially Serbs; the effective and non-discriminatory prosecution of war crimes; and strengthening of measures to prevent and investigate intimidation, threats or attacks against journalists.

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## Cyprus

Cyprus appeared before **CESCR** in May 2009.<sup>51</sup> A very well organised delegation engaged in a quite constructive and detailed dialogue with the Committee members despite obvious disagreements on the issue of equal treatment of Greek and Turkish Cypriots in the south of the island. Among the issues raised were: the place of the Covenant in the legal hierarchy of the country and its justiciability; the enjoyment of an effective right to work, particularly for asylum seekers; the access to pensions for 3rd-country workers; the rights of Turkish Cypriots in the Greek part; illegal immigration and trafficking; and conditions in detention centres. The Committee also reproached Cyprus for having answered 'not applicable' to some questions of the list of issues.

The Committee issued recommendations on the following areas: aligning the National Insti-

49 Croatia's 6th to 8th periodic reports, 74th session of CERD. No NGO reports were submitted to the Committee for this review. The Committee's concluding observations can be found at [www2.ohchr.org/english/bodies/cerd/cerds74.htm](http://www2.ohchr.org/english/bodies/cerd/cerds74.htm).

50 Croatia's 2nd periodic report, 97th session of HRC. NGO reports were submitted by Center for Reproductive Rights, Amnesty International, CPTI, COHRE, Human Rights Watch, and a coalition composed of Global Rights, International Human Rights Clinic, Human Rights Program, Harvard Law School, LORI, Zagreb Pride, and Zenska soba - Women's Room - Center for Sexual Rights. These reports and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/hrc/hracs97.htm](http://www2.ohchr.org/english/bodies/hrc/hracs97.htm).

51 Cyprus's 4th and 5th periodic reports, 42nd session of CESCR. An NGO report was submitted by KISA-Action for Equality, Support, Antiracism. These reports and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cescr/cescrs42.htm](http://www2.ohchr.org/english/bodies/cescr/cescrs42.htm).

tution for the Protection of Human Rights with the Paris Principles; intensifying awareness campaigns about the anti-discrimination legal framework in favour of Turkish Cypriots and members of national minorities, especially Roma and Pontian Greeks; providing minimum wage in order to allow workers and their families to enjoy a decent standard of living; providing asylum seekers and 3rd country migrants with legal aid and medical care; and ensuring that asylum seekers be detained only when it is absolutely necessary and for a limited time.

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### The Democratic Republic of the Congo

The Democratic Republic of the Congo (DRC) appeared before **CESCR** in November 2009.<sup>52</sup> The relatively large delegation of the DRC was commended by the Committee Chairman for its frank and constructive approach to the dialogue.

During the review, the Committee addressed a very high number of issues, including: the need for judicial reform to ensure more effective functioning and effective access to remedies; discrimination against the Batwa people, particularly in relation to access to education; the need for effective protection of human rights defenders and trade union workers; the ongoing social security reform and the lack of clarity of its specific contents; sexual violence, especially rape of children by armed forces and UN peacekeepers; forced evictions of 350 families in violation of a court order; violations against children, including recruitment as child soldiers, forced labour, trafficking and prostitution; the need to provide free education with respect for the need to preserve the cultural identity of ethnic groups; discrimination against women; access to water and sanitation; the need for agricultural reform to promote a sustainable economic development in the DRC; and exploitation of natural resources by foreign companies.

In its concluding observations, the Committee requested the DRC to ratify the optional protocol to the Covenant, to extend invitations to relevant economic, social and cultural rights special procedures mandates of the Human Rights Council and to seek assistance from the United Nations Joint Human Rights Office in the Democratic

Republic of the Congo (UNJHRO) in implementing the Committee's recommendations.

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### Denmark

Denmark appeared before **CEDAW** in July 2009.<sup>53</sup> Discussion focused on: incorporation of the Convention into domestic law; implementation of previous and current recommendations by the Committee; the importance of instilling and enforcing a gender mainstreaming strategy; and the need to increase women's representation and participation in politics and public life. The Committee also recommended the use of temporary special measures to accelerate the practical realisation of women's *de facto* equality with men, emphasising that all of their recommendations applied not only to Denmark but also to the Faroe Islands and Greenland. Other issues of concern included: occupational segregation; the wage gap between women and men; violence against women including protection and recourse for victims; protection for victims of trafficking regardless of cooperation in investigations; discrimination against minority women with particular focus on health needs; and funding for NGOs.

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### Dominica

Dominica appeared before **CEDAW** despite never having submitted its first report since ratifying the Convention in 1980.<sup>54</sup> Nor did Dominica respond to the Committee's list of issues. It is the first country to have been examined by CEDAW in the absence of a periodic report. Dominica recognised its obligation to report to the Committee and regretted its failure to report so far as an act of 'gross negligence.' It informed the Committee that Dominica has accepted technical assistance from the United Nations Development Fund for Women (UNIFEM) and will present its initial report in 2010.

Among the key issues highlighted by the Committee were: violence against women; access to education; health, including access to services and teenage pregnancy; the situation of the Carib community; employment, including women's underrepresentation in the public sector and equal pay for equal work; rural women; and trafficking. CEDAW criticised the Government for a

52

The Democratic Republic of the Congo's 2nd to 5th periodic reports, 43rd session of CESCR. NGO reports were submitted by the International Commission of Jurists, FIDH/OMCT, COPACO Confédération Paysanne du Congo, and Franciscans International. These reports and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cescr/cescrs43.htm](http://www2.ohchr.org/english/bodies/cescr/cescrs43.htm).

53

Denmark's 7th periodic report, 44th session of CEDAW. NGO reports were submitted by the Global Initiative to End All Corporal Punishment of Children and by the Women's Council in Denmark. These reports and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cedaw/cedaws44.htm](http://www2.ohchr.org/english/bodies/cedaw/cedaws44.htm).

54

Dominica's 7th periodic report. 43rd session of CEDAW. A NGO report was submitted to CEDAW by the National Coalition of Dominican Women. This report and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cedaw/cedaws43.htm](http://www2.ohchr.org/english/bodies/cedaw/cedaws43.htm).

lack of conceptual clarity on issues of education, health, and violence against women and encouraged the Government to ratify the optional protocol to the Convention. Finally, the Committee urged Dominica to give priority attention to the Committee's comments in its preparation for submitting its initial report

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## Ecuador

Ecuador appeared before the HRC in October 2009.<sup>55</sup> The small, low-level delegation, led by the Under-Secretary for Justice and Human Rights, was predominantly comprised of diplomats (in contrast to their strong representation as the 2nd State to be reviewed under the UPR in April 2008). The delegation's engagement in dialogue with the Committee was mixed. While generally welcoming the opportunity for review, given its size and non-representative composition, it was sometimes unable to provide detailed responses and often sought to defer its answers to written responses.

The key issues addressed during the review included: *de facto* discrimination against women in the public and private sectors, sexual minorities, and refugees of Colombian origin; lack of constitutional recognition of race as a grounds of discrimination; violence against women, focusing on indigenous women and sexual harassment of girls in schools; high illiteracy rates among girls in rural areas; child labour; rights of detainees with a focus on access to legal representation and consular assistance, allegations of degrading treatment, and conditions in detention facilities; human rights compatibility with current states of emergency; independence of the judiciary; the role of the National Human Rights Commission; and police impunity, including in relation to the use of excessive force in public demonstrations and to the work of the Truth Commission.

The Committee's concluding observations requested Ecuador to submit information, within one year, on the evaluation of situations and implementation of recommendations on the issues of sexual violence; police impunity in relation to ill-treatment of detainees; and racial discrimination against indigenous peoples in practice.

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## El Salvador

CAT examined the overdue report of El Salvador in November 2009.<sup>56</sup> As last minute changes and financial constraints prevented the delegation of El Salvador from coming to the examination of the report, the State was represented by Dr Larios Lopez, the Ambassador of the Permanent Mission of El Salvador in Geneva, and Mr Castro Grande, counsellor of the Permanent Mission. In his opening remarks, Dr Larios Lopez highlighted the importance of the meeting, and the commitment of the new Government of El Salvador to comply with its obligations under international law. His introductory speech contained mainly the facts covered in the report submitted to the Committee, as well as information on recent developments in domestic human rights legislation in El Salvador, and human rights initiatives of the new Government.

One of the main focus areas of the Committee was the absence of a domestic prohibition of torture and the prevailing impunity for such crimes, including through the use of administrative instead of criminal sanctions. In addition, the Committee raised issues relating to instances of excessive use of force by the police; poor detention conditions including overcrowding and the lack of segregation between pre-trial and convicted detainees; preventive and arbitrary detention and the lack of monitoring of places of custody; the lack of independent oversight mechanisms for the police; the need for protection of the most vulnerable groups (women, children, migrants, persons with disabilities); and the need to effectively investigate torture allegations and to ensure access to compensation and rehabilitation for victims.

The Committee's concluding observations requested El Salvador to submit information, within one year, on implementation of recommendations related to repealing the General Amnesties Act and implementing recommendations of the Truth Commission; initiatives to improve conditions of detention; and implementation of urgent and efficient protection measures against violence against women and femicide.

55 Ecuador's 5th and 6th consolidated periodic reports, 97th session of HRC. NGO reports were submitted by Center for Reproductive Rights, Comisión Ecuamélica de los Derechos Humanos and CCPR Centre, and Taller de Comunicación Mujer. These reports as well as the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/hrc/hrcs97.htm](http://www2.ohchr.org/english/bodies/hrc/hrcs97.htm).

56 El Salvador's 2nd periodic report, 43rd session of CAT. An NGO report was submitted by Procuraduría para la Defensa de los Derechos Humanos. This report and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cat/cats43.htm](http://www2.ohchr.org/english/bodies/cat/cats43.htm).

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## Ethiopia

Ethiopia was examined by **CERD** in August 2009.<sup>57</sup> The delegation was headed by Mr Fisseha Yimer, Ethiopia's Ambassador to Switzerland. This was the first time Ethiopia had appeared before the Committee in nearly two decades. The Committee's members repeatedly expressed their respect for Ethiopia as a defender of democracy in Africa and their happiness in reinstating communication with the State. The examination was complicated by a lack of information, as written responses to the list of issues were not submitted by Ethiopia until the day of the examination and addressed only some of the issues raised in the Committee's questions. Despite this shortcoming, the discussion was generally open and constructive, although the State delegation was quite critical of the Committee and questioned the accuracy of information relied on by the country rapporteur.

Committee members repeatedly expressed concern that Ethiopia's 'federalist system' could result in the creation of minorities within the country's federal states and lead to widespread discrimination and inequality. Ethiopia responded that the very reason its 'nations, nationalities and peoples' chose a federalist system nearly two decades ago was to combat the inequality and discrimination they faced under the previous Government. Other areas of discussion included Ethiopia's unique constitutional provision laying out a legal procedure for secession; legislation affecting refugees; and the regulation of NGO activities within Ethiopia.

The Committee was impressed by Ethiopia's commitment to affirmative action programmes designed to bring more women and persons from rural areas into civil service. The Committee also felt that Ethiopia's approach to combating the practice of female genital mutilation (FGM) was very positive and could be a model for other countries, although more progress was still needed. Ethiopia acknowledged that conflicts between customary and civil law exist and can result in challenges to human rights, particularly for women. It also reminded the Committee that the right to practice one's cultural traditions is a basic human right and that balancing this right with other human rights norms can be a difficult task. The Committee asked that Ethiopia provide more detailed information about the use

of customary law in the future. It also requested that the next report contain more information about the alleged caste system in Ethiopia and recommended that Ethiopia encourage 'racial diversification' of its political parties, address the root causes of ethnic conflicts, strengthen national human rights institutions, and adopt more legislation directly combating racism.

