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Nineteenth meeting of chairpersons
of the human rights treaty bodies
Geneva, 21-22 June 2007

Sixth Inter-Committee Meeting
of the human rights treaty bodies
Geneva, 18-20 June 2007

**REPORT OF THE MEETING OF THE WORKING GROUP
ON RESERVATIONS**

1. The working group on reservations met in Geneva on 14 and 15 December 2006. The fourth inter-committee meeting and the seventeenth meeting of chairpersons of the human rights treaty bodies had requested the establishment of the working group to examine the report on the practice of human rights treaty bodies with respect to reservations to international human rights treaties and report on its work to the fifth inter-committee meeting (HRI/MC/2005/5). As a result, the working group on reservations met for the first time on 8 and 9 June 2006 in Geneva. At that first meeting, it examined the report on the practice of treaty bodies with respect to reservations and its update (HRI/MC/2005/5 and Add.1). It also adopted a number of recommendations which are contained in the report of the meeting (HRI/MC/2006/5/Rev.1). This report was presented to the fifth inter-committee meeting and eighteenth meeting of chairpersons.

2. Ms. Jane Connors, Senior Administrator, Treaties and Follow-up Unit of the Treaties and Council Branch, opened the meeting. She welcomed the members of the working group, and recalled the importance of defining a common approach to reservations as part of the process of harmonization of the working methods of treaty bodies. She also informed them of the upcoming invitation from the International Law Commission which would like to meet with treaty bodies on 15 and 16 May 2007 in Geneva and discuss issues related to reservations.

Election of the Chairperson-Rapporteur of the meeting

3. On 14 December 2006, the participants re-elected Sir Nigel Rodley, member of the Human Rights Committee, to be the Chairperson-Rapporteur of the meeting. They then adopted the programme of work, which is contained in annex 1 of the present document. The list of participants designated and authorized by their respective treaty body to present its views regarding reservations is contained in annex 2.

Discussion on treaty body practice and on the report of the first meeting of the working group

4. The participants discussed their treaty body's practice in respect of reservations. Mr. Patrick Thornberry noted that the Committee on the Elimination of All Forms of Racial Discrimination is in a peculiar situation compared to all other Committees to the extent that article 20 of the Convention under which the Committee was established provides that "a reservation shall be considered incompatible or inhibitive if at least two-thirds of the States parties to this Convention object to it." Article 20 has therefore established a "collegiate system" for determining the validity of a reservation. While the conditions under article 20 have never been fulfilled, it has been suggested that any reservation which has not been objected to by at least two-thirds of the States parties is compatible with the Convention. Mr. Patrick Thornberry referred to the recent judgement of the International Court of Justice of 3 February 2006 in the case concerning *Armed activities on the territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda)* in which the Court decided that where a reservation has not been objected to by at least two thirds of States parties to the Convention, this automatically implies that it is compatible with the object and purpose of the Convention. He noted that this decision appears to limit the role of the Committee in determining the validity of reservations. Nonetheless, it appears that some reservations which have not been objected to by at least two-thirds of the States parties may still be incompatible with the object and purpose of the Convention.

5. Mr. Patrick Thornberry recalled that reservations to the Convention, in particular to article 4, are fairly numerous. It is common for the Committee to state that the Convention is not fully implemented because of these reservations. In this regard, reference was made to the Preliminary Opinion of the Committee on the issue of reservations to treaties on human rights (CERD/62/Misc.20/Rev.3, 13 March 2003). On many occasions, the Committee has called for the withdrawal of reservations, or at least requested information on any intention to withdraw them. Stronger language has sometimes been used: for instance, during the consideration of one State party report, the Committee has stated that a reservation to article 4 was in direct conflict with its obligations under the Convention. In the examination of States parties' reports, the Committee assesses the implementation of all articles even when reservations have been made to some of them. With regard to individual communications under article 14 of the Convention, the Committee has not fully addressed the issue of reservations within that context: a reservation was invoked by a State party in one communication (*Hagan v. Australia*, communication No. 26/2002) and the Committee decided the case on other grounds.

