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17<sup>a</sup> reunión de los presidentes de los órganos creados  
en virtud de tratados de derechos humanos  
Ginebra, 23 y 24 de junio de 2005

Cuarta reunión de los comités que son órganos creados  
en virtud de tratados de derechos humanos  
Ginebra, 20 a 22 de junio de 2005

**LA PRÁCTICA DE LOS ÓRGANOS CREADOS EN VIRTUD DE TRATADOS  
DE DERECHOS HUMANOS RESPECTO DE LAS RESERVAS A LOS  
TRATADOS INTERNACIONALES EN LA MATERIA**

El presente informe, elaborado por la Secretaría por solicitud de la Tercera reunión de los comités y la 16<sup>a</sup> reunión de los presidentes de los órganos de tratados de derechos humanos, se refiere a la práctica de dichos órganos sobre las reservas formuladas a los tratados internacionales básicos de derechos humanos. Los anexos al informe se presentan en inglés únicamente.

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## I. INTRODUCCIÓN

1. La tercera reunión de los comités que son órganos creados en virtud de tratados de derechos humanos y la 16<sup>a</sup> reunión de los presidentes de los órganos creados en virtud de tratados de derechos humanos, celebradas en Ginebra del 21 al 22 y del 23 al 25 de junio de 2004, respectivamente, examinaron, entre otras cosas, las reservas a los instrumentos internacionales de derechos humanos.

2. La reunión de los comités convino en que era adecuado que los órganos de tratados pidiesen la retirada de las reservas a los tratados cuyo cumplimiento estaban encargados de supervisar. También se examinó la cuestión de si estos órganos podían decidir acerca de la admisibilidad de las reservas formuladas por los Estados y coincidió en que, aunque esta cuestión no se plateaba a todos los órganos, sería útil adoptar un planteamiento común.

Se propuso que la Secretaría preparase un informe, del que formase parte un cuadro en el que se recogiesen todas las reservas formuladas a los tratados básicos de derechos humanos y la índole de las disposiciones recusadas, a fin de establecer un grupo de trabajo integrado por un representante de cada comité, que lo estudiara e informase al respecto a la siguiente reunión de los comités (A/59/254, anexo, párr. 18 y punto de acuerdo XVI). El presente informe se ha elaborado para responder a dicha petición.

3. En el presente informe se describen las disposiciones de los tratados de derechos humanos relacionadas con las reservas, así como las contenidas en la Convención de Viena sobre el derecho de los tratados. Se hace un repaso de los criterios que aplican los órganos de los tratados a las reservas y las reacciones de otros órganos de las Naciones Unidas a esta cuestión. En el anexo 1 figura un resumen de las reacciones de los comités a las reservas, incluidas las contenidas en las observaciones finales o los comentarios formulados tras examinar los informes de los Estados Partes. En el anexo 2 figuran cuadros con reservas, declaraciones (interpretativas o de otra índole) y entendimientos que se han hecho a los siete tratados básicos de derechos humanos y sus protocolos facultativos. En ellos se incluyen las objeciones formuladas por Estados Partes a las reservas, declaraciones o interpretaciones así como las retiradas (totales o parciales) de las reservas. Las acciones que se califican indistintamente de "reservas", "declaraciones" o "entendimientos" se han clasificado como "reservas" en los cuadros si el propio Estado las ha calificado de tales o si ha hecho lo propio la Oficina de Asuntos Jurídicos de las Naciones Unidas, que desempeña las funciones del Secretario General de depositario de los tratados de derechos humanos correspondientes, o si resulta evidente que la intención de la acción es limitar las obligaciones vinculantes asumidas por el Estado Parte.

4. El enfoque actual sobre las reservas a los tratados se basa en las disposiciones de los instrumentos; las disposiciones de la Convención de Viena, que se suele considerar que representan el derecho consuetudinario generalmente vinculante; la evolución de la práctica de los órganos de los tratados, así como la evolución de la política de la Oficina de Asuntos Jurídicos. También se basa en la práctica de los tribunales regionales de derechos humanos, en particular el Tribunal Europeo de Derechos Humanos y la labor de la Comisión de Derecho Internacional, y en particular la labor de su Relator Especial sobre las reservas a los tratados, Sr. Alain Pellet, quien presentará su décimo informe sobre la cuestión a la Comisión en 2005 en su 57<sup>º</sup> período de sesiones. Este criterio también se ha visto afectado por la labor de la Subcomisión de Promoción y Protección de los Derechos Humanos.

## **II. LAS DISPOSICIONES DE LOS TRATADOS DE DERECHOS HUMANOS**

5. Las disposiciones de los tratados de derechos humanos abordan la cuestión de las reservas de diferentes maneras:

- a) Los Protocolos Facultativos de la Convención sobre la eliminación de todas las formas de discriminación contra la mujer y la Convención contra la Tortura y Otros Tratos o Penas Crueles, Inhumanos o Degradantes, en sus artículos 17 y 30, respectivamente, prohíben por completo las reservas.
- b) El Segundo Protocolo Facultativo del Pacto Internacional de Derechos Civiles y Políticos, destinado a abolir la pena de muerte, no admite ninguna reserva, con excepción de las formuladas con arreglo al párrafo 1 del artículo 2, que autoriza "una reserva formulada en el momento de la ratificación o la adhesión en la que se prevea la aplicación de la pena de muerte en tiempo de guerra como consecuencia de una condena por un delito sumamente grave de carácter militar cometido en tiempo de guerra". En los párrafos 2 y 3 del artículo 2 también se exige al Estado Parte que formule esa reserva que comunique al Secretario General las disposiciones pertinentes de su legislación nacional aplicables en tiempo de guerra y que le notifique todo comienzo o fin de un estado de guerra aplicable a su territorio.
- c) El artículo 28 de la Convención sobre la eliminación de la discriminación contra la mujer, el artículo 51 de la Convención sobre los Derechos del Niño y el artículo 91 de la Convención internacional sobre la protección de los derechos de todos los trabajadores migratorios y de sus familiares disponen que no se aceptarán reservas incompatibles con el objeto y el propósito de los respectivos instrumentos. La Convención sobre la eliminación de la discriminación contra la mujer (art. 29) y la Convención sobre los trabajadores migratorios (art. 91) también disponen que los Estados Partes podrán formular reservas al procedimiento previsto en los instrumentos para someter controversias a la Corte Internacional de Justicia.
- d) La Convención Internacional sobre la Eliminación de todas las Formas de Discriminación Racial es el único tratado que crea un régimen sobre las reservas. El artículo 20 dispone lo siguiente:

"1. El Secretario General de las Naciones Unidas recibirá y comunicará a todos los Estados que sean o lleguen a ser partes en la presente Convención los textos de las reservas formuladas por los Estados en el momento de la ratificación o de la adhesión. Todo Estado que tenga objeciones a una reserva notificará al Secretario General que no la acepta, y esta notificación deberá hacerse dentro de los noventa días siguientes a la fecha de la comunicación del Secretario General.

2. No se aceptará ninguna reserva incompatible con el objeto y el propósito de la presente Convención, ni se permitirá ninguna reserva que pueda inhibir el funcionamiento de cualquiera de los órganos establecidos en virtud de la presente Convención. Se considerará que una reserva es incompatible o

inhibitoria si, por lo menos, las dos terceras partes de los Estados Partes en la Convención formulan objeciones a la misma."

- e) La Convención contra la Tortura y Otros Tratos o Penas Crueles, Inhumanos o Degradantes guarda silencio sobre las reservas, pero en su artículo 28 dispone que en el momento de la firma o la ratificación de la Convención o de la adhesión a ella, todo Estado podrá declarar que no reconoce la competencia del Comité según se establece en el artículo 20 (procedimiento de investigación). Al igual que en el caso de la Convención sobre la mujer y la Convención sobre los trabajadores migratorios, el párrafo 2 del artículo 30 dispone que los Estados pueden formular reservas al procedimiento previsto en el instrumento de someter controversias a la Corte Internacional de Justicia.
- f) El Pacto Internacional de Derechos Civiles y Políticos y su Primer Protocolo Facultativo, así como el Pacto Internacional de Derechos Económicos, Sociales y Culturales, guardan silencio respecto de las reservas.

### **III. CONVENCIÓN DE VIENA SOBRE EL DERECHO DE LOS TRATADOS**

6. En el apartado d) del párrafo 1 del artículo 2 de la Convención de Viena se define la reserva como una "declaración unilateral, cualquiera que sea su enunciado o denominación, hecha por un Estado al firmar, ratificar, aceptar o aprobar un tratado o al adherirse a él, con el objeto de excluir o modificar los efectos jurídicos de ciertas disposiciones del tratado en su aplicación a ese Estado". En general se entiende que la Convención de Viena exige que la reserva sea presentada por un Estado antes de que éste pase a estar obligado por el tratado, sea mediante la ratificación, la adhesión o de cualquier otra manera. El retiro, total o parcial, puede producirse en cualquier momento a partir de entonces y puede referirse a cualquiera de las reservas formuladas o a todas ellas. Los artículos 19 a 21 de la Convención establecen un régimen sobre las reservas a los tratados multilaterales por los que las reservas no deben estar prohibidas por el tratado ni pueden ser incompatibles con su objeto y fin. Otros Estados Partes pueden presentar objeciones a las reservas, lo que impide que éstas entren en vigor entre esos Estados en la medida en que estén afectadas por la objeción, a menos que se disponga otra cosa. Por consiguiente, el régimen deja en manos de los Estados las decisiones sobre la validez de las reservas.

7. Diversos órganos de tratados de derechos humanos se han preguntado si el régimen creado por la Convención de Viena es suficiente para tratar de las reservas a los tratados internacionales de derechos humanos, en particular debido a que el número de objeciones a las reservas es muy bajo. Algunos órganos, en particular el Comité de Derechos Humanos, han ayudado a determinar si las reservas eran permisibles en el contexto del examen de comunicaciones de particulares en que se les puede pedir que establezcan el alcance de una determinada obligación asumida por los Estados Partes antes de que se pueda evaluar el cumplimiento de las correspondientes obligaciones. Los órganos de tratados también han examinado la permisibilidad de las reservas en el contexto del examen de los informes periódicos y por lo general alientan a los Estados a retirarlas, o por lo menos a que examinen la posibilidad de hacerlo, incluso cuando se trata de reservas permisibles sobre la base normativa de que las

reservas reducen el alcance de la protección que brindan los tratados y, por consiguiente, deben ser objeto de una interpretación estrecha y, de ser posible, eliminarse.

## **IV. EL ENFOQUE DE LOS ÓRGANOS DE TRATADOS**

### **A. Comité para la Eliminación de la Discriminación contra la Mujer**

8. La mayoría de los órganos de tratados han adoptado un criterio formal sobre las reservas. En su tercer período de sesiones, el Comité para la Eliminación de la Discriminación contra la Mujer examinó una opinión jurídica presentada por la Sección de Tratados de la Oficina de Asuntos Jurídicos sobre las reservas formuladas a determinados artículos de la Convención que eran incompatibles con el objeto y el fin de dicho tratado<sup>1</sup>. En la opinión se señalaba que si no existía un régimen concreto como el establecido en la Convención Internacional para la Eliminación de todas las Formas de Discriminación Racial, se trataba ahí de una cuestión de interpretación de la Convención, y sugirió que pasarían a aplicarse los mecanismos formales de solución de controversias (arbitraje, sometimiento a la Corte Internacional de Justicia) en caso de diferencias sobre la permisibilidad de una reserva. La opinión también señalaba que el depositario no tenía atribuciones para interpretar la Convención, pero sí tenía la obligación de comunicar el texto de las reservas recibidas, y llegó a la conclusión de que en las funciones del Comité no parecía figurar la de determinar la incompatibilidad de las reservas, aunque éstas sin duda afectasen a la aplicación de la Convención y el Comité tal vez tuviera que hacer observaciones al respecto en los informes que presentase en ese contexto.

9. En su Recomendación general Nº 4, aprobada en su sexto período de sesiones en 1987, el Comité para la Eliminación de la Discriminación contra la Mujer expresó su preocupación con respecto al considerable número de reservas que parecían incompatibles con el objeto y la finalidad de la Convención y sugirió que todos los Estados Partes interesados volvieran a examinarlas con miras a retirarlas. En su Recomendación general Nº 20, aprobada en su 11º período de sesiones en 1992, el Comité recomendó que, en relación con los preparativos de la Conferencia Mundial de Derechos Humanos que se celebraría en 1993, los Estados Partes:

- a) Planteasen la cuestión de la validez y los efectos jurídicos de las reservas formuladas en relación con reservas respecto de otros tratados de derechos humanos;
- b) Volvieran a examinar esas reservas con vistas a reforzar la aplicación de todos los tratados de derechos humanos;
- c) Considerasen la posibilidad de introducir un procedimiento para la formulación de reservas en relación con la Convención comparable a los de otros tratados de derechos humanos.

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<sup>1</sup> CEDAW/C/L.1/Add.20 (contenido en *The Work of CEDAW*, vol. I, 1982 a 1985, Naciones Unidas, anexo IV).

10. En su Recomendación general N° 21 sobre la igualdad en el matrimonio y en las relaciones familiares, aprobado en su 13º período de sesiones en 1994, el Comité expresó alarma ante el número de Estados Partes que habían formulado reservas respecto del artículo 16 en su totalidad o en parte, especialmente cuando también habían formulado una reserva respecto del artículo 2. De conformidad con los artículos 2, 3 y 24 de la Convención, el Comité solicitó que todos los Estados Partes avanzasen paulatinamente hacia una etapa en que cada país retirase sus reservas, en particular a los artículos 9, 15 y 16. El Comité también observó que en algunos Estados Partes que habían ratificado la Convención o se habían adherido a ella sin reservas, algunas leyes, especialmente las que se referían a la familia, en realidad no se ajustaban a las disposiciones de la Convención, y pidió a esos Estados Partes que examinasen la situación de hecho e hiciesen las modificaciones necesarias en aquellas de sus leyes que todavía contuviesen disposiciones discriminatorias contra la mujer. En la Recomendación general N° 23 sobre la mujer en la vida política y pública, aprobada en su 16º período de sesiones en 1997, el Comité dijo que los Estados Partes debían explicar la razón de ser de las reservas a los artículos 7 y 8 relacionados con la participación de la mujer en la vida política y pública e indicar si reflejaban actitudes basadas en la tradición, las costumbres o estereotipos en cuanto la función de las mujeres en la sociedad, así como las medidas que estuviesen adoptando para modificar tales actitudes. También pidió a los Estados Partes que mantuviesen bajo examen la necesidad de esas reservas e incluyesen en sus informes las fechas para retirarlas.

11. En su 19º período de sesiones en 1998, el Comité para la Eliminación de la Discriminación contra la Mujer aprobó una declaración relativa a las reservas a la Convención, que fue su aporte a la conmemoración del 50º aniversario de la Declaración Universal de Derechos Humanos (A/53/38/Rev.1, segunda parte, párr. 1 y ss.). Entre otras cosas, el Comité dijo que consideraba que los artículos 2 y 16 contenían disposiciones básicas de la Convención. Si bien algunos Estados Partes habían retirado las reservas a esos artículos, al Comité le preocupaba especialmente el número y alcance de las reservas formuladas. También examinó el principio de "no permisibilidad" consagrado en el párrafo 2 del artículo 28 de la Convención, que establecía que no se aceptaría ninguna reserva incompatible con el objeto y propósito del tratado. En particular, hizo referencia a las numerosas reservas al artículo 2 que, a su juicio, representaban un serio obstáculo para la aplicación de la Convención y para la capacidad del Comité de supervisar su cumplimiento. También observó que, a pesar de las recomendaciones de la Declaración y Programa de Acción de Viena, hasta la fecha de la declaración sólo unas pocas reservas al artículo 2 habían sido modificadas o retiradas por los Estados Partes e hizo referencia a sus Recomendación generales Nos. 20 y 21. En cuanto a las opciones que tenían los Estados Partes que habían formulado reservas, en la declaración se hizo referencia a la opinión del Relator Especial de la Comisión de Derecho Internacional sobre la ley y la práctica en materia de reservas a los tratados. Éste afirmó que un Estado podía mantener sus reservas, retirarlas, reemplazar una reserva no permisible por otra permisible o renunciar a ser Parte en el tratado. También se hizo referencia a la utilidad del procedimiento para el arreglo de controversias entre los Estados para alentar a los Estados a retirar o modificar sus reservas. Por último, mencionó la importante función del Comité de seguir examinando las reservas y, aunque tomaba en cuenta la opinión del Relator Especial de que el control de la permisibilidad de las reservas era responsabilidad fundamental de los Estados, deseaba señalar a la atención de los Estados Partes su profunda preocupación frente al número y alcance de las reservas no permisibles. En las directrices sobre la presentación de informes al Comité para la Eliminación de la Discriminación Racial se pide a los Estados Partes que expliquen cualquier reserva o

declaración que formulen sobre la Convención y su decisión de mantenerlas y, teniendo en cuenta la declaración relativa a las reservas, que indiquen los efectos concretos de cualquier reserva o declaración en las leyes y políticas nacionales. La directrices también piden a los Estados Partes que hayan presentado reservas generales que no se refieran a un artículo específico, o que afecten a los artículos 2 y 3, que informen de las consecuencias y la interpretación de esas reservas y que faciliten información sobre toda reserva o declaración que hayan formulado respecto de obligaciones similares contraídas en virtud de otros tratados de derechos humanos.

### B. Comité de los Derechos del Niño

12. En su primer período de sesiones, el Comité de los Derechos del Niño pidió a la Secretaría que elaborara una nota sobre las reservas a la Convención<sup>2</sup>. Esa nota se presentó al Comité en su segundo período de sesiones en 1992 y en ella se indicaba que el derecho internacional no ofrecía directrices claras respecto de los tipos de reserva que debían considerarse incompatibles con el objeto y el fin de un tratado de derechos humanos, y que la responsabilidad fundamental de evaluar su compatibilidad recaía en otros Estados Partes, que podían expresarla formulando objeciones a las reservas. También hizo referencia a un *aide-mémoire* del Secretario General de 1976, en que había afirmado que, en su calidad de depositario de los tratados, no era competente para juzgar los efectos jurídicos de las reservas, y a la opinión facilitada al Comité para la Eliminación de la Discriminación contra la Mujer en su tercer período de sesiones en 1984. Durante las deliberaciones de la cuestión de las reservas en ese período de sesiones, el Comité reconoció que era necesario mantener primordialmente el espíritu de comprensión y de consenso que se desprendía de la Convención, en lugar de referirse a la cuestión de las reservas y declaraciones como factor de división que podría socavar ese espíritu. Sin embargo, el Comité reconoció que era importante abordar el tema en su examen de los informes y decidió pedir a los Estados que le proporcionaran información acerca de la forma en que se recogían y aplicaban en sus legislaciones nacionales las reservas y declaraciones que habían formulado<sup>3</sup>.

13. En su Observación general N° 5 (2003) sobre las medidas generales de aplicación de la Convención, el Comité hizo referencia al párrafo 2 del artículo 51 del Tratado, así como al artículo 2 de la Convención de Viena, y expresó su profunda preocupación porque algunos Estados habían formulado reservas que evidentemente infringían el párrafo 2 del artículo 51, por ejemplo señalando que el respeto de la Convención estaba limitado por la Constitución o la legislación vigente del Estado, incluyendo en algunos casos el derecho religioso. Señaló que, en algunos casos, los Estados Partes habían presentado objeciones formales a esas reservas tan amplias de otros Estados Partes y encomió cualquier medida que contribuyese a asegurar el respeto más amplio posible de la Convención en todos los Estados Partes.