Ethiopia stressed its willingness to take any action possible within the constraints of its limited resources to combat discrimination. It also stressed its commitment to defending the rights of all of its 'nations, nationalities and peoples', and maintained that the most effective way of doing so is to focus on development and the strengthening of democratic institutions.

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## Finland

Finland was reviewed by **CERD** in February 2009.<sup>58</sup> The delegation was led by Mr Kosonen, the Director of the Ministry of Foreign Affairs. The delegation appeared well-prepared and was extremely cooperative, answering questions clearly and comprehensively, and drawing notable praise from the country rapporteur. Discussions during the review turned on the following issues: land rights of minority Sami and Roma populations; the need to preserve the language and culture of minority groups, of the Sami people in particular; the independence of the Ombudsman and the jurisdiction of the Office to investigate instances of racism; the benefit to be derived from collecting socio-economic data on ethnic minorities; concern over temporary residence permits (B-permits) limiting working rights; and the need to develop strategies to curb racism on the Internet.

The Committee decided to request information, within one year, on any follow-up to recommendations relating to the following issues: discrimination in the employment market especially in relation to immigrants; combating racist propaganda on the Internet; and Sami land rights.

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## The Gambia

The Gambia was reviewed by **CERD** during its 74th session but due to the absence of a State

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Ethiopia's 7th to 16th periodic reports, 75th session of CERD. An NGO report was submitted by Ethiopian Human Rights Council. This report and the Committee's concluding observations can be found at [www2.ohchr.org/english/bodies/cerd/cerds75.htm](http://www2.ohchr.org/english/bodies/cerd/cerds75.htm).

58

Finland's 17th to 19th periodic reports, 74th session of CERD. No NGO reports were officially submitted to the Committee. The Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cerd/cerds74.htm](http://www2.ohchr.org/english/bodies/cerd/cerds74.htm).

report, the review was conducted in closed session and there is no public documentation pertaining to the review.

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## Germany

Germany appeared before **CEDAW** in February 2009, at the same time as the State was being reviewed before the UPR.<sup>59</sup> An active and constructive dialogue occurred between the Committee and the fairly low-level II-member German delegation. The discussion mainly focused on the following issues: awareness about the Convention in the judiciary and specifically about its application to the private sector; the need for increased efforts to promote a more gender balanced approach to child care and other domestic tasks; the lack of a national machinery to ensure equal access to all levels of the labour market; and the need to intensify efforts to eliminate discrimination against immigrant, refugee, asylum-seeker and minority women. The issue of the rights of transgender women had been raised by several NGOs and Committee members. Unfortunately, the delegation avoided any dialogue on this issue, leaving the Committee to adopt a recommendation without hearing the views of the German Government.

In its concluding observations, the Committee expressed regret that civil society was not consulted in the preparation of the State report and that a number of recommendations made by the Committee after the consideration of Germany's 5th report had been insufficiently addressed. The Committee decided to request information, within two years, on recommendations relating to the need to enter into dialogue with NGOs to take effective action to protect their human rights; and to take measures to close the wage gap between men and women through ensuring non-discriminatory job evaluations and job assignment systems and the enactment of an equality act for the private sector.

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## Greece

Greece was examined by **CERD** in August 2009.<sup>60</sup> Greece was represented at the review by a relatively low-level delegation but was nevertheless

commended by the country rapporteur for its serious engagement with the Committee. The main subject of discussion during the review was the lack of recognition of certain ethnic groups, including Roma people and Slavic Macedonians, as national minorities. Unfortunately, an open and fruitful exchange between the Committee and the Greek delegation on this issue was obstructed by the country rapporteur, who took an overly positive approach to the implementation record and policies of the Greek Government. Among the other issues addressed by the Committee were: ineffective prosecution and punishment for racially motivated crimes in the light of recent reports of hate speech and racist stereotyping by some organisations and media outlets; cases of ill-treatment by Greek police of Roma people and other vulnerable groups including asylum seekers, illegal immigrants and unaccompanied children; refusals to register associations containing words such as 'minority' or 'Macedonian' in their name; discrimination against Roma people in relation to access to housing, work, healthcare and education; and the limited access to quality minority education for the Turkish-speaking minority.

The Committee requested information, within one year, on recommendations relating to the following issues: adopt measures to ensure the humane treatment of asylum seekers and reduce the period of detention in particular for children; and take measures to prevent ill-treatment and other abuse of authority committed against persons belonging to racial or ethnic minorities.

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## Guatemala

Guatemala was examined by **CEDAW** in January 2009.<sup>61</sup> The delegation was fairly cooperative and reiterated the commitment of the Government to implement and improve the legislation addressing discrimination against women and pledged to overcome the existing gap between legal provisions and their concrete realisation.

The following issues were addressed during the examination: the need to repeal discriminatory laws in the Labour and Criminal Code; the means of coordination among national institutions for the advancement of women and the establishment of mechanisms to monitor their effectiveness; the presence of stereotypes reinforcing dis-

<sup>59</sup> Germany's 6th periodic report, 43rd session of CEDAW. NGO reports were submitted by Association of Intersexual People/XY-Women, Alliance of German Women's Organizations, Menschenrecht und Transsexualität, Wunschkind e.V., Alliance of German Women's organizations, German Women Lawyers Association, Intersexuelle Menschen e.V. These reports as well as the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cedaw/cedaws43.htm](http://www2.ohchr.org/english/bodies/cedaw/cedaws43.htm)

<sup>60</sup> Greece's 16th to 19th periodic reports, 75th session of CERD. An NGO report was submitted by Greek Helsinki Monitor. The NGO report and the Committee's concluding observations can be found at [www2.ohchr.org/english/bodies/cerd/cerds75.htm](http://www2.ohchr.org/english/bodies/cerd/cerds75.htm).

<sup>61</sup> Guatemala's 7th periodic report. 43rd session of CEDAW. NGO reports were submitted to CEDAW by Center for Economic and social Rights, CLADEM Guatemala, Convergencia Ciudadana de Mujeres, Movimiento de Mujeres Indígenas Tz'ununija', Equality Now, Organization of Bisexual and Lesbian Women 'Desde Nosotras', and FIAN International. These reports and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cedaw/cedaws43.htm](http://www2.ohchr.org/english/bodies/cedaw/cedaws43.htm).

crimination against women, particularly in rural areas, and the absence of measures targeting the needs of indigenous populations in access to social services; impunity and the high rate of femicide and violence against women, especially as a result of the internal conflict; lack of statistical data on the number of cases of domestic violence and harassment in the work place; trafficking of women; lack of protection measures for women working in the informal sector; the increasing number of HIV/AIDS infections among women; and the negative impact of mining development on indigenous women.

The Committee's concluding observations requested Guatemala to submit information, within one year, on measures taken to combat violence against women and femicide. The Committee specifically focused on effective investigations of all allegations and access to protection and redress for all victims.

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### Guinea-Bissau

Guinea-Bissau was examined in August 2009 by CEDAW.<sup>62</sup> The examination focused on: the importance of incorporating the Convention into domestic law and eliminating all discriminatory laws and practices; violence against women; female genital mutilation; trafficking; and the importance of actively promoting gender equality in all spheres of public and private life. Other issues of interest included: the need for more accurate and comprehensive statistics and statistical analyses; equal access to education for women and girls; harmful cultural practices and stereotypes; equal representation of women in decision-making in all branches and at all levels of the Government; and the UN Peacebuilding Commission's Strategic Framework and its effects.

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### Haiti

Haiti was examined by CEDAW in January 2009 on the basis of a report that was more than 25 years overdue.<sup>63</sup> The large high-level delegation of Haiti generally displayed a positive attitude towards the review and recognised a number of problems faced in relation to the advancement of non-discrimination against women.

One of the key issues raised by the Committee was the situation of violence against women, which was addressed in the context of rapes, stereotyping, domestic violence, women trafficking, prostitution, incest and forced marriage, and the absence of a legislative framework in this area. The delegation openly admitted the majority of these problems and provided examples of projected remedies including various training programmes and the adoption of a comprehensive law prohibiting violence against women. The Committee also raised the following other issues during the examination: the lack of a definition of discrimination in domestic law; the lack of visibility of the Convention and the absence of Government-disseminated information on women's rights; healthcare for vulnerable groups such as rape victims, sex workers, and persons with HIV/AIDS; special disenfranchisement of rural women; employment conditions and sexual harassment in the workplace; and the absence of political participation of women.

The Committee's concluding observations request Guatemala to submit information, within one year, on the progress of legal reform, especially in relation to consensual unions, domestic workers' labour conditions, and human trafficking; and the progress in combating violence against women including the implementation of the national plan of action to combat domestic violence, the adoption of specific legislation on violence against women, and the implementation of gender-sensitive training on violence against women for public officials.

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### Honduras

Honduras appeared before CAT in May 2009 for the examination of its initial report, which was due since 1999.<sup>64</sup> The large delegation was led by Mr Hugo Adlaberto Suazo Ortiz, Vice Minister for Security and Investigation in the Ministry of Security of Honduras, and included representatives from most relevant public entities including a prison doctor. The delegation generally strived to provide comprehensive responses to the Committee, but the limited time available forced the delegation to answer some questions in writing at a later stage.

During the review the Committee focused on

62

Guinea-Bissau's combined initial to 6th periodic reports, 44th session of CEDAW. An NGO report was submitted by the League Bissau-Guinéenne des Droits Humains (LGDH). This report and the Committee's concluding observations are available at: [www2.ohchr.org/english/bodies/cedaw/cedaws44.htm](http://www2.ohchr.org/english/bodies/cedaw/cedaws44.htm).

63

Haiti's initial to 7th periodic reports, 43rd session of CEDAW. An NGO report was submitted by Equality Now. This report and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cedaw/cedaws43.htm](http://www2.ohchr.org/english/bodies/cedaw/cedaws43.htm).

64

Honduras' initial periodic report, 42nd session of CAT. NHRI and NGO reports were submitted by Center for the Prevention, Treatment and Rehabilitation of Torture Victims and their Families (CPTRT) and el Comisionado Nacional de los Derechos Humanos (CONADEH). These reports and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cat/cats42.htm](http://www2.ohchr.org/english/bodies/cat/cats42.htm).

the following issues: the frequency of visits by the Public Prosecutor's Office to prisons; the high rate of pre-trial detentions; the provisions and actual application of being held *incommunicado*; the availability of free legal aid for the poor; the need for more information on social cleansing operation of youth gangs; the issue of overcrowding in prisons; vaginal searches by unauthorised persons; means used to protect human rights defenders; practical training and follow-up of training on police and prison officers; the use of the Istanbul Protocol in reporting or documenting instances of torture in prisons; the high number of detainees subject to violence; serious human rights violations in Honduras referred to in UN official documents and the State's responses; the need for rehabilitation and monetary compensation for victims of torture; trafficking in young girls; availability of witness protection programmes; and the issue of femicides.

The Committee requested information, within one year, on implementation of the following recommendations: strengthening of fundamental safeguards including the establishment of an independent oversight mechanism; the need to enhance the search for disappeared persons and establish a rehabilitation programme for victims of disappearances and their families; combating trafficking in persons; preventing torture and ill-treatment in pre-trial detention; improving mental healthcare services in detention facilities; and the use of mandatory remand for members of 'unlawful associations'.