6. Mr. Patrick Thornberry noted that the discussion on the report of the first meeting of the working group which took place on 19 August 2006 had been brief. During that discussion, it was stated that the Committee systematically invites States parties to reconsider their reservations or to reconsider the object of their reservations, and that States parties do not object to this exchange of views. One member of the Committee wondered whether in the light of article 20 of the Convention, the assessment of the validity of reservations was within the competence of the Committee. Another member emphasised that treaty bodies did have the competence to assess the validity of reservations. He argued that article 20 of the Convention does not prevent the Committee from taking a position on reservations. It was also noted that the Committee had not made formal pronouncements on the invalidity of a reservation. Until now, it has asked States parties to withdraw their reservations without further explanation.

7. Mr. Philippe Texier recalled that reservations to the International Covenant on Economic, Social and Cultural Rights were not numerous and had a limited scope: most of them were made to article 2, paragraph 2, and articles 6 to 8 of the Covenant. He informed the working group that the Committee on Economic, Social and Cultural Rights examined the report of the first meeting of the working group on 13 November 2006. The majority of the members were broadly in agreement with the working group. Some members believed that the Committee should move towards a stronger position on reservations. It was suggested that the Committee adopt a written position on reservations some time in the following year. It was also noted that there have not been any major difficulties with States parties on the subject of reservations, even where the Committee examined the articles to which reservations were made. However, if an Optional Protocol to the Covenant was adopted to allow the Committee to examine individual communications, this may prompt a change in its approach to reservations.

8. Mr. Guibril Camara noted that the discussion on the report of the first meeting of the working group which took place in the Committee against Torture on 13 November 2006 had been very brief. With regard to the dialogue with States parties, Mr. Guibril Camara wondered whether it was slightly unrealistic to ask States parties what motivated them to formulate specific reservations. He noted that the Committee against Torture does not make such enquiries, but merely requests States parties to be more precise about their reservations. Other members of the working group believed that it was useful to ask States parties to explain the necessity to maintain certain reservations. In the dialogue with the State party, it may appear that there is no incompatibility between domestic law and the provision of the Convention to which a reservation was made. The reservation in question may therefore appear not to be necessary and the Committee would be justified in suggesting its withdrawal. It was emphasised that such a dialogue would not question the State party's sovereign right to make reservations.

9. Mr. Jean Zermatten presented the report of the first meeting of the working group to the Committee on the Rights of the Child on 14 September 2006. He mentioned that the recent practice of the Committee had not changed: it systematically examined reservations, formulating positive remarks on withdrawals or promises to withdraw and criticising the many countries which were maintaining their reservations, especially where these reservations had a general scope.

10. With regard to general reservations, members of the working group referred to the many reservations that have the effect of restricting the application of the Convention where its provisions are in contradiction with Sharia law. Mr. Jean Zermatten raised the problem of the various interpretations of Sharia law. In this respect, Mr. Patrick Thornberry added that some treaty bodies have to deal with many rights of a cultural and religious nature. In such cases, a plain reading of the text of the reservation does not always give a full picture of all the obstacles to the implementation of a Convention. Mr. Guibril Camara recalled that although States parties have the right to make reservations, they still have to ensure that these are formulated in a precise and detailed manner, in order to enable treaty bodies to fulfil their functions.

11. Mr. Ahmed Assan El-Borai presented the report of the first meeting of the working group to the Committee for the Protection of the Rights of All Migrant Workers and Members of Their Families on 31 October 2006. He mentioned that the Committee has for the first time addressed the question of reservations in its concluding observations on the initial report of Mexico and even recommended that the Constitution be modified in order to allow for a withdrawal of the reservation to article 22, paragraph 4, of the Convention.

12. Sir Nigel Rodley referred to the recent practice of the Human Rights Committee on reservations. During the examination of the latest periodic report of the United States of America, the Committee did not look at all the reservations made by the State party: it addressed the practice, rather the reservations themselves. Sir Nigel Rodley noted that the Committee had been more forceful when examining the previous periodic report of the United States of America in 1995 to the extent that it had expressed its concern at the reservations to article 6, paragraph 5, and article 7 of the Covenant, which it believed to be incompatible with the object and purpose of the Covenant. It may be that the Committee is now less inclined to come to the conclusion that a reservation is valid or not, in the context of the review of periodic reports.

13. Sir Nigel Rodley presented the report of the first meeting of the working group to the Human Rights Committee on 12 July 2006. Members of the Committee welcomed the report. Nonetheless, they expressed some criticism on the wording of recommendation no.7 dealing with the consequences of invalidity. It was suggested that the text of the recommendation should not focus on the intention of the State party. Instead, the focus should be on the presumption that the reserving State would prefer to remain a State party to the Convention concerned.