14. En sus orientaciones generales sobre la elaboración de los informes periódicos, el Comité pidió a los Estados, ateniéndose al espíritu de la Conferencia Mundial de Derechos Humanos, que alentó a los Estados a examinar la posibilidad de reexaminar cualquier reserva que hubieran

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<sup>2</sup> MCRC/92/8.

<sup>3</sup> A/49/41, párr. 529.

hecho con miras a retirarlas<sup>4</sup>, que indicasen si el Gobierno consideraba necesario mantener las reservas que había hecho, en su caso, o si tenía la intención de retirarlas<sup>5</sup>. En las orientaciones respecto a los informes iniciales presentados en virtud de los Protocolos Facultativos, el Comité pidió información sobre la intención de los Estados Partes de retirar las reservas existentes.

15. En su día de debate general destinado a conmemorar el décimo aniversario de la Convención, el Comité hizo suyas las conclusiones en las que se afirmaba que el Comité tenía una función decisiva que desempeñar en la evaluación de la validez y las consecuencias de las reservas formuladas por los Estados Partes y seguiría planteando sistemáticamente esa cuestión a los Estados Partes. El Comité continuaría fomentando la revisión de las reservas de los Estados Partes y su retirada, con el fin de conseguir el nivel más elevado posible de aplicación de la Convención. Dijo que consideraría la posibilidad de adoptar una observación general sobre el tema de las reservas y que examinaría con los Estados Partes si las reservas eran compatibles con el objeto y el propósito de la Convención, aclararía toda situación en que se diera una falta de compatibilidad y las reservas pudieran ser nulas y propondría medidas específicas para remediarlo. El Comité alentaba la prestación de asistencia técnica a los Estados Partes para que pudiesen revisar sus reservas con el fin de retirarlas<sup>6</sup>. El Comité aún no ha elaborado una observación general sobre las reservas, pero en el examen de los informes de los Estados Partes ha criticado especialmente las reservas que afectan a todas las disposiciones de la Convención o a un gran número de ellas, que al parecer se fundan en consideraciones poco claras o generales, como las costumbres o los valores del Estado Parte, podrían inducir a la discriminación por motivos religiosos y podrían impedir la aplicación de principios fundamentales como la no discriminación, el interés superior del niño o los derechos de la familia.

### C. Comité para la Eliminación de la Discriminación Racial

16. Ya en 1976, el Comité para la Eliminación de la Discriminación Racial solicitó un memorando jurídico, entre otras cosas, acerca del efecto jurídico de una decisión unánime del Comité por la que una reserva se consideraba incompatible con el objeto y la finalidad de la Convención, después de que ya hubiera sido aceptada esa reserva, y el efecto de una decisión de esa índole, teniendo presente el párrafo 2 del artículo 20 de la Convención. En el memorando se indicaba que el Comité no era un órgano representativo de los Estados Partes, que eran los únicos que disponían de poderes generales con respecto a la aplicación de la Convención. Cuando los Estados Partes habían aceptado una reserva a tenor del artículo 20, una decisión del Comité, aunque fuera unánime, en el sentido de que la reserva no era aceptable, no podía tener ningún efecto jurídico<sup>7</sup>. En su 17º período de sesiones, en abril de 1978, el Comité celebró un debate general sobre los efectos jurídicos de las reservas<sup>8</sup>. Los miembros acordaron que el

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<sup>4</sup> A/CONF.157/23, II, párrs. 5 y 46.

<sup>5</sup> CRC/C/58, párr. 11.

<sup>6</sup> CRC/C/90, párr. 291.

<sup>7</sup> *Anuario Jurídico de las Naciones Unidas*, 1976, págs. 235 y 236.

<sup>8</sup> A/33/18, págs. 93 y 94.

Comité debía tener en cuenta las reservas formuladas al no estar facultado para actuar de otra manera. Ninguna decisión (aunque fuera unánime) en el sentido de declarar inaceptable una reserva podía tener efecto jurídico alguno. Por otra parte, las declaraciones no tenían efecto jurídico alguno respecto de las obligaciones del Estado declarante, ya que, de no ser así, tendrían que considerarse reservas.

17. En su dictamen preliminar sobre la cuestión de las reservas a los tratados de derechos humanos de 13 de marzo de 2003<sup>9</sup>, el Comité estableció que, al examinar un informe de un país, un órgano creado en virtud de un tratado podía pronunciarse acerca de la compatibilidad de una reserva formulada por el correspondiente Estado con el objeto y la finalidad del tratado (párr. 3) y recomendar que el Estado considerase la posibilidad de modificar o retirar la reserva, o adoptar otra medida, precisando que esto sería mucho más provechoso que entablar una batalla jurídica con todos los Estados que hubieran formulado reservas e insistir en la nulidad del efecto jurídico de algunas de ellas, es decir que, a pesar de su voluntad al ratificar la Convención, estaban vinculados por su texto íntegro (párr. 4).

#### **D. Comité de Derechos Humanos**

18. La posición del Comité de Derechos Humanos con respecto de las reservas es fruto principalmente de la repercusión que éstas tienen en las comunicaciones presentadas con arreglo al Protocolo Facultativo del Pacto. En su 52º período de sesiones en 1994, el Comité aprobó la Observación general N° 24 sobre cuestiones relacionadas con las reservas formuladas con ocasión de la ratificación del Pacto o de sus Protocolos Facultativos, o de la adhesión a ellos, o en relación con las declaraciones hechas de conformidad con el artículo 41 del Pacto. En ella, el Comité subrayó que "por necesidad ha de ser el Comité quien decida si una determinada reserva es compatible con el objeto y fin del Pacto", tarea que el Comité está en condiciones especialmente adecuadas de realizar (párr. 18). Además establece una serie de indicadores para determinar esta cuestión, que incluyen los puntos de vista de la inderogabilidad, los principios fundamentales básicos y el derecho internacional consuetudinario.

19. La Observación general N° 24 suscitó considerable interés entre los Estados y respuestas oficiales críticas de Francia<sup>10</sup>, el Reino Unido y los Estados Unidos de América<sup>11</sup>. El problema de las reservas surgió durante el examen del informe de los Estados Unidos de América, y el Comité tomó nota de las inquietudes que la delegación expuso por escrito a su Presidente en relación con la Observación general. En el contexto del examen del informe del Reino Unido, el Comité expresó su agradocimiento porque la delegación había reconocido francamente las cuestiones jurídicas planteadas en la observación general con las que el Gobierno estaba en desacuerdo y por su voluntad de entablar un diálogo al respecto<sup>12</sup>.

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<sup>9</sup> CERD/C/62/Misc.20/Rev.3.

<sup>10</sup> A/51/40, párr. 367 y anexo VI.

<sup>11</sup> A/50/40, párr. 481 y anexo VI.

<sup>12</sup> A/50/40, párr. 409.

### E. Comité de Derechos Económicos, Sociales y Culturales

20. En una sesión privada del Comité durante su octavo período de sesiones, en 1993, el Presidente y varios miembros formularon observaciones acerca de las reservas. El Presidente dijo que las reservas no eran un problema importante ya que se formulaban muy pocas y generalmente no tenían carácter polémico<sup>13</sup>. En su 19º período de sesiones, en 1998, durante el examen del proyecto de observación general sobre la aplicación interna del Pacto, se planteó la cuestión de si se prohibía a los Estados formular reservas basadas en su legislación religiosa interna en virtud del principio de que no se puede justificar el incumplimiento del derecho internacional invocando el derecho interno. El Presidente consideró que las reservas generales eran inaceptables debido a su falta de precisión, pero que probablemente las reservas concretas fueran aceptables<sup>14</sup>. Ni en la observación general adoptada ni en ninguna otra declaración oficial ni en las directrices del Comité se toca el problema de las reservas.

21. Al igual que el Comité de Derechos Económicos, Sociales y Culturales, el Comité contra la Tortura tampoco ha adoptado una posición oficial con respecto a las reservas, pero ha expresado su preocupación al respecto en el contexto del examen de los informes de los Estados Partes, y en sus observaciones finales.

### V. LAS RESERVAS EN EL CONTEXTO DE LAS COMUNICACIONES INDIVIDUALES

22. Las reservas son importantes en el contexto de las comunicaciones individuales, ya que pueden formularse para debilitar la facultad del Comité de admitir denuncias o para limitar el alcance del análisis admisible del fondo de la cuestión. Hasta la fecha, el Comité de Derechos Humanos es el único de los cuatro órganos creados en virtud de tratados facultados para examinar denuncias individuales que se ha pronunciado acerca del efecto de las reservas en este contexto<sup>15</sup>, tanto acerca de las reservas de procedimiento al Protocolo Facultativo del Pacto como las reservas sustantivas al propio Pacto. En líneas generales, el planteamiento del Comité consiste en limitar estrictamente el efecto de las reservas, pero sin cuestionar su licitud fundamental.

23. En el momento de determinar si es competente para examinar una denuncia, es decir, en la fase de la admisibilidad de la denuncia, el Comité ha tenido que considerar a menudo el efecto de las reservas de procedimiento en un caso concreto. Estas reservas de procedimiento pueden dividirse en dos tipos: primero, las que reflejan la legislación vigente, según lo establecido en el Protocolo Facultativo o en la jurisprudencia del Comité, y, en segundo lugar, las que tienen un

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<sup>13</sup> E/C.12/1993/SR.17.

<sup>14</sup> E/C.12/1998/SR.51/Add.1, párrs. 1 a 8.

<sup>15</sup> En el caso de *Hagan c. Australia* (26/2002) sometido al Comité para la Eliminación de la Discriminación Racial, el Estado Parte invocó su reserva al artículo 4 de la Convención como medio de defensa, pero en su examen de la cuestión en cuanto al fondo el Comité no se refirió a esta cuestión.

alcance más amplio. Son ejemplos típicos de las primeras las reservas tendentes a no reconocer la competencia del Comité porque i) el mismo asunto ha sido sometido ya a otro procedimiento de examen o arreglo internacional (Croacia, Eslovenia, Federación de Rusia, Francia, Islandia, Italia, Luxemburgo, Malta, Rumania, Sri Lanka, Suecia), o ii) los hechos denunciados ocurrieron antes de la entrada en vigor del Protocolo Facultativo para el país interesado (Alemania, Chile, Croacia, El Salvador, Eslovenia, España, Federación de Rusia, Francia, Guatemala, Malta, Sri Lanka), o iii) no se han agotado los recursos internos (Federación de Rusia). No obstante, dado que estas condiciones ya figuran en el párrafo 2 a) del artículo 5 del Protocolo Facultativo y en la jurisprudencia del Comité, tales reservas no imponen restricciones adicionales a la competencia del Comité. Las excepciones o limitaciones establecidas por el Comité a la interpretación de estas normas se aplican en consecuencia por igual independientemente de que la disposición forme parte del texto del Protocolo Facultativo, del derecho jurisprudencial del Comité o de una reserva que refleje la legislación vigente<sup>16</sup>. Aunque en algunos de estos casos cabe argumentar que la reserva va más allá de la situación jurídica que puede presentarse (por ejemplo, la reserva de Alemania *ratione temporis* y la de Rusia relativa a los recursos internos), hasta la fecha nada se ha basado en tales distinciones. Cabe concluir que el Comité ha considerado este tipo de "reserva" inobjetable y que la ha aplicado sistemáticamente<sup>17</sup>.

24. La segunda categoría de reservas de procedimiento son las que restringen la competencia del Comité por debajo de los límites existentes, por ejemplo las que restringen la competencia del Comité para examinar denuncias que ya han sido examinadas por otro foro internacional en términos generales, o citadas expresamente (además de las que están examinando al mismo tiempo) (Alemania, Austria, Croacia, Dinamarca, Eslovenia, España<sup>18</sup>, Francia, Irlanda, Islandia, Italia, Luxemburgo, Malta, Noruega, Polonia, Rumania, Sri Lanka, Suecia, Uganda). En este caso, el Comité se ha esforzado por reducir el posible alcance de tal reserva y lo ha hecho de tres maneras<sup>19</sup>. En primer lugar, el otro procedimiento debe tener carácter judicial o quasi judicial, lo que excluye procesos como el procedimiento 1503 de la Comisión de Derechos Humanos o las denuncias presentadas a los relatores especiales de la Comisión. En segundo lugar, para que las reservas tuvieran efecto, el Comité ha exigido que una misma persona haya presentado hechos idénticos y hecho las mismas denuncias en ambos procedimientos<sup>20</sup>. Concretamente, cuando las disposiciones aplicables del Pacto son más amplias que las de otro instrumento, no se habrá

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<sup>16</sup> Véase *Sarma c. Sri Lanka* (950/2000).

<sup>17</sup> Véase, por ejemplo, *Paraga c. Croacia* (727/1996).

<sup>18</sup> La reserva de España al Protocolo Facultativo dice expresamente "sometida", pero en *Pallach c. España* (1074/2002), el Comité aplicó una interpretación más estricta de la palabra en el sentido de "examen concluido".

<sup>19</sup> Las dos primeras naturalmente también se aplican al examen de las reservas citadas anteriormente respecto de la presentación simultánea (y no consecutiva) del mismo asunto a un procedimiento internacional.

<sup>20</sup> Véase, por ejemplo, *Rogl c. Alemania* (808/1998).

planteado la "denuncia idéntica"<sup>21</sup>. En tercer lugar, aun cuando el "mismo asunto" esté sometido a ambos procedimientos, el Comité ha definido el "examen" de la cuestión por otro procedimiento como una decisión (aunque sea sumaria) sobre el fondo de la cuestión, con lo que conserva su competencia si en el otro procedimiento se rechaza el caso por razones técnicas o de procedimiento<sup>22</sup>. No obstante, aunque adopte el planteamiento restrictivo descrito, el Comité respeta el propósito fundamental de la reserva y evita interpretaciones formales que puedan desvirtuarla. Así pues, el Comité interpretó que la reserva de Austria acerca de las demandas presentadas a la Comisión Europea de Derechos Humanos también abarcaba las presentadas al Tribunal Europeo, el órgano que la sucedió, a pesar de que el abogado había pedido que se interpretara el término en sentido estricto<sup>23</sup>. Dado que las reservas ampliaron las restricciones basadas en consideraciones de política admisibles ya recogidas en el Protocolo Facultativo y en la jurisprudencia, el Comité se ha limitado a una interpretación restrictiva sin llegar a una crítica más esencial de su licitud.

25. Otro ejemplo de las reservas de procedimiento al Protocolo Facultativo con las que se pretende limitar la jurisdicción del Comité más de lo previsto en el Protocolo Facultativo o en la jurisprudencia son las tendentes a negar al Comité competencia en ciertas categorías de casos sustantivos, por ejemplo, los de presos del pabellón de los condenados a muerte. En *Kennedy c. Trinidad y Tabago*<sup>24</sup>, el Comité consideró que dicha exclusión constituía una discriminación que infringía los principios básicos del Pacto y sus Protocolos Facultativos, y que no era admisible por ser incompatible con el objeto y fin del Protocolo Facultativo. Por tanto se separó la reserva y se declaró admisible la comunicación a pesar de ella. Fue la única ocasión en que una reserva se consideró nula y sin efecto en una denuncia.

26. Raras veces las comunicaciones al Comité han hecho que se cuestionara el efecto de una reserva al Pacto. Por ejemplo, en *Cabal y Pasini c. Australia*<sup>25</sup>, los autores denunciaron, entre otras cosas, una violación del párrafo 2 del artículo 10, en relación con el cual Australia había formulado la reserva siguiente: "En lo que se refiere al apartado a) del párrafo 2 se acepta el principio de la separación como objetivo que debe alcanzarse progresivamente". El Comité admitió la reserva, rechazando el argumento de que era incompatible con el objeto y el propósito del tratado. También indicó:

"El Comité observa que la reserva del Estado Parte de que se trata es específica y transparente, y que su alcance es claro. Se refiere a la *separación* de los condenados y los no condenados y no llega a abarcar, como afirman los autores y no refuta el Estado Parte, el elemento de *tratamiento distinto* que figura en el apartado a) del párrafo 2 del artículo 10, en la medida en que se refiere a esas dos categorías de personas. El Comité

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<sup>21</sup> Véase, por ejemplo, *Karakurt c. Austria* (965/2000).

<sup>22</sup> Véase, por ejemplo, *Weiss c. Austria* (1086/2002).

<sup>23</sup> *Wallman c. Austria* (1002/2001).

<sup>24</sup> Caso N° 845/1999.

<sup>25</sup> Caso N° 1020/2001.

reconoce que, si bien han transcurrido 20 años desde que el Estado Parte hizo constar su reserva y proyectaba lograr su objetivo "progresivamente", y pese a que sería conveniente que todos los Estados Partes retiraran las reservas rápidamente, no existe una norma en el Pacto sobre el plazo para retirarlas. Además, el Comité observa los esfuerzos que ha desplegado el Estado Parte hasta la fecha para lograr este objetivo con la construcción del Centro para Prisión Preventiva de Melbourne en 1989, concretamente con el propósito de alojar a los detenidos en prisión preventiva, y su plan de construir para fines de 2004 dos nuevas cárceles en Melbourne, una de ellas para ese tipo de reclusos. Por consiguiente, si bien cabe lamentar que el Estado Parte no haya logrado el objetivo de *separar* a los condenados de los no condenados en pleno cumplimiento del apartado a) del párrafo 2 del artículo 10, el Comité no puede considerar que la reserva sea incompatible con el objeto y el propósito del Pacto. Por consiguiente, esta parte de la denuncia de los autores es inadmisible con arreglo al artículo 3 del Protocolo Facultativo."

27. Del mismo modo, en una serie de comunicaciones individuales presentadas contra Francia por miembros de la minoría lingüística bretona que invocaban el artículo 27, el Comité rechazó sistemáticamente las denuncias aduciendo que estaban producidas a raíz de la declaración de Francia al formular una reserva de que "a la luz del artículo 2 de la Constitución de la República Francesa el Gobierno de Francia declara que el artículo 27 no es aplicable en lo que concierne a la República"<sup>26</sup>. El Comité argumentó en el primer caso en que surgió la cuestión:

"En el presente caso, la declaración que hizo el Gobierno francés al adherirse al Pacto es clara: tiene por objeto excluir a Francia de la aplicación del artículo 27 y subraya semánticamente esta exclusión con las palabras "no es aplicable". La intención de la declaración es inequívoca y, así se le debe dar un efecto de exclusión no obstante la terminología empleada".

28. En los otros dos casos, el Comité adoptó un planteamiento más pragmático. Aun respetando el efecto excluyente de una determinada reserva, evaluó la denuncia concreta desde otra perspectiva del Pacto y evitó con ello que se obviara el examen del fondo de la denuncia. De este modo, en *Maleki c. Italia*<sup>27</sup>, el Estado Parte invocó su reserva al apartado d) del párrafo 3 del artículo 14 en relación con una comunicación sobre los juicios en rebeldía. Al examinar los hechos, el Comité determinó que había habido una violación y dijo:

"9.2. El argumento del Estado Parte es que su declaración relativa al apartado d) del párrafo 3 del artículo 14 constituye una reserva que impide al Comité examinar el argumento del autor de que su proceso en rebeldía no era justo. No obstante, ese declaración sólo se refiere al apartado d) del párrafo 3 del artículo 14 y no tiene relación con las prescripciones de párrafo 1 del artículo 14. El propio Estado Parte ha alegado que sus disposiciones legales relativas al juicio en rebeldía no constituyen *ipso facto* una

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<sup>26</sup> *T. K. c. Francia* (Caso 220/1987), *M. K. c. Francia* (222/1987), *S. G. c. Francia* (347/1988), *G. B. c. Francia* (348/1989), *R. L. M. c. Francia* (caso 363/1989) y *C. L. D. c. Francia* (439/1990).