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## Japan

Japan presented its 6th periodic report to CEDAW in July 2009.<sup>65</sup> Key issues addressed during the examination included: the treatment of the Convention as a legally binding human rights treaty; existing discriminatory laws; sexually explicit video games portraying women enjoying rape; and gender disparities in educational material. Discussion also focused on: persistent stereotypes regarding the roles and responsibilities of women and men; measures to address all forms of violence against women including domestic violence; addressing the root causes of trafficking and prostitution by improving the economic situation of women; and sex

education programmes and their role in reducing HIV/AIDS contraction rates, sexual abuse, and teen pregnancies.

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## Israel

Israel appeared before the CAT in May 2009 with an eight person mid-level delegation.<sup>66</sup> While generally taking a constructive approach to the review, the delegation began by urging the Committee to 'put things into perspective' when examining Israeli compliance with the Convention and it often provided open-ended replies that lacked specificity. Furthermore, the delegations strongly advanced the notion that the Convention is not applicable in the Occupied Palestinian Territories (OPT) and that, in any case, international humanitarian law was the applicable law in accordance with the principle of *lex specialis*. The Committee strongly disagreed with this argument and decided to include its opposing analysis in its concluding observations.

One of the main focus areas of the Committee was the need for effective criminalisation of torture in domestic law and it specifically recommended the inclusion of a crime of torture in the penal code and the abolishment of 'necessity' as a possible justification for torture. The delegation was generally dismissive of these recommendations. Among the other issues raised by the Committee were the use of administrative detention in the OPT and the detention of 'unlawful combatants' for up to 14 days without judicial review; the continuing allegations of use of torture during interrogations and the need for independent oversight over the Israeli Security Agency (ISA); *non-refoulement* and the use of summary deportations; the absence of an explicit prohibition of using evidence obtained through torture; the definition and treatment of minors in the OPT and the absence of basic safeguards; and the need for prompt, independent, and comprehensive investigation of excessive use of force during military operations.

The Committee requested information, within one year, on implementation of the following recommendations: the need to ensure basic safeguards for all groups of detainees; the need to ensure prompt and effective investigation of all allegations of torture by investigators; pro-

65 Japan's 6th periodic report, 44th session of CEDAW. NGO reports were submitted by Japan Network on Education for the Advancement of Gender Equality, Equality Action 21, Equality Now, OMCT, Japan Federation of Women's Organizations (FUDANREN), Global Initiative to End all Corporal Punishment of Children, Japan Bar Association, Japan LBT, Japan NJWA, JFOR, Space Allies, Japan NGO Network for CEDAW (JNNC), Women against Sexist-Ageist Remarks by Governor Ishihara (WASARGI), Women's Working Network, and the Korean Council. These reports and the Committee's concluding observations are available at: [www2.ohchr.org/english/bodies/cedaw/cedaws44.htm](http://www2.ohchr.org/english/bodies/cedaw/cedaws44.htm).

66 Israel's 4th periodic report, 42nd session of CAT. NGO reports were submitted by COHRE, UAT, Amnesty International, Hotline for Migrant Workers and the Refugee Rights Clinic at Tel Aviv University, Public Committee against Torture in Israel, PCATI and OMCT, and B'Tselem and HaMoked. These reports and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cat/cats42.htm](http://www2.ohchr.org/english/bodies/cat/cats42.htm).

vide information on a number of criminal procedures that have resulted in convictions; the need to ensure basic safeguards in deportation proceedings; and the call to desist from all housing demolition in violation of Article 16 of the Convention.

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### Kuwait

Kuwait was reviewed by CERD during its 75th session but due to the absence of a State report, the review was conducted in closed session and there is no public documentation pertaining to the review.

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### The Lao Peoples' Democratic Republic

The Lao People's Democratic Republic's combined periodic 6th and 7th reports were examined by CEDAW in July 2009.<sup>67</sup> Primary areas of discussion included: the definitions of rape and marital rape; the status of the Convention in domestic law; maternal healthcare; and HIV/AIDS prevention campaigns. The examination also focused on: a definition of discrimination including both direct and indirect discrimination; measures addressing all forms of violence against women and girls; the need for a comprehensive national plan combating trafficking; and the importance of women's full and equal participation in political, public, and professional life. The Committee expressed its disappointment at the generality of the State report and requested disaggregated data, particularly with regard to ethnic groups, in its next report.

<sup>67</sup> The Lao People's Democratic Republic's combined 6th and 7th reports, 44th session of CEDAW. NGO reports were submitted by the Global Initiative to End all Corporal Punishment of Children, the Gender and Development Group, and the International Women's Rights Action Watch Asia Pacific (IWRAP Asia Pacific). These reports and the Committee's concluding observations are available at: [www2.ohchr.org/english/bodies/cedaw/cedaws44.htm](http://www2.ohchr.org/english/bodies/cedaw/cedaws44.htm).

<sup>68</sup> Liberia's 6th periodic report, 44th session of CEDAW. Concluding observations are available at [www2.ohchr.org/english/bodies/cedaw/cedaws44.htm](http://www2.ohchr.org/english/bodies/cedaw/cedaws44.htm). An NGO report was submitted by the Women NGOs secretariat of Liberia and is available at [www2.ohchr.org/english/bodies/cedaw/cedaws44.htm](http://www2.ohchr.org/english/bodies/cedaw/cedaws44.htm).

<sup>69</sup> Libya's 2nd to 5th periodic reports, 43rd session of CEDAW. An NGO report was submitted by Equality Now. This report and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cedaw/cedaws43.htm](http://www2.ohchr.org/english/bodies/cedaw/cedaws43.htm).

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### Liberia

Liberia was examined by CEDAW in July 2009.<sup>68</sup> Discussion focused particularly on the continued prevalence of discriminatory practices, especially sexual and physical violence against women and girls. Also targeted in the discussion were: the need for the incorporation of an appropriate definition of discrimination against women in domestic law; the importance of legal reform to ensure *de jure* and *de facto* equality amongst men

and women; strengthening of national machinery for gender mainstreaming; discriminatory cultural practices and stereotypes; legislation prohibiting female genital mutilation; programmes addressing violence against women with a focus on domestic violence; effective implementation and enforcement of the 2005 Anti-Human Trafficking Act; increased representation of women in all levels and branches of Government; equal access to education; equal opportunities in the labour market; access to and public awareness of healthcare; discrimination against rural women; and equal legal rights in marriage.

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### Libya

Libya appeared before CEDAW in February 2009.<sup>69</sup> While the interactive dialogue was described by the Committee as constructive, the majority of replies by the Libyan delegation displayed a significant lack of understanding of the basic principles of the Convention. The discussion mainly focused on the following issues: the incompatibility between Libya's reservations to Articles 2 and 16 of the Convention and its object and purpose; the absence of a definition of discrimination; the practice of institutionalisation of women and girl victims of rape and the possibility of the rapist marrying the victim to avoid punishment; pre-marital virginity tests; the absence of measures to prevent trafficking of women and girls; the disparity between the high rate of well educated women and their very limited participation in political life; access of women and girls to education and healthcare; and the absence of an active civil society and an independent national human rights institution. During the review, the delegation explicitly committed to providing more and better quality statistical data on its implementation of the Convention in its next periodic report.

The Committee decided to request information, within two years, on recommendations relating to the elimination of the practice of *de jure* and *de facto* male guardianship over women and the need to enact specific legislation for the adoption of temporary special measures to accelerate the realisation of women's *de facto* equality with men in areas where women are underrepresented or in disadvantaged situations.

## Madagascar

Madagascar appeared before **CESCR** at its 43rd session in November 2009.<sup>70</sup> In its first appearance in 17 years, the delegation, gender-balanced and composed of high-level bureaucrats and diplomats, was skilfully led by the Minister for Justice to engage in a forthcoming, frank, and comprehensive discussion with the Committee. Key issues addressed during the review included: inadequate domestic implementation of the Covenant and the need for international assistance to realise the Covenant rights; discrimination against descendants of slaves, children of mixed marriages through their limited access to citizenship, and women (including in relation to inheritance laws); gender equality with a focus on the lack of a national framework law, violence against women and children, and unequal access to employment for men and women; existence of corruption and impunity; poverty reduction measures; workers' rights including in export processing zones, and sexual harassment in the workplace; child labour; the right to health, focusing on measures to increase life expectancy, access to basic family planning, prison conditions, and access to clean drinking water; access to education for girls, children with disabilities and children in remote areas, and promotion of the importance of education within society; the impact of foreign investment in agriculture and the right to food; and the promotion of cultural identity and use of national languages.

The Committee's concluding observations requested Madagascar to take immediate steps to ensure access to clean drinking water and the ability for the population to invoke Covenant provisions before domestic courts.

## The Maldives

The Maldives was reviewed by **CERD** during its 75th session but due to the absence of a State report, the review was conducted in closed session and there is no public documentation pertaining to the review.

## Moldova

The **HRC** reviewed the overdue 2nd periodic report of Moldova in October 2009.<sup>71</sup> The small delegation was led by the Deputy Minister of Justice, Mr Nicolae Esanu, supported by three officials representing the General Prosecutor Office and the Permanent Mission of Moldova in Geneva. Having expressed his apologies for the late submission of written replies, Mr Esanu provided a general overview of recent changes in current domestic legislation, progress and obstacles, particularly in the area of designation of judges; drafting and application of non-discrimination provisions; legislation on demonstrations; administration of prisons and pre-trial facilities; and anti-corruption and anti-trafficking measures taken by the Government of Moldova.

Despite the progress in enacting legislation, the members of the Committee expressed concern about a lack of implementation. The Committee highlighted general areas in which the State is expected to strengthen its efforts on implementation, including conditions in detention facilities, duration of pre-trial detention, independence of judiciary and administration of justice, freedom of religion, trafficking in human beings, and juvenile justice.

In spite of the reported development of draft legislation on anti-discrimination, issues such as stigmatisation of persons infected with HIV/AIDS; discrimination based on sexual orientation and gender; and discriminatory attitudes towards Roma community remained matters of concern for the Committee. The Committee also addressed the State's obligation to investigate alleged human rights violations committed during the post-election demonstrations in April 2009, the need to bring to justice those responsible, and to provide adequate compensation to victims. Similar recommendations were provided with respect to allegations of torture and ill-treatment in police stations and other detention facilities. Members of the Committee also emphasised the obligation of the State to ensure implementation of the Covenant in Transnistria.

The Committee decided to request information, within one year, on recommendations relating to the following issues: accountability for human rights violations during post-election violence in April 2009; torture and ill-treatment of per-

<sup>70</sup> Madagascar's 2nd periodic report, 43rd session of CESCR. No NGO reports were submitted. The Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cescr/cescrs43.htm](http://www2.ohchr.org/english/bodies/cescr/cescrs43.htm).

<sup>71</sup> Moldova's 2nd periodic report, 97th session of HRC. NGO reports were submitted by Resource Center for Human Rights, CREDO, CPTI, Amnesty International, Resource Center for Human Rights (CReDO), Moldovan Institute for Human Rights (IDOM) and National Roma Center Promo-lex. And a joint NGO report by GenderDoc-M, Global Rights, ILGA-Europe, and the International Human Rights Clinic, Human Rights Program, Harvard Law School. These reports and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/hrc/hracs97.htm](http://www2.ohchr.org/english/bodies/hrc/hracs97.htm).

sons in custody; domestic violence; and human trafficking.

Moldova appeared before CAT in November 2009<sup>72</sup> for the consideration of its second periodic report that was submitted with almost a three-year delay and criticised by the Committee for 'lacking statistical and practical information on the implementation of the provisions of the Convention'.