14. Mr. Cees Flinterman recalled that the Convention on the Elimination of All Forms of Discrimination against Women was one of the international human rights treaties most affected by reservations. As a result, the Committee has been concerned with the number and scope of these reservations from very early on. It expressed this concern in General Recommendation No.4 (1987) and in General Recommendation No.20 (1992). In 1998, it even adopted a detailed statement on reservations in which it expressed clearly that reservations to articles 2 and 16, which are considered to be core provisions of the Convention, are incompatible with the object and purpose of the treaty (A/53/38/Rev.1, pp.47-50). It has been the constant practice of the Committee to request information on reservations in its lists of issues and questions and to pay adequate attention to reservations when examining a State party report. Over the past few years,

the Committee has been bolder in stating in its concluding comments that some reservations are incompatible with the object and purpose of the Convention, even where they concern provisions other than articles 2 and 16. For instance, the Committee has stated that reservations to article 7 and article 11, paragraph 2(d), were incompatible with the object and purpose of the Convention, but without providing any explanation.

15. It was noted by members of the working group that the Committee on the Elimination of All Forms of Discrimination against Women had a stronger position on reservations than other Committees since it made explicit findings of incompatibility. Other Committees do not make such findings unless necessary, e.g. when examining individual complaints. It was also noted that some other treaties had a broader scope than the Convention on the Elimination of All Forms of Discrimination against Women. As a result, a reservation to a provision cannot easily be considered as contrary to the object and purpose of the treaty. Mr. Cees Flinterman emphasised that even where a reservation was declared incompatible by the Committee, the dialogue with the reserving State was maintained. In some cases, the reservation that was declared incompatible has been withdrawn. An important distinction was made between a reservation being declared incompatible and being declared invalid. The Committee had been cautious not to declare a reservation to be invalid. Members of the working group agreed that it would be unwise for treaty bodies to do so, unless necessary.

Discussion on a common approach to reservations

16. With regard to lists of issues,¹ members of the working group agreed that they should address more systematically the question of reservations. They referred to the harmonized guidelines on reporting under the international human rights treaties, including the common core document and treaty-specific reports (HRI/MC/2006/3). These guidelines require States to provide specific information on reservations and declarations in their common core document (para.40). It was suggested by members of the working group that where such information is neither available in the common core document, nor in the treaty-specific document, it should be requested by treaty bodies in their list of issues. It would be inappropriate to request less information than is required by the harmonized guidelines. Nonetheless, members of the working group believed that the wording contained in the harmonized guidelines could be clarified. Indeed, the guidelines require States to include in their common core document information on “the precise effect of each reservation in terms of national law and policy”. It was felt that this wording was unclear and could be modified when the text of the harmonized guidelines comes under review.

17. With regard to concluding observations and comments, members of the working group agreed on a certain number of recommendations which broadly reflect the current practice of all treaty bodies. Members of the working group felt that treaty bodies should explain to reserving States the nature of their concerns with respect to the effects

¹ The Committee on the Elimination of All Forms of Discrimination against Women uses lists of issues and questions.

of the reservations on the treaty. In particular, it is important for States to understand how treaty bodies read the provisions of the treaty concerned and the reasons why some reservations are incompatible with its object and purpose. So far, the practice of treaty bodies has been to recommend the withdrawal of reservations without necessarily providing reasons for such recommendations. There was disagreement as to whether the justifications for recommending the withdrawal of reservations should be provided in the concluding observations. Several members of the working group felt that this process did not have to be so formalised as long as treaty bodies explain their recommendations during the dialogue with the State. While all treaty bodies should encourage the complete withdrawal of reservations, the review of the need for them or the progressive narrowing of scope through partial withdrawals of reservations, it was not felt necessary to set a precise deadline for States to implement such recommendations since treaty bodies had different practices in this regard.