<sup>27</sup> Caso N° 699/1996. En el ulterior seguimiento del caso, el Estado Parte informó al Comité de que consideraba la posibilidad de retirar su reserva.

violación de los compromisos de un Estado Parte. Esos compromisos incluyen citar al acusado oportunamente e informarle de la causa que se le incoa."

29. En *Hopu y Bessert c. Francia*<sup>28</sup>, aunque confirmó su reconocimiento de la declaración formulada por Francia acerca del artículo 27, el Comité analizó la misma denuncia desde el punto de vista de los artículos 17 y 23 y concluyó que habían sido vulnerados.

## VI. OTROS ÓRGANOS DE LAS NACIONES UNIDAS

### a) Comisión de Derecho Internacional

30. En su 45º período de sesiones en 1993, la Comisión decidió incluir en su programa un tema titulado "La ley y la práctica en materia de reserva a los tratados", y nombró un Relator Especial al efecto. Esta decisión respondía en particular al debate entre la "escuela de la oponibilidad", que opina que el único criterio para decidir la validez de una reserva es el de las objeciones de los demás Estados, y la "escuela de la admisibilidad" que considera que toda reserva contraria al objeto y el fin del tratado era nula *per se*, cualesquiera que fueran las reacciones de los Estados contratantes<sup>29</sup>. En opinión del Relator Especial, no existían bases convincentes a favor de un régimen específico de reservas a los tratados de derechos humanos y, en realidad, lo que se ponía en tela de juicio eran las lagunas y ambigüedades del régimen general de la Convención de Viena<sup>30</sup>. En el debate sobre el tema, algunos miembros subrayaron el carácter específico de los tratados de los derechos humanos y consideraron que la Observación general Nº 24 (1994) examinaba las lagunas de la Convención de Viena<sup>31</sup>. El Relator dijo que los órganos de supervisión de tratados "podían y debían apreciar la licitud de las reservas cuando esto fuera necesario para el ejercicio de sus funciones"<sup>32</sup>. Si los órganos eran de carácter jurisdiccional, su dictamen sería vinculante para todos los Estados interesados, como sucedía con el Tribunal Europeo de Derechos Humanos. Si no lo eran, la opinión del órgano creado en virtud de un tratado no sería vinculante, pero los Estados Partes debían examinarla de buena fe. En cualquier caso, los órganos sin carácter jurisdiccional no "podían extraer consecuencias de tal apreciación en ausencia de decisión por parte del Estado interesado", es decir, su consentimiento a estar vinculado por el tratado. El Relator Especial criticó la Observación general Nº 24, ya que el Comité de Derechos Humanos se había constituido en "único juez de la licitud de las reservas". A su juicio, el sistema de objeciones de los Estados Partes seguía siendo operativo y más efectivo<sup>33</sup>.

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<sup>28</sup> Caso Nº 549/1993.

<sup>29</sup> *Anuario de la Comisión de Derecho Internacional 1997*, vol. II (Parte Dos), documento A/52/10, párr. 55.

<sup>30</sup> Ibíd., párr. 75.

<sup>31</sup> Ibíd., párrs. 129 y ss.

<sup>32</sup> Ibíd., párr. 82.

<sup>33</sup> Informe de la Comisión de Derecho Internacional, A/52/10 (1997), párrs. 82 y ss.

31. Estos debates constituyeron los antecedentes de las conclusiones preliminares sobre las reservas a los tratados normativos multilaterales, incluidos los tratados de derechos humanos formuladas por la Comisión<sup>34</sup>, que concluyó que el régimen de Viena se aplicaba a todos los tratados, pero que la creación de órganos de vigilancia por los órganos de derechos humanos había planteado nuevas cuestiones jurídicas. Cuando esos tratados guardaban silencio al respecto, los órganos de vigilancia eran competentes para formular comentarios y recomendaciones con respecto a la admisibilidad de las reservas. Los órganos de vigilancia también podían apreciar o determinar la admisibilidad de una reserva si así lo establecían expresamente los tratados, o si se elaboraban protocolos a los tratados vigentes para ese fin. En cualquier caso, incumbía al Estado que formulara la reserva adoptar medidas. Las conclusiones fueron enviadas a los órganos creados en virtud de tratados para que formularan sus observaciones.

32. La Presidenta del Comité de Derechos Humanos respondió por carta de fecha 9 de abril de 1998, en la que se sugería que se modificase la conclusión a la que había llegado la Comisión, según la cual el Estado que presentase una reserva tenía la responsabilidad de tomar medidas, a fin de adaptarla a las nuevas prácticas regionales e internacionales<sup>35</sup>. En una segunda carta, de fecha 5 de noviembre de 1998, el Comité expresó su preocupación por la opinión de la Comisión en el párrafo 12 de sus conclusiones preliminares<sup>36</sup>, añadiendo que "los Estados Partes deben respetar las conclusiones a que haya llegado el órgano de vigilancia independiente que tiene competencia para vigilar la aplicación del instrumento conforme al mandato que se le ha otorgado"<sup>37</sup>.

33. El Comité contra la Tortura informó a la CDI que había examinado las conclusiones preliminares de la Comisión en su 21º período de sesiones, en noviembre de 1998, y compartía la opinión expresada por el Comité de Derechos Humanos, que consideraba que era compatible con la Convención de Viena<sup>38</sup>. En su declaración sobre las reservas a la Convención de julio de 1998<sup>39</sup>, el Comité para la Eliminación de la Discriminación contra la Mujer llegó a la conclusión de que tenía ciertas responsabilidades sobre la cuestión y describía su práctica de diálogo constructivo con los Estados sobre las reservas. Señaló que el Relator Especial de la CDI consideraba que correspondía a los Estados Partes la responsabilidad fundamental del control de la permisibilidad de las reservas, pero expresó su preocupación frente al número y alcance de reservas no permisibles. Señalaba que, aun cuando los Estados objetasen a esa clase

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<sup>34</sup> Informe de la Comisión de Derecho Internacional, A/52/10 (1997), párr. 157.

<sup>35</sup> Véase el tercer informe del Relator Especial (A/CN.4/491), párr. 16.

<sup>36</sup> "La Comisión subraya que las presentes conclusiones serán sin perjuicio de la práctica y las reglas elaboradas por los órganos de vigilancia en contextos regionales."

<sup>37</sup> Quinto informe del Relator Especial (A/CN.4/508), párr. 11.

<sup>38</sup> Ibíd., párr. 13.

<sup>39</sup> Véase el párrafo 11 *supra*.

de reservas, parecía haber cierta renuencia por parte de los Estados interesados a eliminarlas o modificarlas y, de ese modo, cumplir con los principios generales del derecho internacional.

34. En la novena reunión de los presidentes de los órganos creados en virtud de tratados de derechos humanos, celebrada en 1998, se expresó la opinión de que el proyecto de conclusiones de la CDI era demasiado restrictivo y no prestaba suficiente atención al hecho de que cada uno de los tratados de derechos humanos tenían su propia especificidad. Los presidentes expresaron su firme apoyo al criterio reflejado en la Observación general N° 24 del Comité de Derechos Humanos e instaron a que se ajustasen en consecuencia las conclusiones propuestas por la CDI a fin de que se reflejase dicho planteamiento<sup>40</sup>.

35. En 2001, en un informe remitido al Comité para la Eliminación de la Discriminación contra la Mujer, se analizaba el planteamiento de los órganos creados en virtud de tratados de derechos humanos sobre las reservas a dichos tratados<sup>41</sup>. En sus comentarios sobre este informe, el Relator Especial de la CDI observaba que se podía tener la impresión de que los órganos de derechos humanos examinados tenían más interés en entablar un diálogo con los Estados autores de las reservas para convencerlos de que las retiraran cuando a esos órganos les parecían abusivas, que en pronunciarse acerca de su admisibilidad<sup>42</sup>. En su séptimo informe, señalaba que las reacciones hasta la fecha habían sido escasas, más bien negativas y, más valía decirlo, poco fundadas<sup>43</sup>. El 13 de agosto de 2002, la CDI remitió una carta a todos los órganos creados en virtud de tratados, así como a la Subcomisión (con la que hasta esa fecha no había tenido contacto), en que se les proponía celebrar reuniones conjuntas para examinar el asunto.

36. El 13 de mayo de 2003, la CDI se reunió con el Comité de Derechos Económicos, Sociales y Culturales y el Comité contra la Tortura. La principal cuestión examinada en esa reunión fue la de si los órganos creados en virtud de tratados debían o no determinar si para un Estado Parte que había planteado una reserva incompatible la Convención seguía siendo vinculante, o si la cuestión incumbía a los Estados Partes. De las respuestas recibidas de los órganos creados en virtud de tratados, el Relator Especial de la CDI valoró positivamente los planteamientos adoptados por el Comité para Eliminación de la Discriminación Racial en su opinión preliminar de marzo de 2003 y el Comité para la Eliminación de la Discriminación contra la Mujer en el informe antes mencionado, pero consideró que el enfoque del Comité de Derechos Humanos era demasiado dogmático. Las opiniones de los miembros de la Comisión de Derecho Internacional y los Comités parecían ser divergentes.

37. En la reunión con la Comisión de Derecho Internacional celebrada el 31 de julio de 2003, el Comité de Derechos Humanos confirmó que seguía haciendo suya la Observación general N° 24 y que varios de sus miembros habían recalcado que el planteamiento de la divisibilidad no cesaba de ganar apoyo, pero que no existía una conclusión automática en cuanto a la

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<sup>40</sup> A/53/125, párrs. 17 y 18.

<sup>41</sup> CEDAW/C/2001/II/4.

<sup>42</sup> Octavo informe del Relator Especial (A/CN.4/535), párr. 21.

<sup>43</sup> Séptimo informe del Relator Especial (A/CN.4/526), párr. 20.

divisibilidad en el caso de las reservas inadmisibles, sino únicamente una presunción. El Relator Especial de la CDI indicó que el Comité debería poder decidir si las reservas eran aplicables y válidas y que el argumento de la "divisibilidad" podría aplicarse en circunstancias especiales, pero únicamente si el órgano de supervisión del que se tratase actuaba de buena fe al evaluar las verdaderas intenciones del Estado que formulase la reserva. Se señalaron las diferencias entre las distintas versiones lingüísticas de la Observación general N° 24 y se sugirió que algunas versiones (en particular la versión francesa) podrían dar la impresión de rigidez en el contexto de la divisibilidad.

38. En una reunión entre el Comité para la Eliminación de la Discriminación Racial y la CDI, celebrada el 4 de agosto de 2004, el Relator Especial indicó que la Comisión tenía la intención de revisar sus conclusiones preliminares, toda vez que podían entrañar en la práctica algunas dificultades cuando el Estado que formulaba la reserva no determinaba las medidas adecuadas que cabía adoptar tras una declaración de invalidez de sus reservas, y a que ningún mecanismo obligaba al Estado a tomar medida alguna. También sugirió que la opinión expresada por la Comisión en sus conclusiones preliminares tal vez fuese demasiado rígida, por lo que era preciso lograr un planteamiento intermedio entre el del Comité de Derechos Humanos y el que figura en las conclusiones preliminares. A su juicio, los órganos que adoptaban decisiones vinculantes podían ser competentes para adoptar una posición sobre la divisibilidad de las reservas tras la aceptación por el Estado del carácter vinculante del tratado. Sin embargo, el órgano pertinente debía llevar a cabo una exhaustiva investigación sobre las intenciones del Estado Parte, que en algunos casos podría resultar imposible determinar. El Relator Especial expresó su satisfacción por la postura del Comité para la Eliminación de la Discriminación Racial formulada en su opinión preliminar, que el propio Comité indicaba que había sido confirmada en un debate del pleno celebrado el 3 de agosto de 2004. El Comité para la Eliminación de la Discriminación Racial también indicó que, dado que el régimen de reservas desarrollado en el artículo 20 era ineficaz, se consideraba capacitado para tomar medidas y aplicar, de manera no oficial, las normas del régimen de Viena. El Comité debería seguir aplicando un criterio pragmático, encaminado a promover la aplicación más amplia y uniforme de la Convención por medio del diálogo y la persuasión. Los miembros de la CDI recalcaron que al Comité para la Eliminación de la Discriminación Racial le era difícil tomar medidas contra reservas incompatibles cuando, según una determinada disposición de la Convención incumbía a los Estados Partes decidir sobre esa cuestión. También observaron que en ese momento la Comisión estaba reflexionando sobre un nuevo procedimiento, al que se referían como "*dialogue réservataire*", mediante el cual los órganos y los Estados Partes podrían entablar un diálogo sobre la retirada y la validez de las reservas. Se señaló a la atención el proyecto de directriz 2.5.3 de la CDI sobre el examen periódico de la utilidad de las reservas, que dispone lo siguiente:

"Los Estados o las organizaciones internacionales que hayan formulado una o varias reservas a un tratado deberían proceder a un examen periódico de éstas y considerar el retiro de las reservas que ya no respondan a la finalidad para la que fueron hechas. En tal examen, los Estados y las organizaciones internacionales deberían prestar especial atención al objetivo de preservar la integridad de los tratados multilaterales y, en su caso, plantearse la utilidad del mantenimiento de las reservas, particularmente en relación con su derecho interno y con la evolución de éste desde que se formularon dichas reservas."

**b) Subcomisión de Promoción y Protección de los Derechos Humanos**

39. En 1991, la Subcomisión examinó la propuesta de solicitar a la Corte Internacional de Justicia una opinión consultiva sobre la validez de las reservas a la Convención sobre la eliminación de todas las formas de discriminación contra la mujer, a la luz de la proliferación de reservas radicales a esta Convención<sup>44</sup>. Los proponentes sugerían que únicamente la Corte Internacional de Justicia podía decidir qué consecuencias tendría una reserva inadmisible: o bien el tratado seguía siendo vinculante para el Estado Parte sin el efecto de la reserva, o bien no era vinculante en modo alguno. La Subcomisión decidió posponer la propuesta.

40. En una carta de fecha 19 de marzo de 1997, el Presidente del Comité para la Eliminación de la Discriminación Racial propuso que la Subcomisión examinase, entre otros asuntos, la cuestión de las reservas a los tratados. El Presidente explicó que, aunque por lo general las reservas estaban reguladas por la Convención de Viena, ésta no se refería específicamente a los problemas asociados a un instrumento internacional cuyo objetivo específico fuese promover los derechos humanos, a los que no cabía aplicar el concepto de reciprocidad, habida cuenta de que estos tratados habían sido concebidos para aplicarse sin discriminación a todos los seres humanos<sup>45</sup>. En su decisión 1998/113, la Subcomisión pidió a la Sra. Françoise Hampson que preparase un documento de trabajo sobre la cuestión de las reservas a los tratados de derechos humanos. En su documento de trabajo<sup>46</sup>, la Sra. Hampson afirmó que las reservas formuladas a los tratados de derechos humanos planteaban dificultades muy especiales, que podían atribuirse en parte al hecho de que en la Convención de Viena sobre el Derecho de los Tratados no se consideraba la posibilidad de que los órganos independientes de aplicación/vigilancia adoptasen una opinión sobre la validez de las reservas. Sin embargo, esa competencia dimanaba necesariamente de sus funciones. Propuso que se llevase a cabo un examen detallado y sustantivo de las propias reservas, en función de los distintos tratados de derechos humanos. Se debía preguntar a los Estados si pensaban suprimir oportunamente los obstáculos que se presentaban en el plano interno al retiro de la reserva y si preferían seguir siendo Parte de un tratado de derechos humanos sin las reservas o denunciar el tratado<sup>47</sup>. La Subcomisión hizo suyas las conclusiones de la Sra. Hampson y por su resolución 1999/27 la designó Relatora Especial con la tarea de preparar un estudio completo de la cuestión de las reservas a los tratados de derechos humanos.

41. A raíz de una petición que formuló la Comisión de Derechos Humanos para que se aclarase con más precisión cómo este estudio complementaría la labor que ya se estaba realizando respecto de las reservas a los tratados de derechos humanos, en particular en la Comisión de Derecho Internacional<sup>48</sup>, la Subcomisión decidió, por su resolución 2000/26,

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<sup>44</sup> E/CN.4/Sub.2/1991/41.

<sup>45</sup> E/CN.4/Sub.2/1997/31, anexo.

<sup>46</sup> E/CN.4/Sub.2/1999/28, y Corr.1.

<sup>47</sup> Ibíd., párrs. 31 y 33.

<sup>48</sup> Decisión 2000/18.

designar a la Sra. Hampson Relatora Especial encargada de preparar un estudio completo sobre las reservas a los tratados de derechos humanos. El estudio no debía superponerse a la labor de la Comisión de Derecho Internacional, que se atañía al régimen jurídico aplicable a las reservas y las declaraciones interpretativas en general, mientras que el estudio propuesto consistía en el examen de las reservas y las declaraciones interpretativas efectivamente formuladas a los tratados de derechos humanos a la luz del régimen jurídico aplicable a las reservas y las declaraciones interpretativas. Tras una petición formulada por la Comisión de Derechos Humanos para que la Subcomisión reconsiderase su solicitud a la luz de la labor que llevaba a cabo la Comisión de Derecho Internacional<sup>49</sup>, la Subcomisión, por su resolución 2001/17, encomendó a la Sra. Hampson la tarea de preparar un documento de trabajo ampliado acerca de las reservas a los tratados de derechos humanos que no debía superponerse a la labor de la Comisión de Derecho Internacional.

42. En el documento de trabajo ampliado de la Sra. Hampson figuraba un cuadro de los (entonces) seis tratados de las Naciones Unidas en materia de derechos humanos, en que se indicaba qué Estados habían formulado reservas o declaraciones interpretativas, si las reservas se referían a disposiciones normativas o de procedimiento, si algún otro Estado había presentado objeciones y, en tal caso, si era porque la declaración de reserva/interpretación era incompatible con el objeto y el fin del tratado<sup>50</sup>. La Subcomisión pidió a la Sra. Hampson que presentase otro documento de trabajo ampliado<sup>51</sup>, que fue presentado en 2003<sup>52</sup>. En cuanto al procedimiento de denuncias individuales, afirmaba que no cabía esperar que un órgano de supervisión hiciese efectiva una reserva que hubiese considerado incompatible con el objeto y el fin de un tratado y destacó que el resultado era la aplicación del tratado sin la reserva (separación o divisibilidad), puesto que evidentemente era facultad de la Alta Parte Contratante denunciar el tratado o el protocolo. En particular, llegó a la conclusión de que cuando un órgano creado en virtud de un tratado concluía que una reserva era incompatible con el objeto y el fin del tratado, el Estado que formulase la reserva podía i) retirar la reserva o ii) modificar la reserva para que fuese compatible con el tratado, o iii) denunciar el tratado. Debía alentarse a los órganos creados en virtud de tratados a que siguiesen aplicando la práctica de entablar un diálogo con los Estados que hubiesen formulado reservas, con miras a modificar la reserva incompatible para que fuese compatible con el tratado.