The delegation was composed of high-level delegates from relevant ministries and engaged in constructive and open dialogue with the Committee in which they welcomed all questions and were careful to fully answer all inquiries of the Committee. Among the key issues addressed during the interactive dialogue were: the events of April 2009 when 600 people were arrested, beaten and detained without access to representation; reports of widespread torture and ill-treatment by police during detention; women in detention, including reports of harassment and forced sexual acts; training of the police force and officials in crowd control; detention centre conditions including issues such as duration of detention, minors and adults not being separated, and treatment of detainees with tuberculosis; violence against women; trafficking; coerced testimony; racial discrimination against minorities, particularly people of Roma descent; protection of witnesses; doctors reporting abortions to police resulting in the arrest of women; and rejection of complaints of torture that are older than ten months.

The Committee in its concluding observations requested information, within one year, on recommendations regarding the following issues: the logistical and legislative restraints preventing the national preventative mechanism from functioning effectively; arbitrary arrests and failed crowd control methods; law enforcement officers on duty wearing visible identification; redress and compensation for victims of torture; and forcible detention of persons with tuberculosis.<sup>73</sup>

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## Montenegro

Montenegro appeared before CERD in February 2009 for the examination of its initial periodic report, which covers the period 2002<sup>74</sup> to 2007.<sup>75</sup>

Montenegro was represented by a high-level delegation that engaged constructively with the Committee's concerns. The discussion mainly focused on the following issues: the situation of the Roma, Ashkelia, and Egyptian minorities and their access to education; the treatment of refugees and IDPs from Kosovo and the former Yugoslavia; police abuse and judicial corruption which impact vulnerable groups; representation of minorities in the national parliament, judiciary, and in top positions in government; the lack of harmonisation between pre- and post-independence laws; the environment of impunity; and the agreement between the US and Montenegro regarding the International Criminal Court (ICC).<sup>76</sup> According to the Committee, the main issue in the country is to improve the status of the Roma community in Montenegro and to step up the implementation of relevant legislation.

The Committee recommended that Montenegro provide more information in the future on the steps taken to implement the Convention and include disaggregated data on Montenegro's population in the next report. Montenegro replied that it is seeking different solutions for refugees and IDPs and that it is establishing various projects and strategies regarding education, housing, employment, and health to integrate the Roma population. The Committee decided to request information, within one year, on recommendations relating to the following issues: the status of internally displaced persons and displaced persons from Croatia and Bosnia Herzegovina; the need to adopt an anti-discrimination law; and the need to harmonise existing legislation with the 2007 Constitution and the Convention.

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## The Netherlands (including the Netherlands Antilles and Aruba)

The Netherlands together with the Netherlands Antilles and Aruba was examined by the HRC in July 2009.<sup>77</sup> The high-level Dutch delegation, which was led by Mr Hirsch Ballin, Minister of Justice, showed a high degree of cooperation and provided answers to most questions to the satisfaction of the Committee.

The interactive dialogue mainly focused on the following issues: existing inequality between men and women, in particular regarding salary

72

Moldova's 2nd periodic report, 43rd session of CAT. NGO reports were submitted by Amnesty International, Resource Center for Human Rights, Moldovan Institute for Human Rights, Roma National Center, Centrul Pentru Drepturile Omului Din Moldova, and Rehabilitation Center for Torture Victims 'Memoria.' These reports and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cat/cats43.htm](http://www2.ohchr.org/english/bodies/cat/cats43.htm).

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CAT/C/MDA/CO/2, available at [www2.ohchr.org/english/bodies/cat/cats43.htm](http://www2.ohchr.org/english/bodies/cat/cats43.htm).

74

Montenegro itself became independent in 2006. The State Union of Serbia and Montenegro submitted its first State report together.

75

Montenegro's initial report, 74th session of CERD. NGO reports were submitted by European Roma Rights Centre and Centre for Roma Initiatives and Human Rights Action. These reports and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cerd/cerds74.htm](http://www2.ohchr.org/english/bodies/cerd/cerds74.htm).

76

Montenegro and the US concluded an 'article 98 agreement': under this agreement countries undertake not to seek the prosecution of US citizens before the ICC.

77

The Netherlands' 4th periodic report, 96th session of HRC. NGO reports were submitted by Conscience and Peace Tax International and the Dutch section of the International Commission of Jurists. These reports and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/hrc/hrcs96.htm](http://www2.ohchr.org/english/bodies/hrc/hrcs96.htm).

levels and the under-representation of women in senior positions; obstacles to receive legal counsel during police questioning in the Netherlands and the lengthy periods of pre-trial detention; current anti-terrorism measures such as administrative measures, 'disturbance orders', and telephone tapping; the establishment of a national human rights institution; the State's remaining reservations to Article 10, in particular Paragraphs 1 and 2 relating to the treatment of persons deprived of liberty; medical experimentation on minors; the storage of biometric data on passports; the protection of the identity of witnesses; sexual abuse of children; female genital mutilation; human trafficking; access to housing for low-income families; juvenile detention; religious discrimination; freedom of expression; human rights education; and discrimination against ethnic minorities, in particular in the workplace.

The Committee requested information on the implementation of the Committee's recommendations within one year regarding two issues: the prevalence of euthanasia and assisted suicides in the Netherlands and the lack of strict criteria for the examination of these cases; and the Dutch accelerated asylum procedure and the new proposed eight-day procedure, which were criticised for not affording adequate fair trial rights and protection against *refoulement*.

The delegation of the Netherlands Antilles was headed by Mr Piar, Attorney-General of the Netherlands Antilles. He was supported by representatives from the Prosecutor's Office, the Directorate of Labour Affairs, the Directorate of Judicial Affairs, and the Directorate of Foreign Relations. Mr Piar informed the Committee that it was probably the last time that the Netherlands Antilles addressed the Committee as the definite date for the dismantling of the Netherlands Antilles will be in 2010. The delegation of the Netherlands Antilles tried to answer all questions of the Committee and was open for dialogue. One of the most prominent issues raised by the Committee was the appalling conditions in places of detention and the ill-treatment of detainees. The Committee requested follow-up to this issue within a year and recommended that the Government should ensure 'as a matter of urgency that the conditions in places of detention are improved.' It also recommended that the State focus on preventing ill-treatment of

prisoners as a matter of urgency and that police and prison personnel receive training on the adequate treatment of detainees. The Committee also touched upon the following issues: discrimination against children born out of wedlock, human trafficking as it is not a criminal offence under the current law, and the new juvenile criminal code.

The delegation of Aruba was led by Mr Pietersz, Attorney-General of Aruba who was supported by a small delegation. The Committee posed no direct questions to the Aruban delegation. However, the delegation made some general remarks on questions that were posed to the Netherlands regarding juvenile detention, violence against women, and child abuse and outlined its current measures to tackle these problems. The Committee was concerned about the length of pre-trial detention, as acknowledged by the State party, which averaged 116 days and lasted up to a maximum of 146 days. The Committee therefore recommended that Aruba should limit the duration of pre-trial detention in line with the Covenant. At the end of the examination the Aruban delegation expressed its determination to work closely with the Committee on improving the protection and promotion of human rights despite the absence of specific questions for the delegation.

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## New Zealand

New Zealand appeared before CAT in May 2009.<sup>78</sup> The Committee noted its appreciation for New Zealand's comprehensive report, the high-level delegation attending the session, the active and constructive cooperation with the Committee, and the submission of elaborate written replies. The Committee expressed concerns that the Convention has not been fully incorporated into domestic law and emphasised that the absolute nature of the prohibition against torture had to be more explicitly spelled out in New Zealand's law.

Particular concerns were raised about the introduction of 'Taser' weapons in the New Zealand police. The Committee reiterated its concern about the use of these weapons, and noted that in specific situations this could constitute a form of torture. New Zealand responded that it followed

<sup>78</sup> New Zealand's 3rd to 5th periodic reports, 42nd session of CAT. NGO reports were submitted by ACYA, Tony ELLIS/Antony SHAW Barristers, Sonja Cooper, Human Rights Commission of New Zealand, and Human Rights Foundation Aotearoa. These reports and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cat/cats42.htm](http://www2.ohchr.org/english/bodies/cat/cats42.htm).

international best practices, that a democratic and transparent process occurred with regard to the use of these weapons, and that there were several safeguards to ensure that these weapons were used appropriately. Other issues raised during the examination included: *non-refoulement* and detention of asylum seekers; the prosecution of torture in absence of the Attorney General's consent; the protection of Maoris from torture and ill-treatment, being disproportionately represented in the prison population, and receiving harsher sentences; juvenile justice, particularly the low age of criminal responsibility; conditions of detention; human rights training for correction facilities staff and medical professionals; the need for effective investigation of all allegations of torture; use of statements obtained as a result of torture; and violence against women, particularly Maori, Pacific, and minority women.

The Committee decided to request information, within one year, on recommendations relating to the following issues: reduction of prison overcrowding and provision of adequate mental healthcare; need for effective investigation and remedies especially in relation to violations against children and psychiatric patients; withdrawal of reservation to Article 14 of the Convention to ensure that all victims of torture have access to compensation; and the use of 'Taser' weapons.

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### Nicaragua

Nicaragua appeared before CAT in May 2009.<sup>79</sup> The Nicaraguan delegation generally engaged in a constructive dialogue with the Committee. During the review, the Committee addressed the following key issues: the need to establish an effective and independent national preventive mechanism under the optional protocol to the *Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* (OPCAT); whether the criminalisation of torture could be brought in line with the Convention through the specification in the domestic provision of the different possible perpetrators enumerated in the Convention; ineffective access to legal aid due to the limited number of public defenders in the country; physical, sexual and psychological violence against women; the need for specific anti-torture training for public offi-

cially including medical staff in prisons; harassment and death threats against human rights defenders; the high rate of excessive use of force by the police and the very low number of effective prosecutions; the need to establish effective detainee registers to avoid arbitrary detention; the need to ensure effective access to reparations including compensation and rehabilitation; and conditions of detention including overcrowding, infrastructure, and hygiene.

The Committee requested information, within one year, on implementation of the following recommendations: bring the domestic definition of torture in line with the Convention; adopt measures to ensure immediate and impartial investigations of all allegations of torture; ensure a proper administration of justice including independence of the judiciary, fair trial rights, and combating corruption; provide adequate legal protection against violence against women and ensure effective prosecution and access to reparations; and combat violence against children including in the family and correctional institutions.

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### Pakistan

Pakistan appeared before CERD in February 2009.<sup>80</sup> Despite appearing for the review with a relatively low-level delegation mainly composed of diplomats, Pakistan was commended by the Committee for its engagement in a constructive dialogue. However, the Committee did criticise the delegation for the lack of statistical data provided in the State report and the very narrow approach to discrimination focusing solely on religious minorities.

During the review the Committee addressed the following key issues: the need to bring the constitutional definition of minority in conformity with the Convention; the lack of a comprehensive anti-discrimination law and the absence of judicial protection and remedies against acts of racial discrimination; caste-based discrimination, including bonded labour and land distribution; discrimination against Pashtun tribes in the Federally Administered Tribal Areas (FATA) and the North-West Frontier Province (NWFP); efforts to protect and promote minority languages; the need for prompt establishment of an

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Nicaragua's initial report, 42nd session of CAT. NGO reports were submitted by a coalition of NGOs coordinated by OMCT and Amnesty International. These reports and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cat/cats42.htm](http://www2.ohchr.org/english/bodies/cat/cats42.htm).