18. With regard to the recommendations adopted at the first meeting of the working group (HRI/MC/2006/5/Rev.1), members of the working group considered that some could be re-worded in the light of comments made by treaty bodies. In particular, recommendation No. 7 was modified in order to take into account comments made by some members of the Human Rights Committee and to reflect the position of the Special Rapporteur of the International Law Commission on reservations according to which an invalid reservation is to be considered null and void (A/CN.4/558/Add.2, annex). Accordingly, it cannot be envisaged that the reserving State remains a party to the treaty with the provision to which the reservation has been made not applying. It was also considered very unlikely that the State would choose not to be party to the treaty. As a result, recommendation No. 7 only refers to the one remaining possibility as to the consequences of an invalid reservation, that is that the State will not be able to rely on such a reservation and, unless its contrary intention is incontrovertibly established, will remain a party to the treaty without the benefit of the reservation.

Recommendations of the working group

16. The participants in the working group decided to submit the following points for the attention of the sixth inter-committee meeting:

1. The working group welcomes the report on the practice of human rights treaty bodies with respect to reservations to international human rights treaties (HRI/MC/2005/5) and its updated version (HRI/MC/2005/5/Add.1) which the secretariat had compiled for the fourth inter-committee meeting.
2. The working group recommends that while any statement made at the time of ratification may be considered as a reservation, however it was termed, particular care should be exercised before concluding that the statement should be considered as a reservation, when the State party has not used that term.
3. The working group recognizes that, despite the specific nature of the human rights treaties which do not constitute a simple exchange of obligations between States but are the legal expression of the essential rights that each

individual must be able to exercise as a human being, general treaty law remains applicable to human rights instruments; however, that law can only be applied taking fully into account their specific nature, including their content and monitoring mechanisms.

4. The working group considers that when reservations are permitted, whether explicitly or implicitly, they can contribute to the attainment of the objective of universal ratification. Reservations which are not permitted, including those that are incompatible with the object and purpose of the treaty, do not contribute to attainment of the objective of universal ratification.
5. The working group considers that for the purpose of discharging their functions, treaty bodies are competent to assess the validity of reservations and, in the event, the implications of a finding of invalidity of a reservation, particularly in the examination of individual communications or in exercising other fact-finding functions in the case of treaty bodies that have such competence.
6. The working group considers that the identification of criteria for determining the validity of reservations in the light of the object and purpose of a treaty may be useful not only for States when they are considering making reservations, but also for treaty bodies in the performance of their functions. In this regard, the working group notes the potential significance of the criteria contained in the draft guidelines included in the tenth report of the Special Rapporteur of the International Law Commission on reservations to treaties (A/CN.4/558/Add.1). The working group appreciated its dialogue with the International Law Commission and welcomes the prospect of further dialogue.
7. As to the consequences of invalidity, the Working Group agrees with the proposal of the Special Rapporteur of the International Law Commission according to which an invalid reservation is to be considered null and void. It follows that a State will not be able to rely on such a reservation and, unless its contrary intention is incontrovertibly established, will remain a party to the treaty without the benefit of the reservation.
8. The working group welcomes the inclusion of a provision on reservations in the draft harmonized guidelines on reporting under the international human rights treaties, including the common core document and treaty-specific reports (HRI/MC/2006/3).
9. The working group recommends that:
 - a) Treaty bodies should request in their lists of issues information, especially when it is provided neither in the common core document (where available), nor in the treaty-specific report, about:
 - i) the nature and scope of reservations or interpretative declarations;

- ii) the reason why such reservations were considered to be necessary and have been maintained;
 - iii) the precise effect of each reservation in terms of national law and policy;
 - iv) any plans to limit the effect of reservations and ultimately withdraw them within a specific time frame.
- b) Treaty bodies should clarify to States parties their reasons for concern over particular reservations in light of the provisions of the treaty concerned and, as relevant, its object and purpose.
- c) Treaty bodies should in their concluding observations:
- i) welcome the withdrawal, whether total or partial, of a reservation;
 - ii) acknowledge ongoing reviews of reservations or expressions of willingness to review;
 - iii) express concern for the maintenance of reservations;
 - iv) encourage the complete withdrawal of reservations, the review of the need for them or the progressive narrowing of scope through partial withdrawals of reservations.
- d) Treaty bodies should highlight the lack of consistency among reservations formulated to certain provisions protected in more than one treaty and encourage the withdrawal of a reservation on the basis of the availability of better protection in other international conventions resulting from the absence of a reservation to comparable provisions.
10. The working group recommends that the inter-committee meeting and the meeting of chairpersons decide whether another meeting of the working group should be convened taking into account the reactions and queries of treaty bodies on the recommendations of the working group, the outcome of the meeting with the International Law Commission and any further developments in the International Law Commission on the subject of reservations to treaties.