43. En su decisión 2003/114, la Subcomisión pidió a la Sra. Hampson que actualizase su documento de trabajo ampliado y que presentase un documento de trabajo definitivo, con miras a remitirlo al Comité para la Eliminación de la Discriminación Racial, otros órganos creados en virtud de tratados y la CDI. En 2004, la Sra. Hampson presentó el documento de trabajo definitivo<sup>53</sup>, en que llegó a la conclusión de que, aplicándose las normas generales del derecho de

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<sup>49</sup> Decisión 2001/113.

<sup>50</sup> E/CN.4/Sub.2/2002/34, párr. 2.

<sup>51</sup> Decisión 2002/110.

<sup>52</sup> E/CN.4/Sub.2/2003/WP.2.

<sup>53</sup> E/CN.4/Sub.2/2004/42.

los tratados que figuraban en la Convención de Viena sobre el Derecho de los Tratados respecto de las reservas, y el principio de que un órgano judicial o cuasijudicial era competente para determinar si tenía o no jurisdicción, los órganos de supervisión de tratados de derechos humanos eran competentes para determinar si la reserva era compatible o incompatible con el objeto y el fin del tratado. En el documento de trabajo también se pidió que se elaborase un cuadro mundial de todas las reservas y las respuestas, y que se mantuviese al día y se recopilasen todas las observaciones formuladas por un órgano de supervisión, en cualquier contexto, en relación con las reservas. Estas observaciones debían comunicarse a todos los otros órganos de tratados. La Relatora Especial recomendó que se suspendiese todo examen ulterior de la cuestión de las reservas a los tratados de derechos humanos hasta la publicación del siguiente informe del Relator Especial de la CDI y sus conclusiones sobre la validez de las reservas y las consecuencias de su invalidez.

44. En la reunión de la CDI y la Subcomisión de Promoción y Protección de los Derechos Humanos del 7 de agosto de 2003 ambas partes coincidieron ampliamente en que el órgano creado en virtud de un tratado tenía competencia para determinar la validez de las reservas. Se observó una divergencia de opiniones en cuanto a las consecuencias de que un órgano de derechos humanos llegase a la conclusión de que una reserva era incompatible. A juicio de la Sra. Hampson, correspondía al Estado decidir sobre las consecuencias de esa determinación, pero entretanto el tratado seguiría siendo vinculante para el Estado sin poder acogerse al beneficio de la reserva. El Relator Especial del CDI indicó que en su opinión ese resultado contravendría la norma general del derecho internacional por la cual los tratados sólo eran vinculantes para los Estados si éstos expresaban su consentimiento. Algunos miembros de la Subcomisión también señalaron que los Estados podrían retirarse de un tratado si el órgano de supervisión decidiese que una reserva era incompatible. La Subcomisión como órgano no tenía un punto de vista común sobre la cuestión.

## VII. CONCLUSIONES

45. El estudio de los criterios que aplican los órganos creados en virtud de tratados a la cuestión de las reservas (anexo 1) pone de manifiesto que éstas suscitan una profunda preocupación, aunque en la forma en que ésta se expresa, así como las recomendaciones correctivas, en su caso, varían de un órgano a otro, e incluso en el seno de los distintos órganos. Todos ellos están preocupados por la existencia y el alcance de las reservas e intentan, por medio de sus respectivos mecanismos, restringir el alcance de las actuales reservas y alentar su retirada por los Estados Partes. Sin embargo, los órganos ofrecen pocas orientaciones sobre los criterios por los que debería determinarse cuándo una reserva es inadmisible porque contraria el objeto y el fin de un tratado. Además son pocas las orientaciones sobre las consecuencias de determinar que una reserva es contraria al objeto y al fin del tratado o sobre cómo estos órganos deberían establecer un diálogo con los Estados Partes cuyas reservas a los distintos tratados sobre una misma cuestión no son congruentes.

46. Parece que, tratándose de las reservas, los órganos de tratados tienen cierto margen de maniobra para adoptar un planteamiento más armonizado, que podría basarse en una observación general conjunta. En una observación de este tipo los órganos podrían tratar las siguientes cuestiones:

- a) ¿Se debería indagar sistemáticamente en las listas de cuestiones el fundamento real o la necesidad de mantener las reservas?
- b) Durante el diálogo constructivo, ¿debería el relator para un país plantear siempre la cuestión de las reservas en sus observaciones sobre el informe del Estado Parte?
- c) En lo tocante a los comentarios u observaciones finales, ¿deberían los órganos creados en virtud de tratados:
  - i) ¿Valorar sistemáticamente como un aspecto positivo la ausencia de reserva?
  - ii) ¿Felicitarse siempre de la retirada, ya sea total o parcial, de una reserva?
  - iii) ¿Formular comentarios positivos sobre las manifestaciones de voluntad de reexaminar las reservas o las revisiones en curso?
  - iv) ¿Felicitarse sistemáticamente de la ausencia de reservas?
  - v) ¿Calificar la existencia de una reserva de un factor que dificulta la aplicación del tratado?
  - vi) ¿Incluir expresiones normalizadas de preocupación por el mantenimiento de reservas, por el hecho de que no se reexamine su necesidad o por el hecho de que no se retiren?
  - vii) ¿Alentar la limitación paulatina del alcance de las reservas mediante retiradas parciales o pedir una retirada completa?
- d) A la vista de las incoherencias que a veces se observan cuando entre las reservas formuladas por un mismo Estado a las disposiciones protegidas en más de un tratado, ¿debe limitarse o no tenerse en cuenta una reserva sobre la base de la existencia de una mejor protección en otras convenciones internacionales, o brindar una oportunidad para limitar o incluso no tener en cuenta la reserva formulada a un tratado en particular?<sup>54</sup>
- e) ¿Cabe adoptar criterios uniformes para determinar si las reservas se consideran o no contrarias al objeto y el fin del tratado, así como fórmulas uniformes en ese contexto?
- f) ¿Cabe calificar las reservas de cuestión prioritaria de seguimiento en los procedimientos de seguimiento?

47. En sus informes, los órganos creados en virtud de tratados también deberían considerar la posibilidad de aprobar un planteamiento común sobre la cuestión de las reservas y además podrían incluir una sección en la que se exponga el número de Estados que han presentado

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<sup>54</sup> Véase, en particular, el caso del párrafo b) del artículo 23 de la Convención sobre la eliminación de todas las formas de discriminación contra la mujer.

reservas al tratado, las reservas planteadas o retiradas durante el período examinado (con la opinión del Comité sobre esas medidas); las observaciones del Comité sobre las reservas en el contexto de la presentación de informes y, cuando corresponda, los procesos de denuncia individual del período examinado, así como cualesquiera otras actividades o medidas adoptadas por el Comité de que se trate.

## Annexes

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## Annex 1

### The Practice of the Human Rights Treaty Bodies with Respect to Reservations - Concluding Observations/Comments and Miscellaneous Issues

#### A. Committee on the Elimination of Racial Discrimination

##### Positive remarks

On four occasions, the Committee welcomed a State party's withdrawal of a reservation (*Belarus, Bulgaria, Hungary, Poland*).

On one occasion:

- the Committee described a withdrawal of a reservation as an “encouraging sign” (*Bulgaria*);
- in the context of welcoming adoption of other legislation, the Committee recommended that the State party continue making efforts to adopt appropriate legislation with a view to giving full effect to the provisions of, and withdrawing its reservation to, an article of the Convention (*Australia*);
- the Committee noted with satisfaction that a State party had in practice abandoned its reservations to the Convention and instituted a procedure for their formal withdrawal (*Italy*);
- the Committee welcomed information that the State party was considering withdrawing its reservations (*Nepal*);
- the Committee welcomed a State party's delegation's commitment to withdraw a reservation (*Spain*).

##### Neutral remarks

On three occasions, the Committee observed that in the absence of a relevant reservation certain standards had to be met by the State party on the substantive issue (*Iceland, Norway, Sweden*).

On one occasion:

- the Committee stated that it would be appreciated if the next report contained information as to whether it was considering withdrawal of a reservation (*Barbados*);
- the Committee noted the existence of a reservation (*Papua New Guinea*).

##### Critical remarks

On four occasions, the Committee recommended that the State party consider withdrawing its reservation (*Belarus twice, Belgium, Papua New Guinea*).

On one occasion the Committee:

- noted the formulation of reservations with concern and encouraged withdrawal thereof. (*Fiji*) (The Committee had earlier asked the same State party that “detailed information” be submitted on the “significance and consequences” of its reservations and declarations);
- noted the existence of a reservation but considered that the State party’s interpretation of the article in question was at odds with its obligations under that provision (*Japan*);
- recommended that the State party adopt appropriate legislation with a view to withdrawing its reservation to an article of the Convention (*Australia*);
- noted with concern, on account of vagueness and generality in particular, reservations entered and encouraged the State party to consider withdrawing all reservations (*Bahamas*);
- suggested that the State party consider withdrawing its reservation (*Jamaica*);
- hoped that the State party would be in a position to withdraw its reservation (*Jamaica*);
- requested the State party to consider the possibility of withdrawing a reservation (*Barbados*);
- suggested that the State party avail itself of the possibility under article 20(3) of the Convention to withdraw its reservations in order to ensure the full applicability of the relevant articles (*Nepal*);
- remained concerned, in view of two reservations by a State party, that full implementation of the relevant provisions might not be ensured, and thus recommended that the State party consider withdrawal in order to ensure the full applicability of the articles (*Nepal*);
- encouraged the State party to review a reservation with a view to formally withdrawing it, in light of concerns of compatibility with the object and purpose of the Convention (*Saudi Arabia*);
- encouraged a State party to review its declarations and reservations with a view to withdrawal (*United Kingdom*);
- recommended review of a reservation (*Spain*);
- expressed the hope that a State party would withdraw a reservation (*Spain*);
- expressed the hope that a State party would undertake to withdraw its reservations (*Viet Nam*);

- invited the State party to consider if a reservation was still necessary or could be withdrawn (*Switzerland*);
- invited the State party to consider formally withdrawing its reservations (*Yemen*);
- urged the State party to reconsider a reservation (*Switzerland*);
- emphasized concern about the State party's declarations and reservations, and was particularly concerned about the implication of one reservation (*United States of America*);
- recommended that the State party seriously consider withdrawing its reservations (*Yemen*).

### **Comments on other treaties**

On one occasion, the Committee expressed concern at the State party's reservations to another treaty and welcomed the introduction of draft legislation, which reflected the State party's intention to withdraw these reservations. The Committee encouraged the State party to give high priority to this process (*Malawi*).

### **Miscellaneous**

In its Annual Reports, the Committee has recorded a number of matters concerning its view of reservations to the Convention. The Committee recorded that on 4 August 2004, it had held a joint meeting with the International Law Commission, at the latter's invitation, on the question of reservations to human rights treaties. The Chairperson of the Committee referred to a working paper assessing the recent practice of the Committee regarding reservations prepared by Committee member Sicilianos. He explained that article 20 of the Convention constituted a specific basis for the Committee as it provided criteria for admissibility and validity of reservations and stressed that a similar provision did not exist in other human rights treaties. While relying on this provision as a starting point, the Committee had adopted a flexible and pragmatic approach regarding reservations. The Committee had requested further information or formulated substantive recommendations on issues covered by reservations, while inviting States to consider the scope, or even the withdrawal of their reservations. In some cases, the Committee had had to adopt a critical position regarding the compatibility of reservations of a general character with the provisions, or even with the object and purpose of the Convention. (A/59/18 (2004), at paragraph 11).

In recent years, the Committee has included an agenda item on action taken by the General Assembly, including resolutions of that body concerning the Convention and the Committee's work. The Committee most recently reviewed action taken by the General Assembly at its 58<sup>th</sup> session. It had before it General Assembly resolution 58/160 of 22 December 2003 which inter alia: "(c) urged States parties to withdraw reservations contrary to the object and purpose of the Convention". (A/59/18 (2004), at paragraph 474). Previously, the Committee reviewed General Assembly action taken on the basis of slightly varying resolutions. Thus, General Assembly Resolution 57/194 of 18 December 2002 inter alia "(e) urged States parties to withdraw reservations that are contrary to the object and purpose of that Convention and to review their

reservations on a regular basis with a view to withdrawing them”. (A/58/18 (2003) at paragraph 585). Similarly, General Assembly Resolution 56/267 inter alia “(b) ... urged States to withdraw reservations contrary to the object and purpose of that Convention and to consider withdrawing other reservations”. (A/57/18 (2002), at paragraph 493). General Assembly Resolution 55/81, for its part, inter alia “(b) urged all States that had not yet done so ... to review their reservations to the Convention with a view to withdrawing them, and to withdraw reservations contrary to the object and purpose of the Convention”. (A/56/18 (2001), at paragraph 462).

In connection with the preparations for, and aftermath of, the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (2001), the Committee made a number of pronouncements concerning reservations. In its General Recommendation XXVIII on the follow-up to the World Conference, the Committee recommended to States, in the context of measures to strengthen the implementation of the Convention, “(d) to consider withdrawing their reservations to the Convention” (A/57/18 (2002), Annex E). In Decision 5(55) in advance of the World Conference, the Committee inter alia decided to compile a list of States reserving to the Convention and the texts thereof (A/54/18 (1999)).

The Committee has also participated in the discussions of this issue by other bodies. Under an item entitled “Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights”, the Committee has recorded interaction with cross-Committee processes. In 1993, the Committee Chair introduced the report of the fourth meeting of persons chairing the human rights treaty bodies (A/47/628), which had been held in October 1992. Attention was drawn to a number of conclusions and recommendations contained in the report which had direct implications for the work of the Committee, including the number, nature and scope of reservations to the Convention. (A/48/18 (1993) at paragraph 13). Under the same item two years later, the Committee, in its discussion of the report of the sixth meeting of persons chairing the human rights treaty bodies (A/50/505), noted that emphasis was focused inter alia on the recent increase in the number and breadth of reservations made by States Parties upon ratification of certain treaties, which tended to undermine the letter and the spirit of human rights treaties. (A/51/18 (1996), at paragraph 575).

Subsequently, the Committee took note of the recommendations of the report of the seventh meeting of persons chairing human rights treaty bodies. With respect to recommendations which requested action by individual treaty bodies, the Committee inter alia submitted a letter to the Chairman of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/Sub.2/1997/31) which indicated recommended topics for its study by the Sub-Commission (see A/51/482, para. 53), including reservations to treaties. (A/52/18 (1997), at paragraph 654). In 1998, the Committee took note of the note of the discussion of reservations to international instruments on human rights contained in the report of the ninth meeting of persons chairing the human rights treaty bodies (A/53/125, annex). It decided to entrust two Committee members (Diaconu and Rechetov) with the task of preparing a working paper on reservations to the Convention, which was discussed at the Committee’s fifty-fourth session. (A/53/18 (1998), at paragraphs 499 and 501). 654.

*Australia*

37. ... The Committee recommends that the State party continue making efforts to adopt appropriate legislation with a view to giving full effect to the provisions of, and withdrawing its reservation to, article 4 (a) of the Convention. (A/55/18 (2000)).

523. Members asked for clarification of Australia's reservation to article 4 (a) and in particular on the reasons for which the reservation had not been entered promptly in accordance with the terms of the reservation itself; on problems encountered in implementing article 4 of the Convention in Tasmania; on the measures taken to deal with racial violence against persons of a racial or ethnic origin different from that of the majority of Australians; on the inquiries conducted and penalties imposed following the violent action of the police against Asian students during the confrontations in June 1993; and on the conclusions of the Ombudsman following the inquiry into interracial relations in New South Wales which he had conducted at the request of the state Minister for the Maintenance of Order.

549. The Committee recommends that the State party adopt appropriate legislation with a view to withdrawing its reservation to article 4 (a) of the Convention. (A/49/18 (1994)).

*Bahamas*

27. The Committee notes with concern the reservations to the Convention entered by the State party, in particular the vague and general statement that the State party will not accept obligations going beyond constitutional limits or the obligation to introduce a judicial process beyond those prescribed under the Constitution.

The Committee encourages the State party to consider withdrawing all the reservations it entered upon acceding to the Convention. (A/59/18 (2004)).

*Barbados*

285. Members of the Committee noted that a reservation made by Barbados at the time of accession implied that the provisions of the Convention could not be invoked in the courts, which affected the implementation of articles 2, 4, 5 and 6 of the Convention. In view of that situation, the Government of Barbados should be requested to consider the possibility of withdrawing that reservation. ....

290. It would be appreciated [by the Committee] if the State party's next periodic report contained information as to whether it is considering withdrawing its reservation to the Convention. (A/49/18 (1994)).

*Belarus*

The Committee recommends that the State party consider withdrawing its reservation to article 17 of the Convention. (A/59/18 (2004)).

103. The withdrawal by the State party of its reservation to article 22 of the Convention is welcomed. (A/52/18 (1997)).

326. The members of the Committee recommended that Belarus consider withdrawing its reservation to the Convention since this reflected the tensions of an earlier age. A/50/18 (1995).

*Belgium*

51. ... Taking into account the mandatory nature of article 4 of the Convention, the Committee also recommends that the State party enact legislation that declares illegal and prohibits any organization which promotes or incites to racism and racial discrimination and consider withdrawing its reservation to this article. In this context, the Committee draws the attention of the State party to its general recommendation XV (A/57/18 (2002)).

*Bulgaria*

278. It is noted with great appreciation that the State party has made the Declaration under article 14 of the Convention, recognizing the competence of the Committee to receive communications, and the withdrawal of its reservation in relation to article 22 of the Convention is welcomed (A/52/18 (1997)).

278. The sincere dialogue between the Committee and the high-calibre delegation had been exceptional and provided many encouraging signs, such as the announcement of Bulgaria's forthcoming declaration under article 14 of the Convention, the withdrawal of its reservation to the Convention and a new census to be conducted with United Nations support, as well as the changes in domestic law, marked by the adoption of a new constitution and a number of amnesty laws and laws on restoration of lands (A/46/18 (1992)).

*Fiji*

81. The Committee notes with concern that the State party formulated, upon accession, declarations and reservations relating to articles 2, 3, 4, 5 and 6 of the Convention. The Committee suggests that the Fijian authorities review those reservations, which are inherited from colonial times, with a view to withdrawing them, taking into account paragraph 75 of the Durban Plan of Action (A/58/18 (2003)).

474. Responding to the suggestion of the State party in its note verbale of 7 August 2002 that questions and requests for further clarification as a result of the submission of the reports be presented in advance, the Committee recommends that the State party ensure that detailed information is submitted on the following: ....

(b) The significance and consequences of the reservation and declarations formulated by the State party, in particular those relating to the implementation of article 5 of the Convention and indigenous rights (A/57/18 (2002)).

*Hungary*

109. The fact that Hungary has made the declaration under article 14 of the Convention and has withdrawn its reservation previously made in relation to article 22 of the Convention is welcomed (A/51/18 (1996)).

*Iceland*

393. Referring to article 4 of the Convention, the members of the Committee stressed that, although no racist organization had ever existed in Iceland, rules prohibiting such organizations must be enacted since Iceland had not formulated any reservations to article 4 of the Convention (A/49/18 (1994)).

*Italy*

84. .... With regard to the reservation made by Italy to article 6 of the Convention, members asked whether consideration was given to its withdrawal.

95. It is noted with satisfaction that Italy is one of the States parties which has made the declaration under article 14 of the Convention and that it has in practice abandoned its reservations to the Convention and instituted a procedure for their formal withdrawal (A/540/18 (1995)).

*Jamaica*

133. The Committee again suggests that the State party consider withdrawing its reservation to article 4 of the Convention (A/57/18 (2002)).