80

Pakistan's 15th to 20th periodic reports, 74th session of CERD. NGO reports were submitted by International Dalit Solidarity Network, Minority Rights Group International, and a joint report prepared by TRDP, NCJP, PILER, IDSN and Justice and Peace Netherlands. NGO reports and the Committee's concluding observations can be found at [www2.ohchr.org/english/bodies/cerd/cerds74.htm](http://www2.ohchr.org/english/bodies/cerd/cerds74.htm).

independent national human rights institution; acts of violence against women, especially from a minority background; and the application of Sharia laws to non-Muslims in the SWAT valley.

The Committee requested information, within one year, on recommendations relating to the following issues: the need to ensure implementation of Convention rights in FATA and NWFP; the need to ensure that a national human rights institution will be established in conformity with the Paris Principles; and the need to intensify efforts to combat bonded labour.

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## Peru

Peru was examined by **CERD** in August of 2009.<sup>81</sup> The Peruvian delegation was headed by Mr Aurelio Pastor Valdivieso, the Minister of Justice. The Committee approached the review of Peru with a very high degree of specificity compared with other reviews and largely focused on the situation of indigenous peoples and Afro-Peruvians. In relation to the rights of indigenous peoples, the Committee focused on access to basic economic, social and cultural rights including access to housing, education, health, and employment; the preservation of indigenous culture through protection of their languages; and the practice of forced sterilisation of indigenous women. The Committee's country rapporteur concluded the review by criticising the delegation for not effectively responding to the Committee's questions and concerns especially related to the negative effects of water management policies on indigenous communities.

The issue that received the most attention was conflicts related to land rights. Here, the Committee focused specifically on the negative impact of oil exploitation, water management, and mining activities and expressed specific concern about the recent conflicts in June 2009 related to such activities. In relation to Afro-Peruvians, the Committee focused on issues related to the lack of constitutional recognition of this minority; instances of hate speech; and access to basic economic, social and cultural rights including access to housing, education, health, and employment.

The Committee requested information, within

one year, on recommendations relating to the following issues: the need to improve its census methodologies with a specific focus on obtaining adequate information on the Afro-Peruvian population and the use of native languages; the need to increase its focus on identifying and responding to the specific needs of the Afro-Peruvian population; and the inadequate water management policies and recommendations to prevent negative impact on indigenous communities.

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## The Philippines

The Philippines appeared for the second time before **CAT** in May 2009, 20 years after the review of its initial report.<sup>82</sup> The large and relatively high-level delegation of the Philippines was commended for the quality of its report but was also advised to include more examples in the future. Considering the routine and widespread nature of torture and ill-treatment in the Philippines, the Committee spent significant time addressing fundamental safeguards such as the need for prompt and effective access to legal council, independent medical examination, and to notify a relative for detainees; and registration of all detainees to prevent disappearances. The Committee also raised the need to effectively investigate allegations of extrajudicial killings and disappearances and to implement the recommendations of the Special Rapporteur on extrajudicial, summary or arbitrary executions, and the obligation to effectively investigate and prosecute allegations of torture and to adopt a comprehensive criminalisation of torture in domestic law.

The Committee also addressed a wide range of other issues, including: harassment, violence and killings of human rights defenders and ineffective protection of witnesses; the absence of a prohibition of *refoulement* in extradition treaties; the lack of independence of the Commission on Human Rights of the Philippines; occurrences of denial of entry to monitor detention facilities; ill-treatment in detention due to overcrowding and sub-standard facilities; torture against women including sexual violence and forced prostitution, which is frequently not reported due to fear of reprisals; the need for training on the Convention provisions and effective methods for documenting torture; inadequate access to reparation

<sup>81</sup> Peru's 14th to 17th periodic reports, 75th session of CERD. NGO reports were submitted by CAOI, Centro de Desarrollo Étnico y Makungu por el Desarrollo, Organizaciones no gubernamentales y autoridades aymaras, Taller Permanente de Mujeres Indígenas Andinas y Amazónicas del Perú, and a joint report by CHIRAPAQ, Centro de Culturas Indígenas del Perú and Taller Permanente de Mujeres Indígenas Andinas y Amazónicas del Perú. These reports and the Committee's concluding observations can be found at [www2.ohchr.org/english/bodies/cerd/cerds75.htm](http://www2.ohchr.org/english/bodies/cerd/cerds75.htm).

<sup>82</sup> The Philippines' 2nd periodic report, 42nd session of CAT. NGO reports were submitted by FIDH, ALRC, FIACAT-ACAT, Just Detention International, NCCP, OMCT, and a joint civil society report. These reports and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cat/cats42.htm](http://www2.ohchr.org/english/bodies/cat/cats42.htm).

including compensation and rehabilitation; and various violations committed against children including trafficking, domestic violence, recruitment as child soldiers and the non-separation of children and adults in detention.

The Committee decided to request information, within one year, on recommendations relating to the following issues: implementation of fundamental safeguards for detainees; the need for prompt, thorough, impartial, and effective investigations into all allegations of torture and ill-treatment committed by law enforcement officials; strengthening of the mandate of the Commission on Human Rights of the Philippines; and improvement of conditions of detention for women and children including combating sexual violence and ensuring separation of children and adult detainees.

The Philippines was examined by CERD during its 75th session in August 2009.<sup>83</sup> The Filipino delegation was co-headed by Ms Erlinda F. Basilio, the Ambassador and Permanent Representative of the Filipino Mission to the UN, and Mr Eugenio A. Insigne, Chairman of the National Commission on Indigenous Peoples, and comprised of an additional twelve persons, primarily from the National Commission on Indigenous Peoples and the Permanent Mission.<sup>84</sup> The last examination of the Philippines by CERD was carried out in 1997, and the Committee therefore invited the State to meet the deadlines in future sessions. The Committee appreciated the active role of civil society and of the National Commission on Human Rights of the Philippines, which was granted one hour of the State's response time to present an extensive report.<sup>85</sup>

Concerning issues raised, the Committee pointed out that the Convention is not self-executing in the Philippines and urged the State to adopt a comprehensive law on the elimination of discrimination, and that it more comprehensively examine the existence of *de facto* discrimination in the country. The Committee also requested further information on the activities of the Ombudsman to combat racial discrimination, and urged that further efforts be taken in regions of armed conflict, including impartial investigations to protect vulnerable groups such as non-nationals, migrant workers, people of mixed background, and IDPs from human rights violations. The Committee also focused

on the national legislation of natural resources that may run counter to the rights of indigenous people, such as the 1995 Mining Act, and demanded more transparency within the process of defining ancestral domains and the assessment of the free, prior and informed consent. The Committee recommended further consultation to ensure the respect of customary laws and practices, especially regarding the Subanon Mt Canatuan case.<sup>86</sup> The Committee also called upon the State to provide data on the socio-economic situation of the population, disaggregated by gender and ethnicity.

The Committee requested information, within one year, on recommendations relating to the following issues: envisaged broad consultations to solve the Subanon Mt Canatuan case; streamlining of the process for obtaining land rights certificates and the initiation of effective measures to protect communities from retaliations and violations when attempting to exercise their rights; and efforts to ensure protection of indigenous peoples and children and effective investigations of human rights violations in the context of the ongoing internal conflicts.

The Philippines appeared before the CMW in May 2009.<sup>87</sup> The large and fairly high-level delegation suggested an open and comprehensive approach, and the Chairperson thanked the delegation for its impressive efforts in compiling the initial report and subsequent responses to the advance questions.

Among the key issues raised by the Committee were: the need to mainstream the Convention provisions into bilateral agreements with receiving countries; the need to improve impact assessment of programmes designed to respond to challenges faced in its labour migration policy; the non-recognition of the Committee's competence to receive individual communications; discrimination against migrant workers especially in relation to the prohibition of joining trade unions; the policy of encouraging migrations as a solution to domestic unemployment, which was particularly visible in the training of nurses in Canadian practices instead of the domestic methods; the use and effectiveness of pre-departure training programmes; the lack of adequate assistance to Filipino migrant workers abroad especially in relation to legal services; the need to develop sustainable employment strate-

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The Philippines' 15th to 20th periodic reports, 75th session of CERD. NGO reports were submitted by the Philippines Indigenous Peoples and Internal Displacement Monitoring Centre (IDMC). These reports and the Committee's concluding observations can be found at [www2.ohchr.org/english/bodies/cerd/cerds75.htm](http://www2.ohchr.org/english/bodies/cerd/cerds75.htm).

84

Delegation members from the Permanent Mission of the Philippines to the UN: Erlinda F. Basilio, Ambassador and Permanent Representative; Denis Y. Lepatan, Deputy Permanent Representative; Maria Teresa C. Lepatan, Minister; Josephine M. Reynante, First Secretary; Jesus Enrique G. Garcia II, 2nd Secretary, and Leizel J. Fernandez, Attaché. Representatives of the National Commission on Indigenous Peoples were Eugenio A. Insigne, Chairman; Felecito L. Masagnay, Commissioner; Masili A. Quilaman, Director; Myrna L. Caoagas, Director; and Basilio A. Wandag, Director. Further members included Pilita O. Venturanza, Deputy Executive Secretary of the Office of the Executive Secretary; Romulo Halabaso, Office of the Presidential Adviser on the Peace Process; and Ali B. Sangki, Executive Director of the Office of Muslim Affairs. The list of delegation members of the Philippines was distributed during the session and is not available online.

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Speaker: Cecilia Rachel V. Quisumbing, Commissioner of the Commission on Human Rights of the Philippines.

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This case deals with the respect of customary practices and rights of the Subanon people of Canatuan within their ancestral territory. Concerns have been raised that mining operations at Mount Canatuan, a sacred site of the Subanon people, are undertaken without prior consent by the Subanon people.

87

The Philippines' initial report, 10th session of CMW. NGO reports were submitted by Center for Migration Advocacy, ICMC, Philippine Migrants Group, Commission on Human Rights of the Philippines, and Migrant International. NGO reports and the Committee's concluding observations can be found at [www2.ohchr.org/english/bodies/cmw/cmws10.htm](http://www2.ohchr.org/english/bodies/cmw/cmws10.htm).

gies for the country to avoid a 'brain drain'; the need to maintain a register of overseas voters and take additional steps to facilitate the exercise of voting rights by Filipino migrant workers residing abroad; and the level of protection offered to the particularly large and vulnerable group of migrant women.

The Chairman thanked the delegation for its 'significant' replies, whilst the country rapporteur praised the State for its novel initiatives, such as the task force on trafficking. He nevertheless expressed his concern about the lack of information provided on the implementation and effectiveness of these initiatives, and highlighted two areas in need of urgent improvement: the mainstreaming of rights in national institutions, initiatives, and policies; and the need for greater focus on female migrant workers as a particularly vulnerable group.

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## Poland

Poland was examined by **CERD** in August 2009.<sup>88</sup> The relatively large delegation comprising several relevant ministries was headed by Ms Elzbieta Radziszewska, Secretary of State at the Chancellery of the Prime Minister, Government Plenipotentiary for Equal Treatment.

The Committee commended the establishment of the Office of the Plenipotentiary for Equal Treatment and the development of a national programme to combat racial discrimination. One of the main issues discussed during the examination was the ongoing discrimination against Roma people. The Committee recommended in particular enhancing efforts towards full integration of the Roma into Polish society and combating discrimination against the Roma by improving the enjoyment of economic, social and cultural rights, especially in education, employment, and housing. The Committee also expressed concern regarding the prevalence of racially motivated crimes against persons of Arab, Asian, and African origin and anti-Semitic behaviour such as desecration of Jewish cemeteries, hate speech, and dissemination of anti-Semitic material via the Internet. Among the other issues addressed by the Committee were: the education of Roma children; manifestations of racial hatred during sport events, such as foot-

ball hooliganism; and the existence of organisations that promote racial hatred and racial discrimination; human trafficking; human rights education in schools and the media; the participation of minorities in public institutions; access to healthcare for refugees; and the granting of residence permits to Chechens.