Annexes

Annex 1: Programme of work

Annex 2: List of participants

Annex 3: The practice of the human rights treaty bodies with respect to reservations – concluding observations/comments

- A. Committee on the Elimination of Racial Discrimination
- B. Human Rights Committee
- C. Committee on Economic, Social and Cultural Rights
- D. Committee on the Elimination of Discrimination against Women
- E. Committee against Torture
- F. Committee on the Rights of the Child
- G. Committee for the Protection of the Rights of All Migrant Workers and Members of Their Families

Annex 4: Table of reservations, objections and withdrawals

- A. Convention on the Elimination of All Forms of Racial Discrimination
- B. International Covenant on Civil and Political Rights
- C. First Optional Protocol to the International Covenant on Civil and Political Rights
- D. International Covenant on Economic, Social and Cultural Rights
- E. Convention on the Elimination of All Forms of Discrimination against Women
- F. Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women
- G. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- H. Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- I. Convention on the Rights of the Child
- J. Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

- K. Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography
- L. Convention on the Protection of the Rights of All Migrant Workers and Members of their Families

Annex 1

PROGRAMME OF WORK

14 December 2006

Afternoon

Opening statement (Ms. Jane Connors, Senior Administrator, Treaties and Council Branch)

Election of the Chairperson-Rapporteur for the meeting and adoption of the programme of work

Discussion on recent developments within the treaty bodies (presentation by each participant on the discussions that have taken place within the committee that he represents on the report of the first meeting of the Working Group, and on recent practice related to reservations)

Discussion on a possible harmonised approach to reservations (list of issues)

15 December 2006

Morning

Discussion on recent developments within the treaty bodies (presentation by each participant on the discussions that have taken place within the committee that he represents on the report of the first meeting of the Working Group, and on recent practice related to reservations) (continued)

Discussion on a possible harmonised approach to reservations (concluding observations)

Afternoon

Discussion on a possible harmonised approach to reservations (concluding observations) (continued)

Discussion on revised recommendations to the inter-committee meeting and the meeting of chairpersons adopted at the first meeting of the Working Group (HRI/MC/2006/5/Rev.1)

Conclusions

Annex 2

LIST OF PARTICIPANTS

Committee on the Elimination of All Forms of Racial Discrimination	Patrick Thornberry
Committee on Economic, Social and Cultural Rights	Philippe Texier
Human Rights Committee	Sir Nigel Rodley (Chairperson-Rapporteur)
Committee on the Elimination of All Forms of Discrimination against Women	Cees Flinterman
Committee against Torture	Guibril Camara
Committee on the Rights of the Child	Jean Zermatten
Committee for the Protection of the Rights of All Migrant Workers and Members of Their Families	Ahmed Hassan El-Borai

Annex 3

The practice of the human rights treaty bodies with respect to reservations – concluding observations/comments (May - December 2006)

A. Committee on the Elimination of Racial Discrimination

Critical remarks

On one occasion, the Committee

- noted that the State party had not yet withdrawn its reservations and reiterated its recommendation that it consider withdrawing them.

Yemen

The Committee notes that Yemen has not yet withdrawn its reservation to article 5 (c) and (d) (iv), (vi) and (vii) of the Convention.

The Committee reiterates its recommendation that the State party consider withdrawing its reservation to article 5 (c) and (d) (iv), (vi) and (vii) of the Convention (CERD/C/YEM/CO/16).

B. Human Rights Committee

Critical remarks

On one occasion, the Committee

- regretted that the State party decided to maintain its reservation to article 22 and encouraged it to withdraw it. It also invited it to withdraw its reservation to article 14 (5) (Republic of Korea).

On one occasion, the Committee

- encouraged the State party to withdraw its reservation to article 6(5) and noted the State party's reservation to articles 10(2)(b) and (3) and 14(4) (United States of America).

Republic of Korea

The Committee notes that the State party has stated its intention to withdraw its reservation to Article 14(5) of the Covenant; however, it regrets that the State party intends to maintain its reservation to Article 22.

The State party is invited to withdraw its reservation to Article 14(5). The State party is also encouraged to withdraw its reservation to Article 22 of the Covenant (CCPR/C/KOR/CO/3).