160. .... In particular, [the Committee] hoped that, by that time, Jamaica would be in a position to withdraw its reservation concerning article 4 of the Convention (A/48/18 (1993)).

*Japan*

169. The Committee notes the reservation maintained by the State party with respect to article 4 (a) and (b) of the Convention, stating that "Japan fulfils the obligations under those provisions to the extent that fulfilment ... is compatible with the guarantee of the rights to freedom of assembly, association and expression and other rights under the Constitution of Japan". The Committee expresses concern that such an interpretation is in conflict with the State party's obligations under article 4 of the Convention. The Committee draws the attention of the State party to its general recommendations VII and XV, according to which article 4 is of mandatory nature, given the non-self-executing character of all its provisions, and the prohibition of the dissemination of all ideas based upon racial superiority or hatred is compatible with the rights to freedom of opinion and expression (A/56/18 (2001)).

*Malawi*

559. The Committee expresses concern over the State party's reservations to the 1951 Convention relating to the Status of Refugees which, in particular, reduce the protection offered to refugees in the field of employment, access to property, right of association, education and social security.

The Committee welcomes the draft Refugee Act, which reflects the intention of the State party to withdraw these reservations, and encourages the State party to give high priority to this process. The Committee recommends, in particular, that the State party take steps to ensure that child refugees are, in practice, given access to education (A/58/18 (2003)).

*Nepal*

123. The Committee welcomes the information that the State party is considering withdrawing its reservations to articles 4 and 6 of the Convention and making the optional declaration provided for in article 14 (A/59/18 (2004)).

295. In view of the State party's reservation on articles 4 and 6 of the Convention, the Committee remains concerned that the full implementation of those provisions may not be ensured, and therefore reiterates its previous recommendation to the State party to consider withdrawing its reservation (A/55/18 (2000)).

435. In view of the State party's declaration on articles 4 and 6 of the Convention, the Committee repeats its suggestion to the State party that it avail itself of the possibility, under article 20, paragraph 3, of the Convention, to withdraw its reservations in order to ensure the full applicability of the provisions of articles 4 and 6 (A/53/18 (1998)).

*Norway*

239. In relation to article 4 of the Convention, members of the Committee stressed that, since Norway had not formulated any reservation to that article, it was bound to take the measures it provided for and to adopt instruments prohibiting all types of racist crimes and discrimination (A/49/18 (1994)).

*Papua New Guinea*

291. The Committee recommends that the State party consider withdrawing its reservation to article 4 of the Convention (A/58/18 (2003)).

262. .... [Les membres du Comité] ont également noté que ... [l] La Papouasie-Nouvelle-Guinée avait émis une réserve à propos de l'article 4 de la Convention (A/47/18 (1992)).

*Poland*

154. The Committee welcomes the State party's withdrawal on 16 October 1997 of its reservation to article 22 of the Convention, its declaration under article 14 of the Convention, made on 1 December 1999, recognizing the Committee's competence to receive individual complaints, and its ratification on 23 August 2002 of the amendment to article 8 of the Convention (A/58/18 (2003)).

*Romania*

254. Members asked whether the Government was considering making the declaration under article 14 of the Convention, according to which individuals could present communications regarding human rights violations before the Committee, or withdrawing its reservations to articles 17, 18 and 22 (A/50/18 (1995)).

*Saudi Arabia*

209. The broad and imprecise nature of the State party's general reservation raises concern as to its compatibility with the object and purpose of the Convention. The Committee encourages the State party to review the reservation with a view to formally withdrawing it (A/58/18 (2003)).

*Spain*

172. While noting that the State party has made the declaration provided for in article 14 of the Convention, the Committee recommends that the State party review its reservation under article 14, which imposes a restrictive deadline of three months instead of six after the exhaustion of domestic remedies, for the submission of communications to the Committee (A/55/18 (2000)).

200. The commitment expressed by the delegation on behalf of the Government to make the declaration under article 14 of the Convention, to withdraw the reservation to article 22 of the Convention and to consider the ratification of the amendments to article 8, paragraph 6, of the Convention adopted at the 14th meeting of States Parties is welcomed (A/51/18 (1996)).

487. The members of the Committee expressed the hope that the State party would consider making the declaration under article 14 of the Convention and withdrawing its reservation to article 22 of the Convention (A/49/18 (1994)).

*Sweden*

186. In relation to article 4 of the Convention, members of the Committee noted the will of Sweden not to prohibit by legislative measures organizations qualified as racist. However, such measures were compulsory for States parties which had not entered reservations to article 4 of the Convention (A/49/18 (1994)).

*Switzerland*

255. Noting that the former "three-circle" immigration policy of Switzerland which classified foreigners according to categories of national origin and capacity for integration was abandoned and replaced by a binary admissions system and in view of the dialogue held with the Swiss delegation in this respect, the Committee invites the State party to consider if the reservation to article 2 (1) (a) of the Convention is still necessary or may be withdrawn (A/57/18 (2002)).

62. The Committee urges the State party to review those elements of its current immigration policy that classify foreigners on the basis of their national origin, and recommends that it reconsider the reservation made to article 2, paragraph 1 (a), of the Convention (A/53/18 (1998)).

*United Kingdom of Great Britain and Northern Ireland*

396. Members of the Committee asked whether the United Kingdom was considering withdrawing, or at least reducing to a minimum, its reservations and statements of interpretation with regard to the Convention, concerning articles 4 and 6 in particular. They wished to know why the reservations relating to Rhodesia and Fiji had not yet been withdrawn.

422. The Committee encouraged the State party to review its interpretative statements and reservations, in particular, those with regard to articles 4 and 6 of the Convention, with a view to withdrawing them (A/48/18 (1993)).

*United States of America*

391. The Committee emphasizes its concern about the State party's far-reaching reservations, understandings and declarations entered at the time of ratification of the Convention. The Committee is particularly concerned about the implication of the State party's reservation on the implementation of article 4 of the Convention. In this regard the Committee recalls its general recommendations VII and XV, according to which the prohibition of dissemination of all ideas based upon racial superiority or hatred is compatible with the right to freedom of opinion and expression, given that a citizen's exercise of this right carries special duties and responsibilities, among which is the obligation not to disseminate racist ideas. The Committee recommends that the State party review its legislation in view of the new requirements of preventing and combating racial discrimination, and adopt regulations extending the protection against acts of racial discrimination, in accordance with article 4 of the Convention (A/56/18 (2001)).

*Viet Nam*

340. Members of the Committee expressed the hope that the State party would give serious consideration to making the declaration under article 14 of the Convention and would also undertake to withdraw its reservations to the Convention.

358. The Committee expressed the hope that the State party would consider making the declaration under article 14 of the Convention and recommended that the State party should seriously consider withdrawing its reservations under the Convention (A/48/18 (1993)).

*Yemen*

462. While noting that the State party has provided information under article 5 of the Convention despite the reservations lodged, the Committee invites the State party to continue to provide specific information on how this article is implemented and to consider formally withdrawing those reservations.

463. Given recent political developments, the Committee also invites the State party to consider formally withdrawing its reservations to articles 17, 18 and 20 of the Convention (A/57/18 (2002)).

**B. Human Rights Committee**

**Positive remarks**

On five occasions the Committee:

- welcomed a State party's withdrawal of one or more reservations (*Iceland, Ireland, Republic of Korea, Switzerland, United Kingdom*).

On one occasion the Committee:

- welcomed a State party's withdrawal of some of its reservations to the Covenant, while noting that it would have been appreciated if the reasons for these withdrawals and the precise nature of their effect had been more clearly explained (*Austria*);
- noted with appreciation the withdrawal of several reservations made upon ratification of the Covenant (*Ireland*);
- welcomed the partial withdrawal of a reservation to a certain article (*Norway*);
- welcomed a State party's accession without any reservation to various international human rights instruments (*Gabon*);
- appreciated the efforts made towards the withdrawal of the State party's reservation in connection with a certain article of the Covenant (*Norway*);
- commended the State party for ratifying the Covenant without entering any reservations (*Paraguay*);
- welcomed a State party's accession to an instrument (Second Optional Protocol), though with a reservation (*Azerbaijan*).
- noted and welcomed the statement of the State party's delegation on the probable withdrawal of some of the State party's reservations to the Covenant, although it considered the statement open to doubt (*Liechtenstein*);
- noted with satisfaction the assurances of the State party's Government that its declaration regarding the federal system was not a reservation and was not intended to affect its international obligations (*United States of America*);
- noted with satisfaction that the State party was currently studying the possibility of withdrawing the reservations that it had made with respect to the Covenant (*Republic of Korea*);

### **Neutral remarks**

On one occasion the Committee:

- took note of the comments of the State party's delegation on the limited, or even theoretical, scope of the reservations formulated by it to various provisions of the Covenant (*Luxembourg*);
- stated that it was aware of a reservation, but took the view that once action was taken due to the reservation would not have been required, it had to conform to the Covenant (and in the instant case did not) (*Hong Kong SAR*);

- while noting the State party's [general] reservation to article 9 of the Covenant, considered that that reservation did not exclude, *inter alia*, the obligation to comply with the requirement to inform promptly the person concerned of the reasons for his or her arrest. The Committee was also of the view that preventive detention is a restriction on liberty imposed as a response to the conduct of the individual concerned, that the decision as to continued detention must be considered as a determination falling within the meaning of article 14, paragraph 1, of the Covenant, and that proceedings to decide the continuation of detention must, therefore, comply with that provision. The Committee recommended that the requirements of article 9, paragraph 2, of the Covenant be complied with in respect of all detainees. The question of continued detention should be determined by an independent and impartial tribunal, constituted and operating in accordance with article 14, paragraph 1, of the Covenant (*India*);
- noted that the provisions of the Covenant were extended by the State party to a territorial possession with certain reservations, particularly in regard to particular articles (*Macau*);
- noted the mandate given to a State party's federal administration to examine the question of the removal of reservations to human rights treaties and hoped that by the time the next report was considered all reservations to the Covenant would have been withdrawn (*Switzerland*);
- noted that the withdrawal of a State party's reservations to a certain article was currently under consideration by its executive (*Switzerland*);
- was concerned at a particular practice in an overseas territory, given that it was not one of the territories to which a relevant reservation had been applied (*United Kingdom*);
- with reference to the withdrawal of the State party's reservation to a certain article, urged the authorities to introduce further reforms to secure all their inhabitants the full exercise of the rights conferred by that article (*United Kingdom*);

### **Negative remarks**

On two occasions the Committee:

- recommended that the State party review the continuing need for any reservation, with a view to withdrawing them (*Denmark and Iceland*);

On one occasion the Committee:

- found that a State party's interpretative declaration regarding articles 2 and 3 contravened the State party's essential obligations under the Covenant and was therefore without legal effect and did not affect the powers of the Committee. The Committee thus urged the State party to withdraw formally both the interpretative declarations and the reservations (*Kuwait*);

- referring to its General Comment No. 24 on reservations, noted that a State party's interpretative declarations and reservations raised the serious issue of their compatibility with the object and purpose of the Covenant. In particular, the Committee noted that articles 2 and 3 of the Covenant constituted core rights and overarching principles of international law that cannot be subject to general domestic limitations, which would undermine the object and purpose of the entire Covenant (*Kuwait*);
- was particularly concerned at reservations to articles 6 and 7 of the Covenant, which it believed to be incompatible with the object and purpose of the Covenant (*United States of America*);
- strongly recommended that the State party review its remaining reservations, with a view to their eventual withdrawal (*Republic of Korea*);
- stated that a State party should reconsider its reservations with a view to ensuring, insofar as possible, that they were withdrawn (*Luxembourg*);
- found that the continued maintenance of a State party's reservations to certain provisions of the Covenant amounted to a particular factors or difficulties which might impede the effective implementation of the Covenant's provisions by the State party (*Denmark*);
- stated it would have been appreciated if a State party's reasons for the maintenance of certain reservations had been more clearly explained (*Austria*);
- regretted that a State party had not withdrawn its reservations to the Covenant, in particular certain ones, and stated that the State party should reconsider its position on this matter (*Belgium*);
- regretted the decision of the State party not to withdraw any of its reservations under the Covenant (*United Kingdom*);
- regretted that a State party had not withdrawn its reservations to the Covenant and urged its Government to reconsider its position in particular with regard to a certain article (*Belgium*);
- regretted the extent of the State party's reservations, declarations and understandings to the Covenant, believing that that, taken together, they intended to ensure that the State party had accepted only what was already its law (*United States of America*);
- continued to regret the extent of State party's reservations to the Covenant and that it had yet not envisaged withdrawing some of them (*Italy*);
- stated that it found the State party's explanation for its reservation's necessity not persuasive and suggested alternative measures (*Belgium*);

- regretted that a State party had maintained its reservation to an article of the Covenant and called on the State party to withdraw the reservation and bring its domestic law into line with the Covenant (*Congo*);
- regretted the maintenance of a reservation to an article of the Covenant, which did not reflect the Committee's more expansive approach to the article (*Switzerland*);
- continued to be disappointed that the State party had not decided to withdraw any of the reservations entered at its ratification of the Covenant and stated that the State party should continue to consider withdrawal of some or all of the reservations (*Denmark*);
- regretted that a State party maintained its reservations, in particular regarding a non-derogable article and concerning the Optional Protocol which partially limited the substantive competence of the Committee, and stated that the State party should consider withdrawing its reservations (*Germany*);
- regretted the decision of the State party not to withdraw any of the reservations it made at the time of ratification of the Covenant, and recommended that they be reviewed with a view to withdrawing them (*Sweden*);
- regretted that a State party had made a reservation excluding the competence of the Committee under the Optional Protocol with regard to violation of a substantive right of the Covenant (*Germany*);
- remained concerned that the State party had not seen fit to withdraw its reservations to the Covenant (*Switzerland*);
- was concerned about the existence of numerous interpretative declarations and a reservation made by the State party and stated that it should reduce the number of those interpretative declarations (*Monaco*);
- encouraged a State party to review interpretative declarations and a reservation, particularly those that had become or were becoming obsolete and unnecessary in the light of developments that had taken place or were taking place in the State party, especially with regard to certain articles of the Covenant (*Monaco*);
- urged a State party to formally withdraw its reservation (*Guyana*);
- considered that a reservation seriously affected the application of an article of the Covenant and thus remained concerned that certain persons may not enjoy effective protection from a breach of that article (*Hong Kong SAR*);

- noted that the reservations entered by a State party upon ratification of the Covenant with respect to a number of provisions had an adverse effect on the effective implementation of the Covenant. It stated that no convincing reasons had been offered for the reservations to two articles and that, given the actual situation of human rights protection in the State party, some reservations might now have become obsolete (*Malta*);
- recommended that a State party's remaining reservations be reconsidered with a view to their eventual withdrawal (*Iceland*);
- noting a State party's reservations and declarations, invited the State party to review those reservations and declarations with a view to withdrawing them, so as to ensure progress in the implementation of those rights within the context of article 40 of the Covenant (*India*);
- recommended that further action be taken to ensure full implementation of the Covenant in the matter of withdrawal of the State party's remaining reservations to the Covenant (*Ireland*);
- considered the explanation by a State party's delegation for its remaining reservations to remain open to doubt, and stated that the State party should continue to review the possibility of the withdrawal of all its reservations to the Covenant (*Liechtenstein*);
- suggested that a State party's should seriously consider withdrawing its reservation to a certain article, so that the article might be implemented in the spirit of the Covenant. The authorities' attention was drawn inter alia to General Comment No. 24 (52) on issues relating to reservations made upon ratification or accession to the Covenant (*Switzerland*);
- suggested that the State party's Government actively study the possibility of withdrawing its general reservation bearing upon a certain article and take other measures with a view to increasing public awareness of the provisions of the Covenant and the Optional Protocol (*Republic of Korea*);
- noted that the reservations entered by a State party upon ratification of the Covenant with respect to a number of provisions had an adverse effect on the full implementation of the Covenant, and stated that consideration ought to be given to the withdrawal of some, or all, of those reservations (*Denmark*);
- noted that there are no particular factors or difficulties that might prevent the effective implementation of the provisions of the Covenant in the State party, with the exception of its maintenance of reservations to certain articles (*Switzerland*);
- found that reservations and declarations made by the State party ratifying the Covenant and consequent non-reporting on many issues related to such reservations and declarations, which might bear directly or indirectly on the enjoyment of Covenant rights, made it difficult to assess fully and comprehensively the situation in regard to human rights in the State party (*France*);

- stated that it would welcome a State party's reconsideration of its reservations and declarations (*France*);
- stated that the State party should finalize its review of reservations relating to an article 10 of the Covenant with a view to withdrawing them at the earliest possible date (*New Zealand*);
- recommended that the State party consider a complete withdrawal of its reservations (*Norway*);
- recommended that the State party review its reservations, declarations and understandings with a view to withdrawing them, in particular reservations to article 6, paragraph 5, and article 7 of the Covenant (*United States of America*);
- recommended that the State party review, with a view to withdrawing, the reservations made upon ratification of the Covenant, particularly those concerning articles 13 and 14 of the Covenant (*Malta*);
- recommended that the State party review its reservations relating to certain articles 10 and 22 of the Covenant with a view to withdrawing them (*New Zealand*);
- recommended that the State party review its reservations with a view to withdrawing the greatest possible number (*Belgium*);
- recommended that the State party review its reservations to the Covenant with a view to withdrawing them (*Malta*);
- invited the State party to review the reservations and interpretative declarations it made upon ratification with a view to withdrawing them as far as possible (*Luxembourg*);
- recommended that the State party's authorities consider amending relevant legislation to enable a withdrawal of the reservation to an article of the Covenant (*United Kingdom*);
- recommended that a careful study of a recently enacted law be undertaken with regard to the scope of a certain article of the Covenant, with a view to withdrawing the reservation made in that connection (*Norway*);
- hoped that the pending legislation relevant to a certain article would be formulated in such a way as to allow the reservation thereunder to be withdrawn (*Iceland*);

## Comments with respect to other treaties

On one occasion:

- the Committee recalled that, although several reservations were made by the State party in acceding to the Convention on the Elimination of All Forms of Discrimination against Women, Morocco remains bound to the fullest extent by the provisions of articles 2, 3, 23 and 26 of the Covenant.

## Miscellaneous

For many years, the Committee's Annual Report has noted in its initial chapter that reservations and other declarations made by a number of States parties in respect of the Covenant and/or the Optional Protocols are set out in the notifications deposited with the Secretary-General. On occasion, it has then proceeded:

- (a) to note and welcome withdrawal of a particular reservation, encouraging other States to do likewise (Switzerland, A/59/40 (2004), at 6);
- (b) to note a particular withdrawal (Cyprus, A/58/40 (2003) at 6, Belarus, Republic of Korea and United Kingdom (A/48/40 (1993) at 4);
- (c) to note with regret that no reservations to the Covenant had been withdrawn during the reporting period and to encourage States parties to consider the possibility of withdrawing reservations to the Covenant (A/57/40 (2002), at 7, and A/56/40 (2001), at 7).
- (d) to note generally that in the period under review several reservations had been withdrawn (A/55/40 (2000), at 7).

This section of the Annual Report has also reflected other State party or depositary practice, such as objections to reservations (Botswana, A/57/40 (2002), at 8) or acceptance by the depositary of a modification to a reservation not objected to over a 12 month period (Azerbaijan, A/57/40 (2002), at 9).