The Committee decided to request information, within one year, on recommendations relating to the following issues: efforts to address racially motivated hate crimes by ensuring that all such incidents are thoroughly investigated and that perpetrators are brought to justice; measures to tackle anti-Semitic behaviour; and societal integration and poverty reduction in the Roma population.

Poland was examined by **CESCR** in November 2009.<sup>89</sup> The 20-member Polish delegation was headed by the Undersecretary of State, Ministry of Labour and Social Policy, Mr Radoslaw Mleczko, and included representatives from the Ministry of Health, Justice, the Social Integration Department, and experts on gender equality and persons with disabilities. Chairman Mr Jaime Romero expressed his satisfaction with the clear demonstration of interest by the State to build a constructive dialogue. Some members of the Committee voiced their satisfaction with the report and the replies presented by Poland, although Committee member Mr Walid Sa'di regretted the delegation's lack of experts on housing, education, and ethnic minorities.

One of the most prominent issues raised by the Committee was discrimination based on sexual orientation and bullying at school based on homophobia. The Committee emphasised the importance of enforcing existing anti-discrimination legislation and combating *de facto* discrimination through campaigns and awareness manuals into schools.

Other areas of focus included dissemination of the Covenant among the entire population; discrimination against ethnic minorities, including the Roma community; gender equality, including wage disparity between men and women, the gap in retirement age, and apparent impunity for domestic violence. The Committee also expressed concerns with labour exploitation, where unpaid overtime and harassment of trade union members are still common practice; pri-

<sup>88</sup> Poland's initial report, 75th session of CERD. An NGO report was submitted by the Helsinki Foundation for Human Rights. This report and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cerd/cerds75.htm](http://www2.ohchr.org/english/bodies/cerd/cerds75.htm)

<sup>89</sup> Poland's 5th periodic report, 43rd session of CESCR. NGO reports were submitted by Federation for Women and Family Planning, the Open Society Institute Global Drug Policy Program and the International Harm Reduction Association. These reports and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cescr/cescrs43.htm](http://www2.ohchr.org/english/bodies/cescr/cescrs43.htm).

atisation of the healthcare system; and lack of family planning in the State's budget and reports of a growing number of clandestine abortions that are causing deaths among many women in the country.

The Committee acknowledged the improvement made by the State since the last examination and the various measures taken, including adoption of the *Protocol to Prevent, Suppress and Punish Trafficking in Persons*, enactment of the Act on Family Allowances, and an increase in the national minimum wage. In its concluding observations, the Committee urged the State to stage public campaigns and better enforce anti-discrimination legislation; raise public awareness and introduce human rights education in schools concerning dissemination of the Covenant; promote gender equality; and ensure universal access to healthcare, especially for vulnerable groups such as persons with disability or persons infected with HIV/AIDS.

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### The Republic of Korea

The Republic of Korea appeared before CESCR in November 2009.<sup>90</sup> The Korean delegation, mainly composed of bureaucrats from many relevant ministries, was commended by the Committee Chairman for its size, which was seen as an indication of a serious approach to the review.

During the review, the Committee addressed a large number of issues, including: the low legal status of economic, social and cultural rights and the absence of practical application of the Covenant; discrimination against children especially in relation to migrant children, those born out of wedlock, and children with disabilities; initiatives to ensure fulfilment of minimum obligations to provide public services such as healthcare, water and electricity in the light of recent privatisations; downsizing of the Ministry of Gender Equality; issues related to employment including the treatment of irregular workers, youth unemployment, and limitations to the right to strike in Seoul; various forms of trafficking and the limited application of the legal definition which only covers trafficking for prostitution; the lack of action to combat homelessness since the last review; forced evictions leading to violent protests and deaths of protesters;

lack of adequate access to medical treatment for persons with HIV/AIDS; arrest of journalists as a form of censorship; excessive government control with respect to teaching plans in universities; and recent reductions of funding for the National Human Rights Commission.

In its concluding observations, the Committee requested the Republic of Korea to consider ratifying the optional protocol to the Covenant and the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*.

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### The Russian Federation

The Russian Federation appeared before the HRC in October 2009.<sup>91</sup> The large and high-level Russian delegation engaged in a comprehensive review, which saw a three-hour extension to allow for adequate replies to the more than 170 questions posed by Committee members. One of the principal concerns of the Committee was the lack of implementation of previous recommendations, including the Committee's views on individual complaints submitted under the optional protocol to the Covenant.

Among the other issues addressed by the Committee were counter-terrorism measures and legislation restricting civil rights, especially in relation to the rights of persons suspected of carrying out terrorist activities, the definition of terrorism, and the establishment of an independent mechanism to review implementation of anti-terrorism legislation; the possibility of moving from a moratorium on the death penalty to abolition despite public support for the practice; human rights violations in Chechnya including torture, disappearances and extrajudicial killings, and the absence of effective investigations; protection of journalists in the light of recent killings and the inadequate investigation thereof; violations of the principle of *non-refoulement*, including through the reliance on diplomatic assurances and non-compliance with interim measures issued by the European Court of Human Rights; discrimination based on sexual orientation manifested as hate speech and violence against lesbian, gay, bisexual and transgender (LGBT) persons, lack of freedom of expression, and discrimination in the work

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The Republic of Korea's 3rd periodic report, 43rd session of CESCR. NGO reports were submitted by NHRCK and a coalition of Korean NGOs. These reports and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cescr/cescrs43.htm](http://www2.ohchr.org/english/bodies/cescr/cescrs43.htm).

91

The Russian Federation's 6th periodic report, 97th session of HRC. NGO reports were submitted by Russian Research Center for Human Rights, Russian Committee against Torture, ICJ, FIDH, CPTI, Human Rights Watch, Article 19, Amnesty International, Human Rights First, and MDAC. These reports and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/hrc/hrcs97.htm](http://www2.ohchr.org/english/bodies/hrc/hrcs97.htm).

place; violence against women and the lack of prosecution of incidents of domestic violence; and the significant number of hate crimes and the inadequacy of sentences.

The Committee's concluding observations requested the Russian Federation to submit information, within one year, on recommendations to: investigate alleged human rights violations committed by members of the Russian forces and organised armed groups under their control on the territory of South Ossetia; investigate allegations of torture, ill-treatment, enforced disappearance, arbitrary arrest, extrajudicial killing and secret detention in Chechnya and other parts of the North Caucasus; protect journalists and human rights defenders and investigate incidences of threats, violent assaults, and murders; and ensure compliance with the principle of *non-refoulement* in extradition proceedings.

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## Rwanda

Rwanda was examined by CEDAW in February 2009.<sup>92</sup> Due to visa difficulties, the delegation of Rwanda was represented mainly by Geneva diplomats and a representative from the National Commission for Human Rights. The discussion was generally constructive and the delegation seemed to make an effort to respond as adequately as possible to the Committee's questions despite showing a lack of understanding of the difference between *de jure* and *de facto* equality.

During the review, the Committee touched on the following issues: the discrepancy between formal and practical equality of access to education for girls and young women including the need for more female teachers and to combat root causes such as early pregnancy; the divide in literacy rates between urban and rural women; the need to utilise temporary special measures to obtain equal opportunities for men and women in the labour market; conditions of women workers in the informal sector; access to healthcare, especially for rural and elderly women; the high level of abortions and maternal deaths; and the need to combat human trafficking including through legislative and preventive measures, awareness raising, and rehabilitation for victims. In its concluding observations, the Committee requested that Rwanda provide, within two years,

detailed written information on the implementation of the recommendations relating to the formulation of a national action plan to combat sexual violence and to take concrete measures to enhance women's access to healthcare, particularly in rural areas. The Committee further encouraged Rwanda to strengthen its cooperation with specialised UN agencies and to consider seeking technical cooperation and assistance for the implementation of their recommendations.

Rwanda appeared before the HRC in March 2009 for the examination of its 3rd periodic report, which was 15 years overdue.<sup>93</sup> The delegation was led by Rwanda's ambassador to the United Nations and supported by bureaucrats from various relevant ministries and it engaged in positive and productive discussions with the Committee. However, the exchange was complicated by the low quality of the State report and written replies and the disagreement between the delegation and the Committee on how much consideration should be given to Rwanda's cultural and historical heritage. Among the key issues addressed during the interactive dialogue were: domestic application and dissemination of the Covenant; enforced disappearances and extrajudicial executions; arbitrary detention; freedom of expression, especially relating to the press, NGOs, and political parties; conditions for persons deprived of their liberty; fair trial issues relating to the *gacaca* system of justice (traditional community-based courts established in 2001); and discrimination against women and ethnic and religious minorities.

The Committee decided to request information, within one year, on recommendations relating to the following issues: lack of fair trial rights in customary law based tribunals such as the *gacaca* system; use of life imprisonment in solitary confinement; cases of disappearances and extrajudicial executions; and the lack of effective investigations of killings by the Rwandan Patriotic Army.

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## Slovakia

Slovakia was examined by CAT in November 2009.<sup>94</sup> The large delegation was comprised of representatives from the Plenipotentiary for Roma Communities, the Ministry of Foreign

92 Rwanda's 4th to 6th periodic reports, 43rd session of CEDAW. An NGO report was submitted by AJEPRODHO. This report and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cedaw/cedaws43.htm](http://www2.ohchr.org/english/bodies/cedaw/cedaws43.htm).

93 Rwanda's 3rd periodic report, 95th session of the HRC. NGO reports were submitted by Conscience and Peace Tax International, Internal Displacement Monitoring Centre, Lesbian, Gay, Bisexual, Transgender and Intersex Initiative, Ligue des Droits de la personne dans la région des Grands Lacs, and Minority Rights Group International. These reports and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/hrc/hracs95.htm](http://www2.ohchr.org/english/bodies/hrc/hracs95.htm).

94 Slovakia's 2nd periodic report, 43rd session of CAT. An NGO report was submitted by the Centre for Civil and Human Rights. This report and the Committee's concluding observations can be found at [www2.ohchr.org/english/bodies/cat/cats43.htm](http://www2.ohchr.org/english/bodies/cat/cats43.htm).

Affairs, the Ministry of Justice, the Ministry of Interior, the Ministry of Labour, Social Affairs and Family, the Ministry of Defence, and the Permanent Representation to the UN. The delegation was headed by the Permanent Representative to the UN, Mr Fedor Rosocha.

Most of the Committee's questions were answered comprehensively by the head of the delegation. In the beginning of the dialogue Mr Rosocha announced that Slovakia was considering acceding to the OPCAT after a comprehensive analysis of the necessary legal amendments to national law. One of the most prominent issues raised by the Committee was ill-treatment of detainees by law enforcement officers, which prompted the Committee to request that the Government ensure prompt and effective investigations of all allegations of torture, accountability for perpetrators, and access to effective remedies for victims. Moreover, the Committee was concerned about the lack of effective access to an independent medical doctor, legal counsel or to contact a member of the family for persons in police custody. One of the main focus areas of the Committee was treatment of the Roma minority. It was particularly worried about allegations of continued involuntary sterilisations of Roma women, the mistreatment of Roma during arrest or in custody, and the high percentage of Roma children in schools for children with mental disabilities. Among the other areas of concern were the lack of *refoulement* protection for persons deemed a risk to national security; the independence of the judiciary and the quality of investigations against police officers; the lack of independent monitoring of detention facilities and the conditions in juvenile detention centres; the high rate of violence against women, and societal acceptance of corporal punishment; the occurrence of human trafficking; and ill-treatment of patients in psychiatric facilities.