United States of America

The Committee reiterates the recommendation made in its previous concluding observations, encouraging the State party to withdraw its reservation to article 6(5) of the Covenant.

The Committee, while noting the State party's reservation to treat juveniles as adults in exceptional circumstances notwithstanding articles 10(2)(b) and (3) and 14(4) of the Covenant, remains concerned by information that treatment of children as adults is not only applied in exceptional circumstances (CCPR/C/USA/CO/3).

C. Committee on Economic, Social and Cultural Rights

Critical remarks

On one occasion the Committee

- expressed its concern that the State party's reservations and recommended that it withdraw them.

Monaco

The Committee expresses concern at the interpretative declarations and reservations, particularly with regard to article 2, paragraph 2, and articles 6, 9 and 13, entered by the State party when it ratified the Covenant.

The Committee recommends that the State party withdraw its interpretative declarations and reservations. The Committee encourages the State party to review them, especially those that have become or are becoming obsolete or pointless, including those relating to article 2, paragraph 2, and articles 6, 9 and 13 of the Covenant, in the light of developments in the State party (E/C.12/MCO/CO/1).

D. Committee on the Elimination of Discrimination against Women

Positive remarks

On four occasions, the Committee

- commended, welcomed or expressed its appreciation to a State party for ratifying the Convention without reservations (Bosnia and Herzegovina, Cape Verde, Santa Lucia, Turkmenistan).

On four occasions, the Committee

- commended a State party for withdrawing its reservations (Cyprus, Malawi, Malaysia, Mauritius).

On one occasion the Committee

- noted that the State party is considering the withdrawal of its reservations to articles 5(a) and 7(b) of the Convention (Malaysia).

Critical remarks

On one occasion the Committee

- expressed its concern that the State party is not ready to review its reservations to articles 9 (2), 16 (1) (a), 16 (1) (c), 16 (1) (f), 16 (1) (g) and 16 (2) and urged it to consider withdrawing them, especially reservations to article 16, which are contrary to the object and purpose of the Convention (Malaysia).

Bosnia and Herzegovina

The Committee commends the State party for its succession to the Convention without reservations (CEDAW/C/BIH/CO/3).

Cape Verde

The Committee commends the State party for ratifying to the Convention on the Elimination of All Forms of Discrimination against Women without reservations (CEDAW/C/CPV/CO/6).

Cyprus

The Committee commends the State party for the withdrawal of the reservation to article 9(2) in June 2000 (CEDAW/C/CYP/CO/5).

Malaysia

The Committee commends the State party on the withdrawal of reservations, made upon ratification, to articles 2 (f), 9 (1), 16 (b), (d), (e) and (h). The Committee notes that the State party is considering withdrawing its reservations to article 5 (a) and 7 (b).

While welcoming the State party's assurances that it is reviewing reservations to articles 5 (a) and 7 (b) with a view to removing them, the Committee is concerned that the State party is not ready to similarly review and remove reservations to articles 9 (2), 16 (1) (a), 16 (1) (c), 16 (1) (f), 16 (1) (g) and 16 (2). The Committee is particularly concerned at the State party's position that laws based on Syariah interpretation cannot be reformed.

The Committee urges the State party to review all its remaining reservations with a view to withdrawing them, and especially reservations to article 16, which are contrary to the object and purpose of the Convention (CEDAW/C/MYS/CO/2).

Malawi

The Committee commends the Government for withdrawing its reservations to the provisions of the Convention concerning traditional customs and practices (CEDAW/C/MWI/CO/5).

Mauritius

The Committee commends the State party on the withdrawal of reservation, made upon accession, to article 11, paragraph 1(b) and (d) and article 16, paragraph 1(g) (CEDAW/C/MAR/CO/5).

Santa Lucia

The Committee commends the State party for ratifying to the Convention without reservations (CEDAW/C/LCA/CO/6).

Turkmenistan

The Committee commends the State party for ratifying to the Convention on the Elimination of All Forms of Discrimination against Women without reservations (CEDAW/C/TKM/CO/2).

E. Committee against Torture

Critical remarks

On one occasion, the Committee

- expressed its concern about the broad and imprecise nature of the State party's reservation and recommended that the State party consider reviewing it with a view to withdrawing it (Qatar).

On one occasion, the Committee

- reiterated its recommendation that the State party should consider withdrawing its reservations (United States of America).