Sometime, the Annual Report has reflected other aspects of its approach to reservations. In A/52/40 (1997), at 42, under an item entitled "Links to other human rights treaties and treaty bodies," the Committee observed that other human rights treaties were relevant in the context of reservations. There was particular concern about States that have made reservations to the Convention on the Elimination of All Forms of Discrimination against Women with regard to obligations that they had accepted without reservation under the International Covenant on Civil and Political Rights. The Committee undertook to press such States to clarify their position with regard to the rights at issue, reaffirming that a reservation to another human rights treaty could not in any way diminish the obligations of a State under the Covenant.

A series of reports have detailed the Committee's interaction with the process of the International Law Commission (ILC) on this issue. In A/58/40 (2003), at 27, the Committee referred to its consultations of 31 July 2003 with members of the ILC on the issue of reservations to multilateral treaties. It welcomed the constructive and open dialogue with the ILC and expressed the hope that further consultations on the issue of reservations would be organized.

Earlier reports also detailed the Committee's interaction with the ILC. In A/53/40 (1998), at 2, the Committee recorded that on 24 November 1997, Mr. Alain Pellet, ILC Chairman and Special Rapporteur on reservations, wrote to the Committee's Chairperson to invite it to comment on the ILC's Preliminary Conclusions on Reservations to Normative Multilateral Treaties, including human rights treaties. The Preliminary Conclusions were considered at the sixty-second session in the light of the Committee's General Comment on issues relating to reservations made on ratifications of the Covenant or the Optional Protocol. On 9 April 1998, the Committee decided that the Chairperson would write to Mr. Pellet to inform him of the Committee's first reactions to the Preliminary Conclusions (letter annexed at IX). The letter indicated that the Committee would study the Preliminary Conclusions more carefully and formulate its comments at a later stage. A working group of the Committee had taken up the matter again at the sixty-third session and was preparing a further response for the Committee to consider at its sixty-fourth session.

Thereafter, A/54/40 (1999), at 23, records that on 24 November 1997, Mr. Pellet, wrote to the Committee's Chair to invite the Committee to comment on the Commission's Preliminary Conclusions on Reservations to Normative Multilateral Treaties, including Human Rights Treaties. Following consideration of the Preliminary Conclusions in the light of the Committee's general comment on issues relating to reservations to the Covenant or to the Optional Protocol, the Chairperson sent the Committee's comments to the ILC a letter dated 5 November 1998 (annex VI).

Reports also detail the Committee's evolving work on its General Comment 24, beginning with its adoption of a decision to commence preparatory work on 24 July 1992 (A/47/40 (1992) at 605), through to its later reaffirmation of that decision (A/48/40 (1993), at 758), the commencement and work of a working group on the issue leading up to adoption (A/49/40 (1994), at paragraph 373, and A/50/40 (1995) at 13).

#### *Austria*

181. The Committee welcomes the withdrawal by Austria of some of its reservations to the Covenant; it would have been appreciated if the reasons for these withdrawals and the precise nature of their effect, as well as the reasons for the maintenance of the remaining reservations, had been more clearly explained. (A/54/40 (1999)).

#### *Azerbaijan*

4. The Committee welcomes the abolition of the death penalty in 1998 as well as the State party's accession to the Second Optional Protocol to the Covenant, though with a reservation relating to wartime. .... (A/57/40 (2002))

#### *Belgium*

7. The Committee regrets that Belgium has not withdrawn its reservations to the Covenant, in particular the reservations to articles 10 and 14.

The State party should reconsider its position on this matter (A/59/40 (2004)).

82. The Committee regrets that Belgium has not withdrawn its reservations to the Covenant and urges the Government to reconsider its position in particular with regard to article 10. The Government's explanation that the reservation is necessary because there is a problem of overcrowding in prisons is not persuasive. In addition, alternative sentences, including to community service, should be encouraged in view of its rehabilitative function (A/54/40 (1999)).

430. .... Il recommande enfin que l'Etat partie revoie ses réserves afin d'en retirer le plus grand nombre possible (A/47/40 (1992)).

*Congo*

283. The Committee regrets that the Republic of the Congo has maintained its reservation to article 11 of the Covenant.

284. It calls on the State party to withdraw that reservation, bring articles 386 to 393 of the Code of Civil, Commercial, Administrative and Financial Procedure into line with the Covenant, and make sure that no one is imprisoned for debt (A/55/40 (2000)).

*Denmark*

10. The Committee continues to be disappointed that Denmark has not decided to withdraw any of the reservations entered at its ratification of the Covenant.

Denmark should continue to consider withdrawal of some or all of the reservations (A/56/40 (2001)).

64. The Committee finds that there are no particular factors or difficulties which may impede the effective implementation of the Covenant's provisions by the Kingdom of Denmark, except for the continued maintenance of Denmark's reservations to certain provisions of the Covenant.

66. The Committee notes that the reservations entered by Denmark upon ratification of the Covenant with respect to a number of provisions have an adverse effect on the full implementation of the Covenant. Consideration ought to be given to the withdrawal of some, or all, of those reservations.

72. The Committee also recommends that the Government review the continuing need for any reservation, with a view to withdrawing them (A/52/40 (1997)).

*France*

390. The Committee finds that reservations and declarations made by France when ratifying the Covenant and consequent non-reporting on many issues related to such reservations and declarations, which may bear directly or indirectly on the enjoyment of Covenant rights, make it difficult to assess fully and comprehensively the situation in regard to human rights in France.

414. The Committee recommends that the State party submit its next report in time and that the report include a comprehensive assessment regarding the implementation of provisions of the Covenant, including in particular articles 9 and 14, and particulars of the cultural, religious and linguistic rights of ethnic groups and inhabitants of the Overseas territories. The Committee would welcome reconsideration by France of the reservations and declarations made by it (A/52/40 (1997)).

*Gabon*

121. The Committee welcomes Gabon's accession without any reservation to various international human rights instruments (A/52/40 (1997)).

*Germany*

10. The Committee regrets that Germany maintains its reservations, in particular regarding article 15, paragraph 1, of the Covenant, a non-derogable right, and those made when the Optional Protocol was ratified by the State party which partially limits the competence of the Committee with respect to article 26 of the Covenant.

The State party should consider withdrawing its reservations (A/59/40 (2004)).

184. The Committee regrets that Germany has made a reservation excluding the competence of the Committee under the Optional Protocol with regard to violation of rights as protected by article 26 of the Covenant (A/52/40 (1997)).

*Guinea*

516. It was also asked whether Guinea intended to maintain its reservation to article 48, paragraph 1, of the Covenant and accede to the Optional Protocol (A/48/40 (1993)).

*Guyana*

357. The State party is urged to implement fully the Committee's Views in communication No. 676/1996 and to formally withdraw its reservation made on its reaccession to the Optional Protocol. The State party should consider adopting appropriate procedures for taking into account the Committee's Views under the Optional Protocol (A/55/40 (2000)).

*Hong Kong (Special Administrative Region)*

245. In the light of the fact that the Covenant is applied in HKSAR subject to a reservation that seriously affects the application of article 13 in relation to decision-making procedures in deportation cases, the Committee remains concerned that persons facing a risk of imposition of the death penalty or of torture, or inhuman, cruel or degrading treatment as a consequence of their deportation from HKSAR may not enjoy effective protection (A/55/40 (2000)).

65. The Committee is aware of the reservation made by the United Kingdom that article 25 of the Covenant does not require establishment of an elected executive or legislative council. However, it takes the view that once an elected legislative council is established, its election must conform to article 25. The Committee considers that the electoral system in Hong Kong

does not meet the requirements of article 25, or of articles 2, 3 and 26 of the Covenant. It underscores in particular the fact that only 20 of 60 seats in the Legislative Council are subject to direct popular election and that the concept of functional constituencies, which gives undue weight to the views of the business community, discriminates among voters on the basis of property and functions. That clearly constitutes a violation of article 2, paragraph 1 and articles 25 (b) and 26 (A/51/40 (1996)).

*Hungary*

651. Some members of the Committee suggested that the general reservation entered by Hungary upon ratifying the Covenant should be withdrawn. They also noted that certain provisions of the Covenant had not been given constitutional status but as yet had only the force of law (A/48/40 (1993)).

*Iceland*

57. The Committee welcomes the fact that Iceland has withdrawn its reservation to articles 8, paragraph 3 (a), and 13 of the Covenant.

61. While noting that the European Convention for the Protection of Human Rights and Fundamental Freedoms has been incorporated into Icelandic law, the Committee emphasizes that a number of articles of the Covenant, including articles 3, 4, 12, 22, 24, 25, 26 and 27, go beyond the provisions of the European Convention.

The Committee therefore encourages the State party to ensure that all rights protected under the Covenant are given effect in Icelandic law. The Committee recommends that the remaining reservations to the Covenant be reconsidered with a view to their eventual withdrawal (A/54/40 (1999)).

77. The Committee hopes that the pending legislation relevant to article 13 will be formulated in such a way as to allow the reservation thereunder to be withdrawn.

81. The Committee also recommends that the Government review the continuing need for any reservation, with a view to withdrawing them (A/49/40 (1994)).

*India*

429. The Committee, noting the reservations and declarations made by the Government of India to articles 1, 9, 12, 13, 19, paragraph 3, and 21 and 22 of the Covenant, invites the State party to review those reservations and declarations with a view to withdrawing them, so as to ensure progress in the implementation of those rights within the context of article 40 of the Covenant.

439. The Committee regrets that the use of special powers of detention remains widespread. While noting the State party's reservation to article 9 of the Covenant, the Committee considers that that reservation does not exclude, *inter alia*, the obligation to comply with the requirement to inform promptly the person concerned of the reasons for his or her arrest. The Committee is also of the view that preventive detention is a restriction on liberty imposed as a response to the conduct of the individual concerned, that the decision as to continued detention must be considered as a determination falling within the meaning of article 14, paragraph 1, of the

Covenant, and that proceedings to decide the continuation of detention must, therefore, comply with that provision. The Committee recommends that the requirements of article 9, paragraph 2, of the Covenant be complied with in respect of all detainees. The question of continued detention should be determined by an independent and impartial tribunal, constituted and operating in accordance with article 14, paragraph 1, of the Covenant. It further recommends, at the very least, that a central register of detainees under preventive detention laws be maintained and that the State party accept the admission of the International Committee of the Red Cross and Red Crescent to all types of detention facilities, particularly in areas of conflict (A/52/40 (1997)).

*Ireland*

425. The Committee notes with appreciation the increased use of the Covenant by the courts as an aid to the interpretation of common law and constitutional rights, and the withdrawal of several reservations made upon ratification of the Covenant.

450. The Committee recommends that further action be taken to ensure full implementation of the Covenant in these matters:

- (a) Withdrawal of the remaining reservations to the Covenant (A/55/40 (2000)).

580. .... Members also welcomed the recent adherence of Ireland to the Second Optional Protocol, aiming at the abolition of the death penalty and the withdrawal of its reservation concerning article 6 of the Covenant.

596. The Committee welcomes the adherence of Ireland to the Optional Protocol, the withdrawal of its reservation regarding the death penalty and its subsequent adherence to the Second Optional Protocol, aiming at the abolition of the death penalty, as well as the announcement that legislative preparations are under way in Ireland with a view to acceding to other major human rights instruments (A/48/40 (1993)).

*Italy*

276. The Committee continues to regret the extent of State party's reservations to the Covenant and that it has yet not envisaged withdrawing some of them.

282. The Committee recommends that the State party review its reservations to the Covenant with a view to withdrawing them (A/49/40 (1994)).

*Kuwait*

456. The Committee, referring to its General Comment No. 24 on reservations, notes that the "interpretative declarations" of the State party regarding article 2, paragraph 1, article 3, and article 23, as well as the "reservations" concerning article 25 (b) of the Covenant raise the serious issue of their compatibility with the object and purpose of the Covenant. In particular, the Committee notes that articles 2 and 3 of the Covenant constitute core rights and overarching principles of international law that cannot be subject to "limits set by Kuwaiti law". Such broad and general limitations would undermine the object and purpose of the entire Covenant.

457. The Committee finds that the interpretative declaration regarding articles 2 and 3 contravenes the State party's essential obligations under the Covenant and is therefore without legal effect and does not affect the powers of the Committee. The State party is urged to withdraw formally both the interpretative declarations and the reservations (A/55/40 (2000)).

*Liechtenstein*

5. While the Committee notes and welcomes the delegation's statement on the probable withdrawal of some of the State party's reservations to the Covenant, that statement as well as the explanation for the remaining reservations remain open to doubt.

The State party should continue to review the possibility of the withdrawal of all its reservations to the Covenant (A/59/40 (2004)).

*Luxembourg*

4. The Committee takes note of the Luxembourg delegation's comments on the limited, or even theoretical, scope of the reservations formulated by the State party to various provisions of the Covenant.

The State party should reconsider its reservations with a view to ensuring, insofar as possible, that they are withdrawn A/58/40 (2003).

145. .... The Committee also invites the State party to review the reservations and interpretative declarations it made upon ratification with a view to withdrawing them as far as possible (A/48/40 (1993)).

*Macau*

311. The Committee notes that given the late extension of the Covenant to Macau, the Sino-Portuguese Joint Declaration and Exchange of Memoranda of 13 April 1987 does not refer to it and merely states that the laws currently in force in Macau will remain basically unchanged and that all rights and freedoms of the inhabitants and other persons in Macau, including the rights of the person, freedom of speech, of the press, of assembly, of association, of travel and of movement, the right to strike, the choice of occupation, to undertake academic research, freedom of religion and belief and of communication and the right to own property will be ensured by law in the Macau Special Administrative Region. That was followed by a Memorandum of Understanding between the People's Republic of China and the Government of Portugal, signed by their respective Ambassadors, for extension of the Covenant to Macau with reservations, and thereafter by resolution 41/92 of the Assembly of the Portuguese Republic of 31 December 1992, stipulating that the provisions of the Covenant were extended to Macau with certain reservations, particularly in regard to article 12, paragraphs 4 and 13. The Committee notes that article 40 of the Basic Law of the Macau Special Administrative Region of the People's Republic of China, adopted by the People's Congress on 31 March 1993, states that the provisions of the Covenant shall continue in force after 19 December 1999 and shall be implemented through the laws of the Macau Special Administrative Region (A/52/40 (1997)).

*Malta*

126. The Committee notes that the reservations entered by Malta upon ratification of the Covenant with respect to a number of provisions have an adverse effect on the effective implementation of the Covenant. No convincing reasons have been offered for the reservations to articles 13 and 14, paragraph 6. Additionally, given the actual situation of human rights protection in Malta, some reservations may now have become obsolete.

129. The Committee also recommends that the Government review, with a view to withdrawing, the reservations made upon ratification of the Covenant, particularly those concerning articles 13 and 14 of the Covenant (A/49/40 (1994)).

*Monaco*

4. The Committee is concerned about the existence of six interpretative declarations and one reservation made by the State party when ratifying the Covenant.

The State party should reduce the number of those interpretative declarations. The Committee encourages it to review them, particularly those that have become or are becoming obsolete and unnecessary in the light of developments that have taken place or are taking place in the State party, especially with regard to articles 13, 14, 19 and 25 (c), of the Covenant (A/56/40 (2001)).

*Morocco*

118. The Committee emphasizes the need for the Government to prevent and eliminate discriminatory attitudes and prejudices towards women and to revise domestic legislation to bring it into conformity with articles 2, 3 and 23 of the Covenant, taking into account the recommendations contained in the Committee's general comments Nos. 4, 18 and 19. It recalls in that regard that, although several reservations were made by Morocco in acceding to the Convention on the Elimination of All Forms of Discrimination against Women, Morocco remains bound to the fullest extent by the provisions of articles 2, 3, 23 and 26 of the Covenant (A/50/40 (1995)).

*New Zealand*

15. The State party should finalize its review of its reservations relating to article 10 of the Covenant with a view to withdrawing them at the earliest possible date (A/57/40 (2002)).

190. The Committee recommends that the State party review its reservations relating to articles 10 and 22 of the Covenant with a view to withdrawing them (A/54/40 (1995)).

*Norway*

77. The Committee welcomes the partial withdrawal of the reservation to article 14, paragraph 5, but recommends that the State party consider a complete withdrawal. (A/55/40 (2000)).

88. ... While noting that it is still not possible to appeal against the reversal by the Court of Appeal of an acquittal by a lower jurisdiction, the Committee also appreciates the efforts made towards the withdrawal of Norway's reservation in connection with article 14, paragraph 5, of the Covenant.

96. The Committee recommends that a careful study of the recently enacted amendment to the Criminal Procedure Act be undertaken with regard to the scope of article 14, paragraph 5, of the Covenant, with a view to withdrawing the reservation made in that connection (A/49/40 (1994)).

*Paraguay*

196. The Committee also commends the State party for ratifying the Covenant without entering any reservations (A/54/40 (1995)).

*Republic of Korea*

153. The Committee welcomes the withdrawal by the State party of its reservations on articles 23, paragraph 4, and 14, paragraph 7. It strongly recommends that the State party review the remaining reservations on articles 14, paragraph 5, and 22 with a view to their eventual withdrawal (A/55/40 (2000)).

512. .... Le Comité note également avec satisfaction que la République de Corée étudie actuellement la possibilité de lever les réserves qu'elle avait faites à l'égard du Pacte.

518. .... Enfin, le Comité suggère que le gouvernement de l'Etat partie étudie activement la possibilité de lever sa réserve générale touchant l'article 14 et prenne d'autres mesures en vue de mieux faire connaître à son opinion publique les dispositions du Pacte et du Protocole facultatif (A/47/40 (1992)).

*Sweden*

83. The Committee regrets the decision of the State party not to withdraw any of the reservations it made at the time of ratification of the Covenant.

93. The Committee recommends that the reservations made to the Covenant be reviewed with a view to withdrawing them (A/51/40 (1996)).

*Switzerland*

5. The Committee remains concerned that the State party has not seen fit to withdraw its reservations to the Covenant. It notes the mandate given to the federal administration to examine the question of the removal of reservations to human rights treaties and hopes that by the time the next report is considered all reservations to the Covenant will have been withdrawn (A/57/40 (2002)).

88. The Committee notes that there are no particular factors or difficulties that might prevent the effective implementation of the provisions of the Covenant in Switzerland, with the exception of the maintenance by Switzerland of its reservations to certain articles.

90. The Committee welcomes the withdrawal of the reservation made by Switzerland to article 20, paragraph 2, of the Covenant and notes that the withdrawal of Switzerland's reservations to article 14, paragraphs 1, 3 (d) and (f), and 5, is currently under consideration by the Federal Council.

96. The Committee regrets the maintenance of Switzerland's reservation to article 26 of the Covenant, which limits the applicability of the principle of the equality of all persons before the law and of the prohibition of discrimination to only those rights which are contained in the Covenant, whereas article 26 of the Covenant, as interpreted by the Committee, extends it to every area regulated and protected by the public authorities.

106. The Committee suggests that the authorities should seriously consider withdrawing the reservation made by Switzerland to article 26 of the Covenant, so that the article may be implemented, in the spirit of the Covenant, as an autonomous right guaranteeing non-discrimination in all spheres regulated and protected by the State. The authorities' attention is drawn to General Comment No. 18 (37) on non-discrimination and to General Comment No. 24 (52) on issues relating to reservations made upon ratification or accession to the Covenant or the Optional Protocols thereto, or in relation to declarations under article 41 of the Covenant (A/52/40 (1997)).

*United Kingdom of Great Britain and Northern Ireland*

35. The Committee is concerned at the mixing of accused and convicted prisoners, especially since St. Helena is not one of the overseas territories to which a reservation to article 10, paragraph 2 (a), of the Covenant has been applied.