The Committee decided to request information, within one year, on recommendations relating to the following issues: the non-discriminatory application of the principle of *non-refoulement*; the need for effective investigations, accountability, and effective remedies; and the treatment of the Roma minority especially in relation to sterilisation of women, police violence and the sending of Roma children to schools for children with mental disabilities.

## Spain

Spain was examined by CAT in November 2009.<sup>95</sup> The fairly large, mid-level Spanish delegation engaged in a detailed discussion with the Committee, which prompted a one-hour extension to the meetings on both days of the review. Despite this additional time, the responses of the delegation failed to address questions pertaining to *incommunicado* detention, the use of electronic 'Taser' weapons, the return of Senegalese detainees, and cases of gender-related violence in prisons. The Committee commended Spain on recent amendments to the domestic definition of torture but followed up with a recommendation to bring it fully in line with the Convention by including acts committed by 'other person acting in an official capacity' and for the purpose of 'intimidation' or 'coercion'.

During the review, the Committee addressed a broad range of issues including concerns over inadequate fundamental procedural safeguards with respect to prolonged *incommunicado* detention, access to independent forensic doctors, prompt access to legal representation, and the capacity of relevant detention staff to identify signs of torture; conditions of detention for minors, especially the alleged use of isolation and dispensing of psychotropic substances; inadequate data collection on a number of issues including promptness of access to legal counsel, conviction rates of law enforcement officials, investigation and prosecution of gender-based violence, and the use of 'Taser' weapons; the lack of adequate investigations and provision of protective measures for victims of gender-based violence; and a broad range of issues relation to extraditions including possible violations of the principle of *non-refoulement*, return of minors to Senegal, and cases of extraordinary renditions.

The Committee decided to request information, within one year, on recommendations relating to more effective access to legal counsel; provision of fundamental procedure safeguards with a view to abolish *incommunicado* detention; ensuring humane and dignified conditions of detention for minors; improved data collection; and access to residence or work permits for irregular migrants who are victims of gender-based violence.

Spain presented its 6th periodic report to CEDAW in July 2009.<sup>96</sup> The examination

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Spain's 5th periodic report, 43rd session of CAT. Amnesty International, AEDIDH, Behatokia, FIACAT, WLW, ICJ, Coordinadora PT, Defensoria and APDHE. These reports and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cat/cats43.htm](http://www2.ohchr.org/english/bodies/cat/cats43.htm).

96

Spain's 6th periodic report, 44th session of CEDAW. NGO reports were submitted by the Spanish Committee of Persons with Disabilities (CERDI), the Global Initiative to End All Corporal Punishment of Children, Plataforma Impacto de Genero, and Fundación Secretariado Gitano. The reports and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cedaw/cedaws44.htm](http://www2.ohchr.org/english/bodies/cedaw/cedaws44.htm).

focused particularly on: the limited rights of Roma and migrant women in Spain; gender stereotyping in the media; the lack of women in high-level positions in the labour market; and the country's reputation as a transit nation in sex trafficking. The Committee also addressed stereotypical images and attitudes regarding the role of men and women in the family and society; trends and underlying causes of violence against women; the high rate of unwanted pregnancies; the need for more data and data analysis on the situation of rural women; and discrimination against women of ethnic and minority communities.

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### Sri Lanka

Sri Lanka appeared before the **CMW** in October 2009.<sup>97</sup> The Committee welcomed the very direct replies provided by the delegation of Sri Lanka but noted that for future reviews it would appreciate less theory and more information on practice and statistics. This opinion was also reflected in comments by the Committee's country rapporteur, who noted that while having heard of multiple programmes, objectives and policies there were few examples of actual implementation.

Among the key issues raised by the Committee were: the status of the Convention in domestic law, especially relating to direct application; the extent of deployment of welfare workers to relevant foreign embassies; the need for reintegration programmes for Tamils living abroad; the need to ensure effective voting rights for migrant workers abroad; measures taken to ensure proper protection of irregular migrants; improvement of methodologies for data collection; freedom of association for all migrant workers in Sri Lanka; and the need to negotiate social security agreements with receiving countries to ensure higher mobility of such benefits.

Concluding remarks by the Committee's country rapporteur and the Chairman both echoed the general impression that Sri Lanka is in a development phase and that implementation of programmes and policies currently under development is yet to be seen.

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### Suriname

Suriname appeared before **CERD** in February 2009.<sup>98</sup> A dynamic dialogue took place between the Committee and the members of Suriname's delegation, composed of the Permanent Representative of Suriname to the United Nations in New York, a human rights consultant, and a coordinator of the human rights Bureau in Suriname. Among the issues raised during the examination were: the absence of provisions protecting the rights of indigenous people in the Mining Act of 1986; the non ratification of ILO *Convention No. 169*; the limited access to education and health services for the population living in the interior of the country; the issue of self-identification regarding different minorities in Suriname; and the need to protect the languages spoken by minorities. The Committee noticed a growing trend of indigenous people resorting to international bodies, such as the Inter-American Court of Human Rights, which it saw as an indication of a weak national human rights protection system. Thus, the Committee urged for improvements in the judiciary and strongly recommended the establishment of a constitutional court. It also stressed that Suriname should take a positive attitude towards the decisions and judgments of international bodies.

The Committee appreciated the delegation's constructive and self-critical spirit during the session. The State's replies to the Committee indicated that it would give particular attention to the issue of indigenous peoples' rights, sustainable development for populations living in the interior of the country, and the implementation of judgments established by the Inter-American Court of Human Rights. The Committee requested information, within one year, on implementation of the following recommendations: the expedient establishment of a constitutional court; increased awareness-raising efforts in relation to the UN *Declaration on the Rights of Indigenous Peoples*; and the need to fully comply with judgements of the Inter-American Court of Human Rights relating to indigenous populations.

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### Sweden

Sweden appeared before the **HRC** in March 2009.<sup>99</sup> The delegation was composed of high-

<sup>97</sup> Sri Lanka's initial report, 11th session of CMW. NGO reports were submitted by The Action Network for Migrant Workers & The Women and Media Collective, Joint Committee with Migrants in Korea, Migrant Workers Protection Society, Kav LaOved (Worker's Hotline), and Caritas Lebanon. These reports and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cmw/cmws10.htm](http://www2.ohchr.org/english/bodies/cmw/cmws10.htm).

<sup>98</sup> Suriname's 11th and 12th periodic reports, 74th session of CERD. No NGO reports were submitted to the Committee. The Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cerd/cerds74.htm](http://www2.ohchr.org/english/bodies/cerd/cerds74.htm).

<sup>99</sup> Sweden's 6th periodic report, 95th session of HRC. NGO reports were submitted by Amnesty International, Conscience & Peace Tax International, ICJ, Projektledare Migration och hiv, and the Swedish Disability Federation. These reports and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/hrc/hrcs95.htm](http://www2.ohchr.org/english/bodies/hrc/hrcs95.htm).

level bureaucrats from relevant ministries and it engaged in a constructive, detailed, and comprehensive discussion with the Committee without wasting time on repetition of information submitted in writing. Among the key issues addressed during the interactive dialogue were: inadequate domestic implementation and Sweden's reservations to the Covenant; discrimination against women in the employment market, disabled persons, and persons of Sami origin; violence against women with a focus on female genital mutilation, honour killings and the lack of government supported shelters; the absent regulation of the use of electroshock therapy in psychiatric institutions, inadequate access to medical care for persons deprived of their liberty and violations of the principle of *non-refoulement*; the need to establish an all-encompassing national human rights institution (NHRI) in accordance with the Paris Principles; racially motivated intolerance; and violations of the right to privacy through new surveillance initiatives.

The Committee decided to request information, within one year, on recommendations relating to the following issues: the principle of *non-refoulement* and the use of diplomatic assurances; detention policies for asylum seekers and access to effective remedy in asylum proceedings; access to adequate medical care for persons deprived of their liberty; and discrimination against women, disabled persons, and Sami people.

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## Switzerland

Switzerland appeared before the HRC in October 2009.<sup>100</sup> The large, high-level delegation engaged in a reasonably constructive dialogue, although it was rather uncompromising in its responses to the Committee's questions. A significant part of the examination focused on reservations to the Covenant and Switzerland's failure to ratify the first optional protocol on individual complaints, which Switzerland repeatedly justified despite strong arguments from Committee members to do so.

The key issues addressed during the review included: the recent decision to prohibit the construction of minarets and the related advertisement campaign, which was viewed as discriminatory and falling outside of the protec-

tive scope of the right to freedom of expression; violence against women especially in the context of domestic violence that exists as a result of women's dependence on their husbands for residency; the lack of information on complaints of police abuse and the absence of independent procedures to investigate such complaints; inadequate free legal assistance to asylum seekers especially during appeal of asylum decisions; and the need to reinforce the mandate of the Federal Commission against Racism and establish an NHRI in accordance with the Paris Principles.

The Committee's concluding observations requested Switzerland to submit information, within one year, on recommendations relating to provision of free legal assistance to asylum seekers during all relevant proceedings; reinforcement of the mandate of the Federal Commission against Racism; and the creation of an independent mechanism to investigate police complaints combined with a structure at national level for collection of statistics.

Switzerland appeared before CEDAW for examination of its 3rd periodic report in July 2009.<sup>101</sup> Discussion focused on: the importance of integrating the Convention into domestic law; the lack of uniformity of law across cantons (federal states); equitable sharing of family responsibilities; anti-trafficking measures; and the prosecution of migrant practitioners of female genital mutilation. The Committee also paid attention to: support for the national machinery for the advancement of women and gender equality; measures to address all forms of violence against women; efforts to combat all forms of trafficking in women and children, particularly the situation of visas for cabaret dancers; family planning services for migrant and foreign women in particular; and access to adequate healthcare for all women.

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## Tanzania

Tanzania appeared before the HRC in July 2009.<sup>102</sup> The large Tanzanian delegation engaged in a reasonably constructive dialogue with the Committee, which chose to focus extensively on Tanzania's lacking implementation of previous recommendations. Another key area of attention was the inadequate implementation of the Covenant in the domestic legal system. The

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Switzerland's 3rd periodic report, 97th session of HRC. NGO reports were submitted by Franciscans International, OMCT, CPTI, and ICJ. These reports and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/hrc/hrcs97.htm](http://www2.ohchr.org/english/bodies/hrc/hrcs97.htm).

<sup>101</sup>

Switzerland's 3rd report, 44th session of CEDAW. NGO reports were submitted by Amnesty International-Swiss Section/NGO Coordination post Beijing Switzerland, Global Initiative to End all Corporal Punishment of Children, Lesbian and Bisexual Women, Transgender People, OMCT & CCSI, and the Swiss Federal Commission for Women's Issues. These reports and the Committee's concluding observations are available at: [www2.ohchr.org/english/bodies/cedaw/cedaws44.htm](http://www2.ohchr.org/english/bodies/cedaw/cedaws44.htm).

<sup>102</sup>

Tanzania's 4th periodic report, 96th session of HRC. NGO reports were submitted by CPTI, LGBT, and Tanzanian NGO Coalition / CCPR Centre. These reports and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/hrc/hrcs96.htm](http://www2.ohchr.org/english/bodies/hrc/hrcs96.htm).