Qatar

The Committee is concerned about the following matters: the broad and imprecise nature of the State party's reservation to the Convention, which consists of a general reference to national law without specifying its contents and does not clearly define the

extent to which the reserving State has accepted the Convention, thus raising questions as to the State party's overall implementation of its treaty obligations.

While appreciating the statement made by the representative of the State party that the reservation to the Convention will not impede the full enjoyment of all the rights guaranteed in it, the Committee recommends that the State party consider re-examining its reservation with a view to withdrawing it (CAT/C/QAT/CO/1).

United States of America

The Committee reiterates its recommendation that the State party should consider withdrawing its reservations, declarations and understandings lodged at the time of ratification of the Convention (CAT/C/USA/CO/2).

F. Committee on the Rights of the Child

Positive remarks

On two occasions, the Committee

- noted with appreciation that the State party was in the process of withdrawing a reservation (Syrian Arab Republic and Viet Nam)

Critical remarks

On five occasions, the Committee

- recommended that the State party withdraw its reservations (Jordan, Kiribati, Oman, Qatar and Samoa)

Comments to other treaties

On two occasions, the Committee

- recommended that the State party withdraw its reservation to other treaties, i.e. the 1951 Refugee Convention (Ethiopia) and the Statute of the International Criminal Court (Colombia).

Colombia

In order to improve the situation of children in the context of the ongoing internal armed conflict, the Committee recommends that the State party:

(...)

(g) Consider withdrawal of its reservation for a seven-year period to the Statute of the International Criminal Court on the jurisdiction of war crimes, which at present blocks accountability for those responsible for the recruitment of child soldiers and the planting of landmines (CRC/C/COL/CO/3).

Ethiopia

The Committee urges the State party to:

- (a) Withdraw its reservation to the 1951 Refugee Convention regarding the right to education (CRC/C/ETH/CO/3).

Jordan

The Committee is of the view that the State party's reservation to articles 20 and 21 is unnecessary since there appears to be no contradiction between the logic behind it and the provisions of articles 20 and 21 of the Convention. In fact, the concerns expressed by the State party in its reservation are well taken care of by article 20, paragraph 3 of the Convention, which expressly recognizes *kafalah* of Islamic law as alternative care, and article 21 expressly refers to States parties that "recognize and/or permit the system of adoption". The Committee also regrets that no review has been undertaken of the State party's broad and imprecise nature of the reservation to article 14.

The Committee reiterates, in the light of article 51, paragraph 2, of the Convention, its previous recommendations that the State party review the nature of its reservations with a view to withdrawing them in accordance with the Vienna Declaration and Plan of Action adopted by the World Conference on Human Rights of 1993. As regards the recommended review of the reservation to article 14, the Committee encourages the State party to study the full content of article 14 paying particular attention to its second paragraph (CRC/C/JOR/CO/3).

Kiribati

The Committee regrets that despite the State party's previous intention to withdraw its reservations to articles 24 *b, c, d, e* and *f*, 26 and 28 *b, c* and *d* of the Convention, the State party has not yet made a decision regarding this withdrawal.

The Committee recommends that the State party take the necessary steps to withdraw its reservations to articles 24, 26 and 28 of the Convention. (CRC/C/KIR/CO/1).

Oman

The Committee regrets that no progress has been made in withdrawing, or limiting the extent of, the State party's reservations to articles 7, 9, paragraph 4, 14, 21 and 30 of the Convention since the consideration of the State party's initial report (CRC/C/78/Add.1).

The Committee reiterates, in the light of article 51, paragraph 2 of the Convention, its previous recommendation that the State party review its reservations with a view to withdrawing them, or limiting their extent, in accordance with the Vienna Declaration and Plan of Action adopted by the World Conference on Human Rights on 25 June 1993 (A/CONF.157/23) (CRC/C/OMN/CO/2).

Qatar (OPSC)

The Committee welcomes the information that the State party intends to review its general reservation made upon accession to the Protocol. The Committee is of the view that the general nature of the reservation raises concern as to its compatibility with the object and purpose of the Optional Protocol.

The Committee recommends that the State party expedite the review regarding the general nature of its reservation with a view to withdrawing it, or narrowing it, in accordance with the Vienna Declaration and Plan of Action of the World Conference on Human Rights of 1993 (CRC/C/OPSC/QAT/CO/1).