The State party should ensure that accused and convicted prisoners are appropriately segregated (A/57/40 (2002)).

301. The Committee welcomes the withdrawal on 2 February 1993 of the State party's reservation to subparagraph (c) of article 25 which, *inter alia*, applied to jury service in the Isle of Man.

308. The Committee recommends that the authorities in Jersey consider amending relevant legislation to enable a withdrawal of the reservation to article 11 of the Covenant.

312. With reference to the withdrawal of the State party's reservation to article 25, the Committee urges the authorities to introduce further reforms that secure all their inhabitants full right of participation in the conduct of public affairs (A/55/40 (2000)).

417. The Committee also regrets the decision of the State party not to withdraw any of its reservations under the Covenant.

428. The State party is recommended to review the reservations which it has made to the Covenant (A/50/40 (1995)).

*United States of America*

277. The Committee further notes with satisfaction the assurances of the Government that its declaration regarding the federal system is not a reservation and is not intended to affect the international obligations of the United States.

279. The Committee regrets the extent of the State party's reservations, declarations and understandings to the Covenant. It believes that, taken together, they intended to ensure that the United States has accepted only what is already the law of the United States. The Committee is also particularly concerned at reservations to article 6, paragraph 5, and article 7 of the Covenant, which it believes to be incompatible with the object and purpose of the Covenant.

292. The Committee recommends that the State party review its reservations, declarations and understandings with a view to withdrawing them, in particular reservations to article 6, paragraph 5, and article 7 of the Covenant (A/54/40 (1995)).

**C. Committee on Economic, Social and Cultural Rights**

**Positive remarks**

On one occasion the Committee:

- welcomed a State party's adherence without reservations (*Zimbabwe*);
- warmly welcomed a withdrawal of reservations (*Hong Kong SAR*);
- welcomed a State party's statement that it was in the process of reviewing human rights treaty reservations, with a view to withdrawing those superseded by legislation or practice (*United Kingdom*).

**Neutral remarks**

On one occasion the Committee,

- noted a State party's statement of intent to withdraw a reservation (*New Zealand*);
- took note of the fact that a State party had maintained a reservation (*Sweden*);
- was concerned that a practice contravened a provision, while noting that the State party had made a reservation (*Japan*).

**Critical remarks**

On five occasions, the Committee recommended withdrawal *simpliciter* of a reservation (*Congo, Hong Kong SAR, France, Sweden, Trinidad and Tobago*).

On one occasion the Committee,

- was particularly concerned that a State party had no intention of withdrawing reservations, based on the argument that the State party had to a large extent already achieved realization of those rights, whereas information received by the Committee revealed that full realization of those rights was not yet guaranteed (*Japan*);
- encouraged a State party to withdraw a reservation to the Covenant (*New Zealand*);
- urged a State party to consider withdrawal of reservations (*Japan*);
- encouraged a State party to withdraw reservations that had become redundant (*United Kingdom*);
- encouraged the State party to carry out its intention to withdraw a reservation (*Netherlands*);
- regretted the absence of plans to withdraw a reservation (*Mexico*). It then went on to call upon a State party to comply with its obligations under the article in question and to withdraw its reservation under that article;
- stated that when a State party had ratified the Covenant without making any reservations, it was obliged to comply with all the provisions of the Covenant (*Morocco*).

### **Miscellaneous issues**

The Committee examined issues of reservations in the context of its discussion of a draft Optional Protocol for the Covenant (see E/1997/22 (1996), at paragraph 56).

#### *Congo*

214. .... It also recommends that the State party withdraw its reservation to article 13, paragraphs 3 and 4, of the Covenant (E/2001/22 (2000)).

#### *France*

874. .... The Committee recommends that the State party withdraw its reservation with regard to article 27 of the International Covenant on Civil and Political Rights and that it ratify the Framework Convention on the Protection of National Minorities, as well as the European Charter for Regional and Minority Languages, signed by State members of the Council of Europe in 1995 and 1992, respectively (E/2002/22 (2001)).

#### *Hong Kong Special Administrative Region*

166. The Committee warmly welcomes the withdrawal by the Hong Kong Special Administrative Region of reservations to articles 1 and 7 of the Covenant.

191. The Committee recommends that the Hong Kong Special Administrative Region withdraw its reservation on article 6 of the Covenant and the interpretative declaration replacing its former reservation on article 8 (E/2002/22 (2001)).

*Japan*

590. The Committee is particularly concerned that the State party has no intention of withdrawing its reservations to articles 7 (d), 8, paragraph 2, and article 13, paragraph 2 (b) and (c), of the Covenant, based on the argument that the State party has to a large extent already achieved realization of the rights enshrined in the aforementioned articles, whereas information received by the Committee reveals that full realization of those rights is not yet guaranteed.

600. .... This contravenes article 8, paragraph 2, of the Covenant (to which the State party has made a reservation), and ILO Convention No. 87 (1948) concerning freedom of association and protection of the right to organize, despite the existence of alternative systems of personnel committees.

613. The Committee urges the State party to consider the withdrawal of its reservations to articles 7 (d), 8, paragraph 2, and article 13, paragraph 2 (b) and (c) of the Covenant (E/2002/22 (2001)).

*Mexico*

385. The Committee also regrets the absence of plans to withdraw the State party's reservation to article 8 of the Covenant, although the right to form trade unions and the right to strike are enshrined in the Mexican Constitution and in the corresponding regulatory laws.

401. The Committee calls upon the State party to comply with its obligations under article 8 of the Covenant and to withdraw its reservation made under that article (E/2000/22 (1999)).

*Morocco*

109. Other difficulties noted by the Committee relate to the contradiction between the obligations set forth under the Covenant and various provisions relating to the civil law status governed by the Code of Personal Status which is partly based on religious precepts and falls within the King's competence. The Committee considers that when a State has ratified the Covenant without making any reservations, it is obliged to comply with all of the provisions of the Covenant. It may therefore not invoke any reasons or circumstances to justify the non-application of one or more articles of the Covenant, except in accordance with the provisions of the Covenant and the principles of general international law (E/1995/22 (1994)).

*Netherlands May 1998*

174. The Committee welcomes the Government's intention to withdraw the reservation it entered in the Covenant concerning the right to strike.

225. The Committee encourages the Government to carry out its intention to withdraw its reservation to the Covenant concerning the right to strike (E/1999/22 (1998)).

*New Zealand*

181. .... The Committee also notes the statement made by the State party that it intends to withdraw its reservation under article 10, paragraph 2, of the Covenant.

198. The Committee encourages the State party to ratify ILO Conventions Nos. 87 (1948), 117 (1962) and 118 (1962) and to withdraw its reservation to article 8 of the Covenant (E/2004/22 (2003)).

*Sweden*

728. The Committee takes note that the State party has maintained its reservation with regard to article 7 (*d*) of the Covenant concerning the right to remuneration for public holidays.

739. The Committee recommends that the State party withdraw its reservation to article 7 (*d*) of the Covenant (E/2002/22 (2001)).

*Trinidad and Tobago*

283. The Committee recommends that the State party ratify the ILO conventions relevant to economic, social and cultural rights and that it withdraw its reservation to article 8 of the Covenant. In addition, the Committee notes with interest the State party's declaration that it will reconsider its position regarding the denunciation of human rights instruments (E/2003/22 (2002)).

*United Kingdom of Great Britain and Northern Ireland*

212. The Committee also welcomes the delegation's statement that the State party is currently in the process of reviewing its reservations to international human rights instruments, with a view to withdrawing those that have been superseded by legislation or practice.

246. The Committee encourages the State party to withdraw its reservations to the Covenant that have become redundant (E/2003/22 (2002)).

*Zimbabwe*

67. The Committee welcomes the fact that Zimbabwe adhered to the Covenant without any reservations (E/1998/22 (1997)).

**D. Committee on the Elimination of Discrimination against Women**

**Positive remarks**

On twenty-four occasions, the Committee commended, welcomed or expressed its appreciation to a State party for ratifying the Convention without reservations (*Burundi, Kazakhstan, Uzbekistan, Myanmar, Democratic Republic of the Congo, Cameroon, Moldova, Lithuania, Kyrgyzstan, Azerbaijan, Croatia, Zimbabwe, Czech Republic, St. Vincent and the Grenadines, Antigua and Barbuda, Armenia, Namibia, Ethiopia, Bolivia, Chile, Uganda, Peru, Norway, Guyana*

On six occasions the Committee:

- commended/noted with appreciation fact of ratification of the Convention without reservations (*Guatemala, Kenya, Guyana, Netherlands, Nicaragua, Sweden*).

On three occasions the Committee:

- commended a State party for withdrawing its reservation/s (*Fiji, Jamaica, Liechtenstein*);
- commended a State party for placing objections to those reservations that are incompatible with the object and purpose of the Convention (*Finland, Netherlands, Sweden*).

On two occasions the Committee:

- welcomed the commitment/intention to withdraw reservations (*Turkey, Belgium*);
- particularly commended efforts to withdraw certain reservations/expresses great satisfaction with the withdrawal of reservations (*Thailand, Mauritius*).

On one occasion the Committee:

- commended a State party for announcing its intention to withdraw a reservation (*Austria*);
- welcomed the imminent withdrawal of a reservation. At same time appeals to State party to make efforts to withdraw other reservation. (*Austria*);
- welcomed the willingness of a State party to review its reservations (*Algeria*);
- welcomed information on new legislation that will allow for withdrawal of a State party's reservations (*Turkey*);
- commended the Government for withdrawing some of its reservations and encourages it to continue its efforts to withdraw the remaining reservations (*Thailand*);
- commended the State party for ratifying the Convention without reservation demonstrated the Government's commitment to achieving equality for women in public and private life (*Barbados*).

### **Neutral remarks**

On one occasion the Committee:

- appealed to the Government to make efforts to withdraw a reservation (*Austria*);
- noted that a State party intends to evaluate its reservation (*Germany*);

- noted that a State party committed itself to withdrawing certain articles of the Convention (*Turkey*);
- noted the fact that a Government intended to uphold its reservation concerning article 29 (*Cuba*).

### **Critical remarks**

On six occasions the Committee:

- noted that the reservations to particular articles impede full implementation/are obstacles to the Convention's full implementation/seriously hinder implementation/are serious impediments to the full implementation (*Singapore, Algeria, Morocco, Turkey, Luxembourg, Australia*);
- expressed its concern with/noted with concern the reservations entered into by the State party (*Maldives, Jordan, Cyprus, Tunisia, Australia, Bangladesh*).

On three occasions the Committee:

- considered reservations to certain articles to be contrary to the object and purpose of the Convention and should be reviewed modified and/ withdrawn (*Morocco, Iraq, Egypt*).
- urged a State party to withdraw its reservations and to repeal/revoke legislation (*Maldives, Jordan, Tunisia*).

On two occasions the Committee:

- noted with concern the number and/ importance of reservations entered into by a State party (*China, Morocco*);
- noted its particular concern with respect to certain reservations (*China, Morocco*);
- reiterated its concern at/with the continued existence of the reservations of the State party (*Algeria, Thailand*);
- urged the State party to expedite the steps necessary for withdrawal of its reservations (*Algeria, Egypt*).

On one occasion the Committee:

- urged a State party to continue its efforts to withdraw its reservations (*Australia*);
- expressed its concern with the reservations and encouraged withdrawal (*Republic of Korea*);

- suggested that the Government review its reservations with the intention of withdrawing them, particularly that entered to paid maternity leave. It found it difficult to understand why paid maternity leave had not been implemented in working life (*New Zealand*);
- expressed its concern that a State party explicitly ruled out the possibility of withdrawal of its reservations, as well as its concern that the justification of those reservations was based on a desire to ensure consistency with Islamic Sharia (*Iraq*);
- strongly suggested the introduction of steps towards the removal of its reservations and requested the Government to keep it informed of developments (*Luxembourg*);
- urged a State party to review and re-examine regularly its reservations and amend laws that are incompatible with the Convention (*China*);
- noted with regret that a State party did not envisage withdrawing any of its reservations (*Morocco*);
- expressed its concern that the combination of reservations to certain articles left no room for evolving concepts of Islamic law (*Morocco*);
- was deeply concerned at a State party's reservations (*Turkey*);
- considered that the State party's reservations impeded full implementation of the Convention. It expressed deep concern regarding the reservations. It clarified the fact that articles 2 and 16 are the very essence of obligations under the Convention. It urged the State party to continue its process of reform in consultation with members of different ethnic and religious groups, including women. It recommended that the State party study reforms in other countries with similar legal traditions with a view to reviewing and reforming personal laws so that they conform with the Convention, and withdrawing these reservations. It urged the State party to further amend its legislation and to withdraw its reservations (*Singapore*);
- noted its particular concern with the language of a declaration of a State party which seemed to close the door on any future revisions of national legislation, ad expressed the hope that the reservations and declarations would be withdrawn in the near future (*Tunisia*);
- regretted that a State party maintained its reservations (*Israel*);
- while appreciating efforts to withdraw its reservations, expressed its concern that these reservations have been retained (*Egypt*);
- while noted with appreciation that Yemen had not made any substantial reservations to the Convention, asked whether the Government could consider withdrawing its reservation (*Yemen*);

- while congratulating Ecuador on having ratified the Convention without any reservation, noted that not all legislation had been brought into line with the Convention (*Ecuador*);
- expressed concern that notwithstanding a State party's stated commitment to do so no further progress has been made in withdrawing its reservations. It expressed its concern at the lack of governmental commitment to working towards a situation that would allow for withdrawal. It urged the Government to take action to make the necessary Constitutional amendments and aware-ness raising to enable withdrawal (*Luxembourg*);
- urged the State party to review its reservations (*Jordan*);
- expressed the hope that a Government would progressively withdraw its reservations (*Morocco*);
- expressed concern at the State party's declaration of a general reservation on ratifying the Convention and considered it to be incompatible with the Convention's purpose and objective. It recommended that the State party take all the necessary measures to reconsider the general reservation entered on its ratification of the Convention (*Libyan Arab Jamahiriya*);
- expressed concern at the resistance to the legal reform necessary for the purposes of withdrawal (*Turkey*);
- found it difficult to understand why greater efforts had not been made to address certain reservations (*Luxembourg*);
- while commending the political determination of Iraq to improve the status of women in the process of modernization, questioned how progress could be achieved if the reservations to the Convention were maintained (*Iraq*).

## **Miscellaneous**

CEDAW has adopted two General Recommendations on Reservations, in 1987 (General Comment 4), and 1992, the latter in the context of the World Conference on Human Rights in 1993 (General Comment 20). It also considers reservations in its General Comments on articles 7 and 8 (General Comment 23 (1997)) and articles 9, 15 and 16 (General Comment 21 (1994)).

On 25 March 1986, States parties to the Convention had an exchange of views on the question of reservations, and adopted a decision in which they urged full respect for the article 28, paragraph 2, of the Convention and requested the Secretary-General to seek the views of States parties on the question of reservations to the Convention that could be considered within the scope of article 28, paragraph 2, and to include those views in the report on the status of the Convention to the General Assembly at its forty-first session. Of the 87 States parties at the time, 17 replied (A/41/608). This report was considered at the forty-first session of the

General Assembly, in which a number of States expressed their concern about the reservations made, and suggests were made that States do not fully understand the nature of the obligations contained in the Convention (A/C.3/41/SR.24, A/C.3/41/SR.25, A/C.3/41/SR.27, A/C.3/41/SR.29, A/C.3/41/SR.30)

In its Annual Reports, under the section “Matters Brought to the Attention of States Parties”, the Committee considered the issue of reservations on numerous occasions, in particular in the context of the World Conference on Human Rights (1993) (A/48/38), and in response to the request by the Sub-Commission on Prevention of Discrimination and Protection of Minorities of the Commission on Human Rights to seek its views on the desirability of obtaining an advisory opinion on the validity and legal effect of reservations to the Convention. It decided, inter alia, that it should support the steps taken in common with other treaty bodies to seek such an opinion (A/48/38). On several occasions under this section, the Committee has expressed its concern over reservations (A/49/38) and has amended its guidelines for the preparation of initial and subsequent periodic reports to include a section indicating how the Committee would like States parties to report on their reservations (A/57/38, Part 2).

In its ‘Contribution to International Conferences,’ the Committee has considered reservations, inter alia, with respect to the Fourth World Conference on Women (A/49/38) and included in this section its statement on the Elimination of Discrimination against Women on the occasion of the 10-year review and appraisal of the Beijing Declaration and Platform for Action, in which it expressed its continuing concern about the significant number of reservations to the Convention, many of which are broad-based and must be considered to be incompatible with the object and purpose of the Convention. It also congratulated all those States that have withdrawn or modified their reservations to the Convention since the Fourth World Conference on Women, as called for in the Platform for Action, and urged all those States that continue to maintain reservations to work towards their withdrawal.” (A/60/38) Under the section “Action taken by the Committee under agenda item 7”, the Committee set out its contribution to the preparatory process for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, in which it called for, inter alia, the revision of the substantive reservations to the Convention with the aim of their possible withdrawal (A/56/38).

In its Annual Report A/50/38, the Committee decided that it would examine reservations made by particular States parties in terms of whether the State party has made the same reservations in relation to other conventions. In its Annual Report A/53/48, the CEDAW included a statement on reservations which it wished to bring to the attention of States parties as its contribution to the commemoration of the fiftieth anniversary of the Universal Declaration of Human Rights.

Reports were prepared by the Secretariat at the request of the Committee on the issue of reservations. In connection with its consideration of ways and means of expediting the work of the Committee, at its fifteenth session held in January 1996, the Committee was provided with information on reservations, inter alia, a review of “what United Nations conferences have said about reservations to the Convention” and “of comments made by women human rights non-governmental organizations concerning reservations” (CEDAW/C/1997/4). At its

twenty-fourth session, held between 15 January and 2 February 2001, the Committee was provided with a report on its concluding comments on the reports of States parties to the Convention and on the practices of other human rights treaty bodies on reservations to human rights treaties (CEDAW/C/2001/II/4).

*Algeria*

The Committee also notes that the reservations of the State party to articles 2, 9, paragraph 2, 15, paragraph 4, and 16 are obstacles to the Convention's full implementation.

The Committee reiterates its concern at the reservations to the Convention entered by the State party.

The Committee urges the State party to expedite the steps necessary for withdrawal of its reservations.

The Committee welcomes the willingness of the Government of Algeria to review reservations to the Convention in the light of the evolution of Algerian society (A/54/38/Rev.1).

*Antigua and Barbuda*

The Committee welcomed the fact that Antigua and Barbuda had ratified the Convention without reservations (A/52/38/Rev.1).

*Armenia*

The Committee welcomed the presentation by the Government of Armenia and commended it on its ratification of the Convention without reservations so soon after independence in 1991 and on the timely submission of the initial report, which contained detailed information about the implementation of the Convention in accordance with the Committee's guidelines. It expressed its appreciation of the willingness of the representatives of Armenia to engage in an open, candid constructive dialogue with the Committee (A/52/38/Rev.1).

*Australia*

The Committee noted that the changing role of government in terms of public expenditure and the ongoing decentralization of responsibility in a number of areas, including health, from the federal to territorial or state Governments, had had an impact on the legal and practical implementation of the Convention. Australia continued to have two reservations to the Convention, one with regard to paid maternity leave and one with regard to "combat-related" employment in the armed forces, which constituted an obstacle to the full implementation of the Convention.