Covenant appeared to have a high hierarchical standing in Tanzania's dualist system but nevertheless there were a number of examples of incompatibility between domestic law and Covenant provisions. This included issues such as corporal punishment, heritage and succession, female genital mutilation, imprisonment for indebtedness, and discrimination in national customary law. The responses to this criticism were generally of an evasive nature with frequent references to societal preferences for practices violating the Covenant.

Among the other issues addressed during the interactive dialogue were: violence and discrimination against women including minimum marrying age, marital rape, and inadequate access to education and employment; poor conditions of detention including overcrowding sub-standard living conditions and the use of prolonged pre-trial detention; criminalisation of homosexuality and other discrimination against LGBT persons and how it might negatively affect campaigns against HIV/AIDS; and restrictions in abortions.

In terms of follow-up, the Committee marked several issues in the concluding observations. On Paragraphs 11, 16, and 20, dealing with female genital mutilation, corporal punishment in schools and imprisonment for the failure to pay a debt respectively, the Committee requested 'relevant information on their implementation within one year'. Recommendations relating to domestication of the Covenant; raising the minimum age of marriage and ensuring equality in education and employment; establishing a complaints procedure for prisoners and provision of data relating to alternative measures to detention; and researching into the problem of street children all required further information, to be provided in the next periodic report.

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### Timor Leste

Timor Leste appeared before CEDAW for examination of its first periodic report in July 2009.<sup>103</sup> The Committee focused primarily on: low school enrollment and graduation rates amongst girls; sexual harassment and intimidation by male teachers; disparities in the labour market including vastly unequal pay between men and women and denial of maternity leave despite legal pro-

visions regarding both; and measures to protect women and girls from violence, prostitution, trafficking, and forced labour. Other issues included: implementation and incorporation of the Convention into domestic law; a legislative definition of discrimination against women incorporating both indirect and direct discrimination; translation of the Convention into local languages and dissemination to the general public; women's access to justice; the importance of strengthening national machinery for the advancement of women; criminalisation of marital rape; implementation and enforcement of anti-trafficking legislation; the high rate of maternal and infant mortality; the importance of establishing a gender-sensitive employment policy; discrimination of all types by the Civil Code; and the need for a stronger national data collection and analysis system.

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### Tunisia

Tunisia appeared before CERD in February 2009.<sup>104</sup> The Committee commended Tunisia for its engagement in the dialogue but also noted that there were several areas of disagreement between the Committee and the delegation. The Committee paid particular attention to the situation of the Amazigh population and addressed issues related to their right to preserve their culture, language, and cultural identity; their right to freedom of association and the enjoyment of other basic civil, political, economic, social and cultural rights. Among the other issues in focus were: the need to increase awareness about the Convention especially within the legal profession; the need for analysis of *de facto* occurrence of racial discrimination regardless of the limited official incidents; the need for a legislative framework protecting refugees; and the absence of statistical data on the ethnic composition of the Tunisian society.

The Committee requested information, within one year, on recommendations relating to the following issues: the need to adopt separate legislation prohibiting racial discrimination and propagation of racial hatred in conformity with Article 4 of the Convention; the administrative practice of disallowing civil registration of Amazigh names; and the *de facto* denial of official recognition of Amazigh social and cultural associations.

<sup>103</sup> Timor Leste's initial periodic report, 44th session of CEDAW. NGO reports were submitted by the Global Initiative to End All Corporal Punishment of Children, an NGO working group, and the Ombudsman for Human Rights and Justice of Timor Leste. These reports and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cedaw/cedaws44.htm](http://www2.ohchr.org/english/bodies/cedaw/cedaws44.htm).

<sup>104</sup> Tunisia's 18th and 19th periodic reports, 74th session of CERD. No NGO reports were submitted to the Committee for this review. The Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cerd/cerds74.htm](http://www2.ohchr.org/english/bodies/cerd/cerds74.htm).

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## Turkey

Turkey was reviewed by **CERD** in February 2009.<sup>105</sup> The small Turkish delegation approached the review in a constructive spirit and presented responses to all questions posed by the Committee. The discussion mainly focused on the following issues: the legislative framework relating to the implementation of the Convention and especially the absence of a definition of discrimination in domestic law; the absence of statistical data on the ethnic composition of the population; the need for effective national mechanisms to combat discrimination including an Ombudsman's institution and an NHRI; protection of minority rights, especially in relation to discrimination based on national or ethnic origin; and access to public services including education, employment, and housing. Turkey was requested to issue a declaration under Article 14 of the Convention to allow individual communications to the Committee and to withdraw its reservations to the Convention. Although Turkey tended to be defensive in responding to certain issues, the Committee regarded the dialogue as having a high quality.

The Committee decided to request information, within one year, on recommendations relating to the following issues: withdrawal of reservations and declaration to the Convention; and negative public sentiment towards Roma people, Kurds, and other person belonging to non-Muslim minorities.

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## Tuvalu

Tuvalu's combined first and 2nd periodic reports were examined by **CEDAW** in July 2009.<sup>106</sup> Primary issues of concern were: the need for constitutional and legal reform, particularly of provisions such as that allowing a husband to 'discipline' his wife; the importance of efforts to combat domestic violence and gender stereotypes; the lack of women's participation in political life and the possible need for temporary affirmative action; and marriage regulations permitting harmful practices including forced marriage. The examination also covered the need for amendment of the Constitution to incorporate the principle of equality between men and women; the importance of translation

into English and Tuvaluan and dissemination of the Convention; methods to more effectively address violence against women; reform of laws addressing sexual offences; underrepresentation of women in high-level political and public positions; equal access to education and opportunities in the labour market; enhanced access to all types of healthcare, including sexual and reproductive healthcare; and the impact of HIV/AIDS on women and girls.

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## The United Arab Emirates

The United Arab Emirates (UAE) was examined by **CERD** in August of 2009.<sup>107</sup> The mid-level delegation was commended by the Committee for its constructive engagement in the review. Nevertheless, Committee members expressed concern at the UAE's unqualified rejection of the existence of racial discrimination in the State. During the review the Committee focused extensively on the legislative framework in the UAE and made specific comments on the lack of constitutional protection of non-citizens amounting to approximately 80% of the population and the absence of a comprehensive prohibition of discrimination and acts of racism as defined by Article 4 of the Convention.

The Committee also addressed the following issues: treatment of migrant workers, especially in relation to living and working conditions and access to health services; protection of labour rights for foreign domestic workers and the need to provide an effective complaints mechanism; citizenship laws and discrimination against children of UAE women and foreign men; and discrimination against Bedouins in access to the labour market and their status as stateless persons.

The Committee requested information, within one year, on recommendations relating to the following issues: protection of foreign workers against abuse through effective adoption and implementation of the necessary legislation and policies; effective access to complaints mechanisms and the collection of adequate statistical data; finalisation of legislation protecting foreign domestic workers against abuse and ensuring an effective right to complaint; and ensuring equal access to the employment market for Bedouins

<sup>105</sup>

Turkey's initial to 3rd periodic report, 74th session of CERD. NGO reports were submitted by European Roma Rights Centre and Edirne Roma Association, Kurdish Human Rights Project, and Minority Rights Group International. These reports and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cerd/cerds74.htm](http://www2.ohchr.org/english/bodies/cerd/cerds74.htm)

<sup>106</sup>

Tuvalu's combined first and 2nd reports, 44th session of CEDAW. NGO reports were submitted by the Global Initiative to End All Corporal Punishment of Children and the Legal Literacy Project. These reports and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cedaw/cedaws44.htm](http://www2.ohchr.org/english/bodies/cedaw/cedaws44.htm)

<sup>107</sup>

The United Arab Emirates' 12th to 17th periodic reports, 75th session of CERD. An NGO report was submitted by Mafiwasta. This report and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cerd/cerds75.htm](http://www2.ohchr.org/english/bodies/cerd/cerds75.htm)

and assessing and granting them nationality as appropriate.

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### The United Kingdom

The United Kingdom (UK) appeared before CESCR in May 2009.<sup>108</sup> The large delegation covered a wide range of thematic areas, engaged in a constructive dialogue, and provided detailed replies to most of the Committee's questions. During the review, the Committee paid particular attention to the following issues: the justiciability of economic, social and cultural rights and the need to ensure their full implementation and provide effective remedies; ensuring non-discriminatory access to economic, social and cultural rights through legal assistance schemes for social minorities; lack of access to social housing; access to employment especially for the most vulnerable groups including ethnic minorities and persons with disabilities; gender discrimination in the work place and the need to ensure equal pay for work of equal value in all sectors of employment; unequal access to healthcare especially affecting the most marginalised groups such as prisoners and persons with mental disabilities; and the need to increase public awareness of the Covenant rights as human rights and not merely a welfare State component.

In addition to these cross-cutting themes, the Committee also touched on issues related to asylum seekers' lack of access to work and healthcare; the discriminatory impact of counter-terrorism measures on enjoyment of economic, social and cultural rights by ethnic and religious minorities; unsafe working conditions for some migrant workers; and domestic violence. In its concluding observations, the Committee requested the UK to emphasise inclusion of enforceable economic, social and cultural rights in the consultations on a possible bill of rights and to withdraw reservations to the Covenant.

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### Yemen

Yemen's 2nd periodic report was considered by CAT in November 2009 in the absence of the State delegation,<sup>109</sup> which prompted a discussion among Committee members about the appro-

priateness of conducting a review in the absence of the State party. The outcome was a summary examination and a set of concluding observations to be submitted to the State.

Among the substantive issues raised by the Committee were the serious discrepancies between theory and practice of human rights in Yemen resulting in a lack of investigation of allegations of torture and prosecution of perpetrators; the lack of access to legal counsel and medical aid for detainees; *incommunicado* detention and prolonged detention without trial; treatment of female detainees including prolonged detention of women due to the inability of families to pay a fine and the risk of rape by male police officers; incidents of honour killings and corporal punishment; the treatment of children especially mixing of adults and children in detention and imposition of death sentences to children between 15-18 for misdemeanours; and ill-treatment of members of the Baha'i community.

The Committee requested Yemen to respond to its concluding observations by 15 February 2010.

108

The UK's 4th and 5th periodic reports, 42nd session of CESCR. NGO reports were submitted by Amnesty International, British Irish Rights watch, Children's Rights Alliance for England, Committee on the Administration of Justice, Community Arts Forum's, ENGENDER Europe & International Group, Equality and Human Rights Commission, Global Initiative to End All Corporal Punishment of Children, Human Rights Consortium on Northern Ireland, Irish Congress of Trade Unions - N. Ireland Cte, Law Centre (NI), Northern Ireland Commissioner for Children and Young People, Northern Ireland Council for Ethnic Minorities, Participation and the Practice of Rights Project, People's Health Movement-Right to health, POBAL, Save the Children Northern Ireland, Scottish Association for Mental Health, The Children's Legal Centre, UNISON, National Society for the Prevention of Cruelty to Children, FPA, STEP, Still Human Rights Still Here, SCFUK, Community Arts Forum, Northern Ireland Human Rights Commission, SHRC, People's Health Movement-Right to health, Northern Ireland Women's European Platform, and the Celtic League. These reports and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cescr/cescrs42.htm](http://www2.ohchr.org/english/bodies/cescr/cescrs42.htm).

109

Yemen's 2nd periodic report, 43rd session of CAT. NGO reports were submitted by Alkarama, FIDH, and Sisters' Arab Forum for Human Rights (SAF). These reports and the Committee's concluding observations are available at [www2.ohchr.org/english/bodies/cat/cats43.htm](http://www2.ohchr.org/english/bodies/cat/cats43.htm).