Samoa

The Committee is concerned at the reservation made by the State party to article 28, paragraph 1 (a), of the Convention on the Rights of the Child.

In the light of the Vienna Declaration and Plan of Action of the World Conference on Human Rights of 1993 (A/CONF.157/23), the Committee recommends that the State party consider withdrawing the reservation made to article 28, paragraph 1 (a), of the Convention on the Rights of the Child (CRC/C/WSM/CO/1).

Syrian Arab Republic (OPSC)

The Committee also notes with appreciation the information provided by the delegation that the Government has approved the withdrawal of the reservations entered by the State party to articles 20 and 21 of the Convention and articles 3, paragraph 1 (a) (ii), and 3, paragraph 5, of the Optional Protocol, and that this decision has been submitted to the legislative body for final promulgation (CRC/C/OPSC/SYR/CO/1).

Viet Nam (OPSC)

The Committee welcomes the information received from the delegation that article 343 of the Criminal Procedure Code has been brought in line with the provisions of article 5 of the Optional Protocol and that the reservation to this article made upon ratification has become unnecessary and will be withdrawn.

The Committee recommends that the State party initiate and complete in a speedy manner the withdrawal of the reservation to article 5 of the Optional Protocol and use this article, when necessary, as a legal basis for extradition in respect of all the offences covered by the Optional Protocol (CRC/C/OPSC/VNM/CO/1).

G. Committee for the Protection of the Rights of All Migrant Workers and Members of Their Families

Critical remark

On one occasion, the Committee

- noted with concern the reservation to article 22, paragraph 4, and recommended that the State party withdraw it (Mexico).

Mexico

13. The Committee notes with concern the State party's reservation to article 22, paragraph 4, of the Convention, given the fact that article 33 of the Constitution stipulates that the Executive has exclusive authority to expel from the national territory, immediately and without a judicial hearing, any foreigner whose residence in Mexico it deems undesirable.

14. The Committee recommends that the State party should consider adopting the necessary legal measures that would allow withdrawing its reservation to article 22, paragraph 4, of the Convention in order to guarantee the right of the persons concerned to explain their reasons for objecting to their expulsion, and to submit their case to the competent authority (CMW/C/MEX/CO/1).

Annex 4

Table of reservations, objections and withdrawals

A. International Convention on the Elimination of All Forms of Racial Discrimination

Substantive provisions by article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 14		Andorra, Bolivia, Morocco			

B. International Covenant on Civil and Political Rights

Substantive provisions by article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 1		Indonesia			
Articles 3, 9(5),14(7),18 and 23		Bahrain			
Article 18	Maldives				

C. First Optional Protocol to the International Covenant on Civil and Political Rights

Substantive provisions by article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 1		Turkey			
Article 5(2)(a)	Turkey				

D. International Covenant on Economic, Social and Cultural Rights

Substantive provisions by article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 1		Indonesia			

E. Convention on the Elimination of All Forms of Discrimination against Women

Substantive provisions by article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Global Articles 9(2), 15(4), 16 (a, c, f), 29(1)	Oman		Austria, Czech Republic, Denmark, Estonia,		

Substantive provisions by article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
			Germany, Ireland, Latvia, Netherlands		
Global Articles 9(2) and 29(1)	Brunei		Austria, Denmark, Estonia, Germany, Ireland, Latvia		
Articles 2(f), 5(a) and 11(2)(b)	Cook Islands				
Article 11				Austria	

F. Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women

None.

G. Convention against Torture and other Cruel, Inhuman or Degrading Treatment and Punishment

Substantive provisions by article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 21					Morocco
Article 22		Bolivia, Brazil, Morocco			

H. Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment and Punishment

None.

I. Convention on the Rights of the Child

Substantive provisions by article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Articles 7 and 8					Andorra
Article 14					Morocco

**J. Optional Protocol to the Convention on the Rights of the Child on the
involvement of children in armed conflict**

Substantive provisions by article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 3(2)		Australia, Belarus, Lao People's Democratic Republic, Nepal, Slovakia, Thailand			

**K. Optional Protocol to the Convention on the Rights of the Child on the sale of
children, child prostitution and child pornography**

Substantive provisions by article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Global		Belgium			
Article 5(2)	Lao People's Democratic Republic				

L. Convention on the Rights of Migrants Workers and Members of their Families

None.