The Committee noted with concern that new legislation on industrial relations providing for the negotiation of individual contracts between employer and employee might have a disproportionately negative impact on women. Part-time and casual workers, of whom women formed a disproportionate share, were usually in a weaker position than other workers to negotiate favourable working agreements, in particular with regard to benefits. The reservation

to the Convention with regard to paid maternity leave, and Australia's non-ratification of ILO Convention No. 103 concerning maternity protection, remained a concern for women workers with family responsibilities (A/52/38/Rev.1).

The Committee also decided on an exceptional basis that it would complete the concluding comments that had been deferred from its thirteenth session to its fourteenth session (A/49/38).

The Committee, however, expresses its concern about reservations which the Government made when ratifying the Convention. Although there have been some developments in this area, the Committee is particularly concerned about the reservations on paid maternity leave. The Committee urges the Government to continue its efforts to withdraw its reservations (A/50/38).

#### *Austria*

The Committee commends the Government for announcing its intention to accept the amendment to article 20, paragraph 1, of the Convention in respect of the time of meetings of the Committee. It also welcomes the imminent withdrawal of the reservation to article 7 of the Convention in respect of women and the military. At the same time, it appeals to the Government to make efforts also to withdraw the reservation to article 11 of the Convention in respect of night work (A/55/38).

#### *Azerbaijan*

The Committee expresses its appreciation to the Government of Azerbaijan for ratifying the Convention without reservations after the proclamation of its independence (A/53/38/Rev.1).

#### *Bangladesh*

Members of the Committee expressed their concern over the reservations made on article 2, article 13 (a) and article 16, paragraph 1 (c) and (f), of the Convention (A/48/38).

#### *Barbados*

That Barbados had ratified the Convention without reservation demonstrated the Government's commitment to achieving equality for women in public and private life (Combined second and third periodic reports, A/49/38).

#### *Belgium*

The Committee welcomed with appreciation Belgium's intention to withdraw its reservations to article 7, section (b), with respect to royal functions, and on article 15, with respect to matrimonial property of rural women (A/51/38).

#### *Bolivia*

.... [Members] commended the fact that Bolivia had ratified the Convention without entering reservations (A/50/38).

*Burundi*

The Committee commends the Government of Burundi for ratifying the Convention without reservations in 1991 (A/56/38).

*Cameroon*

The Committee commends the Government of Cameroon for ratifying the Convention without reservation (A/55/38).

*Cyprus*

The Committee noted with concern the reservation of the Government as to the exclusion of women from the military (A/51/38).

*Chile*

.... They noted with satisfaction that Chile had ratified the Convention without reservations (A/50/38).

*China*

The Committee notes with concern that China has entered seven reservations and declarations in respect of the provisions of the Convention as applied to Hong Kong. Of particular concern is the reservation exempting “the affairs of religious denominations or orders” from the scope of the Convention.

The Committee encourages the Government to review regularly the reservations entered to the Convention. It urges the Government to amend all laws that are incompatible with the Convention, including those relating to immigration and to pension schemes, with a view to removing the relevant reservations. In particular, it encourages the Government to eliminate discrimination against indigenous women following its review of the small house policy. The Committee also encourages the Government to re-examine the reservation relating to the favourable treatment of women in respect of labour law protection of pregnancy and maternity, which might well be in accordance with articles 4, paragraph 1, and 11, paragraph 2, of the Convention, as well as that regarding religious denominations (A/54/38/Rev.1).

*Croatia*

The Committee congratulates the Government of Croatia for ratifying the Convention without reservations and notes with satisfaction that the country’s initial report followed the guidelines and presents comprehensive data on the situation of women in Croatia (A/53/38/Rev.1).

*Cuba*

The Committee noted the fact that the Government intended to uphold its reservation concerning article 29. The Committee was concerned about the elimination of certain areas of progress for women owing to the embargo and the subsequent economic constraints (A/51/38).

*Czech Republic*

The Committee congratulates the Government for ratifying the Convention without reservations (A/54/38/Rev.1).

*Democratic Republic of the Congo*

The Committee expresses its appreciation to the Government of the Democratic Republic of the Congo for ratifying the Convention in 1985 without reservations (A/55/38).

*Ecuador*

While congratulating Ecuador on having ratified the Convention on 9 November 1981 without any reservation, the experts of the Committee noted that not all legislation had been brought into line with the Convention (A/49/38).

*Ethiopia*

.... The Committee also appreciated the fact that Ethiopia had ratified the Convention as well as several other international human rights instruments and had accepted the Beijing Declaration and Platform for Action without reservation (A/51/38).

*Egypt*

While appreciating the efforts of the National Council for Women to encourage the Government to withdraw its reservations to articles 2 and 9, paragraph 2, and article 16 of the Convention, the Committee expresses its concern that these reservations entered by the State party upon ratification have been retained.

The Committee urges the State party to expedite the steps necessary for the withdrawal of its reservations and in that regard draws its attention to the Committee's statement on reservations in its report on its nineteenth session<sup>8</sup> and, in particular, its view that articles 2 and 16 are central to the object and purpose of the Convention and that, in accordance with article 28, paragraph 2, they should be withdrawn (A/56/38).

*Finland*

The Committee also commends the Government for placing objections to those reservations that are incompatible with the object and purpose of the Convention (A/56/38).

*Germany*

The Committee notes that the Government, in assessing the implication of a decision of the European Court of Justice concerning the role of women in the German armed forces, will evaluate its reservation to article 7, subparagraph b, of the Convention (A/55/38).

*Guyana*

[Members] recalled that Guyana had demonstrated a long commitment to the Convention and was among the first Member States to sign and ratify the Convention without reservation.

The Committee commended the Government of Guyana for ratifying the Convention without reservation (A/50/38).

*Guatemala*

The Committee commended the Government of Guatemala for having ratified the Convention without reservations (A/49/38).

*Iraq*

The Committee is concerned that the State party explicitly ruled out the possibility of withdrawal of its reservations to article 2, subparagraphs (f) and (g), and articles 9 and 16. The Committee expresses its concern at the State party's justification of those reservations as being based on its desire to apply the provisions of the Convention in a manner consistent with Islamic Sharia. In that regard, the Committee draws the attention of the State party to its statement on reservations (see A/53/38/Rev.1, part two, chap. I), and in particular its view that articles 2 and 16 are central to the object and purpose of the Convention, and that, in accordance with article 28, paragraph 2, reservations should be reviewed and modified or withdrawn.

The Committee is also concerned that Iraq's nationality law, which is based on the principle that the members of a family should all have the same nationality and that none should have dual nationality or lose their nationality, does not grant women an independent right to acquire, change or retain their nationality or to pass it on to their children.

The Committee recommends that the Government of Iraq review its reservations to article 2, subparagraphs (f) and (g), and articles 9 and 16, in the light of the Committee's statement on reservations, assess the justifications for those reservations and modify or withdraw them as soon as possible to ensure full implementation of the Convention (A/55/38).

Members commended the political determination of Iraq to improve the status of women in the process of modernization; however, they questioned how progress could be achieved if the reservations to the Convention were maintained (A/48/38).

*Israel*

The Committee regretted the fact that Israel had maintained its reservations to articles 7 (b) and 16 of the Convention. It also regretted the fact that women could not become religious judges and that the religious laws that to a considerable degree govern family relations discriminated against women.

The Committee regretted the fact that Israel had maintained its reservations to articles 7 (b) and 16 of the Convention. It also regretted the fact that women could not become religious judges and that the religious laws that to a considerable degree govern family relations discriminated against women (A/52/38/Rev.1).

*Jamaica*

The Committee expresses its appreciation for the withdrawal of the reservation to article 9, paragraph 2, of the Convention, which the Government had made upon ratification (A/56/38).

*Jordan*

The Committee is concerned that Jordanian nationality law prevents a Jordanian woman from passing on her nationality to her children if her husband is not Jordanian. This is an anachronistic situation at a time when Jordan is making major strides in its economic and democratic development and when marriage between persons of different nationalities is increasingly common. It also notes with concern that Jordanian law prohibits women from concluding contracts in their own name, from travelling alone and from choosing their place of residence. It considers these limitations on the rights of women to be inconsistent with the legal status of women under the Jordanian Constitution and the Convention. The Committee notes with concern that Jordan has entered reservations to articles 9, paragraph 2, and 15, paragraph 4, which relate to these matters.

The Committee calls on the State party to revoke those laws and to withdraw its reservations to articles 9, paragraph 2, and 15, paragraph 4.

The Committee notes that a woman's right to choose a family name, a profession or an occupation and a woman's rights upon divorce and rights and responsibilities as a parent are not recognized in the Personal Status Code. It also notes with concern that Jordanian law recognizes the practice of polygamy.

The Committee calls upon the Government to amend the Personal Status Code to recognize women's rights to choice of family name and occupation, as well as their rights upon divorce and with regard to their responsibilities as parents. The Committee calls upon the Government to reconsider the law and policy on polygamy with a view to eliminating this practice in line with the Convention, the Constitution and evolving social relations in the country. It also recommends that the Government review its reservations to article 16, paragraph 1 (c), (d) and (g), with a view to their withdrawal (A/55/38).

*Kazakhstan*

The Committee welcomes the fact that Kazakhstan has ratified the Convention without reservations and has signed the Optional Protocol, and intends to ratify it as soon as possible (A/56/38).

*Kenya*

..... the Committee expressed its appreciation of the fact that Kenya had ratified the Convention without reservations (A/48/38).

*Kyrgyzstan*

The Committee commends Kyrgyzstan for ratifying a large number of international human rights treaties, including the Convention on the Elimination of All Forms of Discrimination against Women, which was ratified, without reservations, during a difficult time of transition to a market economy and of rapid social and political change (A/54/38/Rev.1)

*Libyan Arab Jamahiriya*

The Committee was concerned by the State party's declaration of a general reservation on ratifying the Convention and considered it to be incompatible with the Convention's purpose and objective.

The Committee recommended that the State party take all the necessary measures to reconsider the general reservation entered on its ratification of the Convention (A/49/38).

*Liechtenstein*

The Committee welcomes the Government's withdrawal of its reservation to the Convention (A/54/38/Rev.1).

*Lithuania*

The Committee welcomes the fact that Lithuania has ratified the Convention without reservations, and that it intends to sign the Optional Protocol and to accept article 20, paragraph 1, of the Convention concerning the time of meetings of the Committee (A/55/38).

*Luxembourg*

The Committee noted that the reservations made by the State party to articles 7 and 16 (g) impeded the full implementation of the provisions of the Convention. Although there had been attempts to remove the reservation to article 7, the Committee found it difficult to understand why greater efforts had not been made to address the reservation to article 16 (g).

The Committee strongly suggested the introduction of steps towards the removal of the reservations to articles 7 and 16 (g) as promised in the oral presentation of the representative of the Government. The Committee encouraged the Ministry for the Advancement of Women in its efforts to that end and requested the Government to keep it informed of developments on the matter (A/52/38/Rev.1).

*Luxembourg*

The Committee is concerned that, notwithstanding the Government's stated commitment in its action plan 2000 to the implementation of the Beijing Declaration and the Platform for Action, no further progress has been made in withdrawing the reservations concerning articles 7 (hereditary transmission of the crown to the oldest male) and 16, paragraph 7 (g) (right to choose the family name of children). With regard to the latter, the Committee expresses its concern at the lack of governmental commitment to working towards influencing cultural traditions and attitudes which would allow for a withdrawal of the reservation.

The Committee urges the Government to take action towards the amendment of article 3 of the Constitution in view of the consent of the Grand Duke to such an amendment. The Committee also calls on the Government to undertake awareness-raising and education campaigns to overcome traditional and stereotypical images of women and men so as to enable it to withdraw its reservation under article 16 (A/55/38).

*Mauritius*

The positive move on the part of the Mauritius Government in withdrawing its reservations on articles 11.1 (b), 11.1 (d) and 16.1 (g) was highly appreciated by the Committee.

Several experts expressed great satisfaction with the withdrawal of reservations to articles 11.1 (b), 11.1 (d) and 16.1 (g) of the Convention. One expert pointed out that Mauritius was one of those rare countries where the Convention itself was being used to reform the domestic legal and economic systems so as to achieve greater compliance (A/50/38).

*Maldives*

The Committee expresses its concern with the reservations entered by the State party to articles 7 (a) and 16 of the Convention. It is concerned that the reservation to article 7 (a) on political participation supports the retention of legislative provisions that exclude women from the office of President and Vice-President of the country.

The Committee urges the Government to withdraw these reservations and to repeal legislation limiting women's political participation in public life (A/56/38).

*Morocco*

The Committee was of the view that, although the instrument of ratification of the Convention by the Kingdom of Morocco was in itself an important event, the fact that it had been accompanied by declarations and reservations concerning the substance of the Convention seriously hindered the latter's implementation.

The Committee was deeply concerned at the number and importance of the reservations made by Morocco, particularly the reservation to article 2, one of the Convention's central articles. The Committee considers any reservation to that article to be contrary to the object and purpose of the Convention and incompatible with international law. The Committee was likewise concerned that the combination of reservations to articles 2 and 15 leave no room for evolving concepts of Islamic law.

The Committee noted with regret that the State party did not envisage withdrawing any of its reservations.

The Committee expressed the hope that the Government would envisage, through the political will of its leaders, the progressive withdrawal of the many reservations that were seriously undermining the proper implementation of the Convention (A/52/38/Rev.1).

*Moldova*

The Committee welcomes the fact that the Republic of Moldova adopted the Convention without reservations (A/55/38).

*Myanmar*

The Committee welcomes the fact that Myanmar ratified the Convention without reservations on substantive articles (A/55/38).

*Namibia*

The Committee commended the Government of Namibia for ratifying the Convention without reservations so soon after its successful and long struggle for independence (A/52/38/Rev.1).

*Netherlands*

The Committee commends the Government for its willingness to place objections to reservations entered by other States parties that it considers incompatible with the object and purpose of the Convention (A/56/38).

[Members] welcomed the fact that the Convention had led to revisions of and additions to existing legislation and that it had been ratified without reservations.

The Committee commended the State party for not entering any reservations and for undertaking such conscientious efforts in legislation as well as other measures, first before ratifying the Convention, and secondly for its implementation (A/49/38).

*New Zealand*

The Committee suggested that the Government review its reservations with the intention of withdrawing them, particularly that entered to paid maternity leave. The Committee found it difficult to understand why paid maternity leave had not been implemented in working life (A/49/38).

*Nicaragua*

Members commended Nicaragua for the fact that it had ratified the Convention without entering any reservations (A/48/38).

*Norway*

[Members] welcomed the fact that the Convention had been ratified early without reservations (A/50/38).

*Peru*

The members of the Committee welcomed the fact that Peru had ratified the Convention without any reservations (A/50/38).

*Republic of Korea*

The Committee also expressed its concern about the reservations to the Convention made by the Government of the Republic of Korea, and hoped that it would consider withdrawing those reservations (A/48/38).

*Republic of the Fiji Islands*

.... The Committee commends the State party for withdrawing its reservations to articles 5 (a) and 9 of the Convention. It also welcomes the extensive programme of law reforms in critical areas in conformity with the Constitution and the Convention and commends in particular the enactment of a citizenship law based on article 9 of the Convention (A/57/38 (Part 1)).

*Saint Vincent and the Grenadines*

The Committee expressed appreciation for the frank presentation of the combined initial, second and third reports. The oral presentation complemented the comprehensive written reports. The Government of Saint Vincent and the Grenadines was commended for being one of the first countries that had ratified the Convention, and had done so without reservation (A/52/38/Rev.1).

*Singapore*

The Committee considers that the State party's reservations impede full implementation of the Convention.

The Committee expresses deep concern regarding the reservations made by the Government of Singapore to articles 2, 9, 11, paragraph 1, and 16 of the Convention.

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

The Committee urges the State party to further amend the nationality law so as to eliminate discrimination against women, and withdraw its reservation to article 9. The explanation that a Singaporean woman cannot transfer nationality to her child when she marries a foreigner and the child is born overseas, since dual nationality is not recognized, is unconvincing. The Committee wishes to point out that since both mother and father can transfer nationality to children born within the country in many countries, including Singapore, the same problem can arise with respect to the children born of Singaporean men and foreign women.

The Committee recommends that persons in confidential, managerial and executive posts be brought within the coverage of the Employment Act. The Committee considers that the capacity for individual bargaining, and the existence of better working conditions in these sectors do not justify the absence of legal protection and the reservation to article 11.

The Committee expresses concern that the failure to extend the Employment Act to domestic workers results in discrimination against women domestic workers and denial of legal protection. It is also concerned that the requirement of their current employer's consent to transfer employment deters such workers from reporting grievances to governmental authorities.

The Committee urges the Government of Singapore to amend the Employment Act so that it covers these sectors and to withdraw its reservation to article 11 (A/56/38).

#### *Sweden*

Moreover, the fact that the Government had not made reservations to the Convention was noted with appreciation (A/48/38).

The Committee commends the Government for its willingness to place objections to reservations entered by other States parties that it considers incompatible with the object and purpose of the Convention (A/56/38).

#### *Thailand*

The Committee commends the Government for withdrawing five reservations to the Convention, and encourages it to continue its effort to withdraw the two remaining reservations. It particularly commends efforts to withdraw the reservation to article 16 relating to family life and marriage.

The Committee is concerned with the continued existence of Thailand's reservation to article 16 of the Convention which relates to marriage and family life (A/54/38/Rev.1)

#### *Tunisia*

The Committee was concerned about the general declaration made at ratification in relation to reservations made to the Convention.

The Committee urges the Government to consider withdrawing its reservations (A/50/38).

#### *Turkey*

At the Fourth World Conference on Women, Turkey committed itself to withdrawing all its reservations under articles 15 and 16 of the Convention by the year 2000, a step which requires the revision of a number of discriminatory laws contained in the Civil Code.

The reservations to articles 15 and 16 of the Convention were regarded by the experts as serious impediments to the full implementation of the Convention in the State party.

The Committee welcomed the information, reiterated in the excellent oral presentation of the delegation of the State party, relating to the draft law to amend the various articles of the Civil Code pertaining to family law, which would allow for the withdrawal by Turkey of its reservations.

The Committee also welcomed the commitments made by Turkey at the Fourth World Conference on Women to the effect that by the year 2000 it would: ....

(d) Withdraw the reservations to the Convention on the Elimination of All Forms of Discrimination against Women.

*Principal areas of concern*

The Committee was deeply concerned about the reservations of Turkey to article 15, paragraphs 2 and 4, and article 16, paragraphs 1 (c), (d), (f) and (g). It was also concerned with the prolonged discussions and the resistance to the reform of the Civil Code, although it appreciated that efforts had been made in that context by the General Directorate, women members of Parliament and the Ministry of Justice. The Committee urged the State party to facilitate and hasten that process so that the Law on Citizenship, the Civil Code and the Criminal Code could be brought into conformity with the articles of the Convention.

The Committee invited the Government to review the Civil Code, particularly with regard to family law, with a view to removing the reservations to the Convention. It also suggested that the related provisions of the Penal Code be revised in order to ensure women the full protection of the law on equal terms with men (A/52/38).

*Uganda*

Members .... welcomed the fact that the Convention had been ratified without reservations (A/50/38).

*Uzbekistan*

The Committee welcomes the fact that Uzbekistan ratified the Convention without reservation and is considering signing its Optional Protocol (A/56/38).

*Yemen*

The Committee noted with appreciation that Yemen had not made any substantial reservations to the Convention. The only one that had been made concerned the system for the settlement of disputes, on which many other countries had made reservations. Nevertheless, members asked whether the Government could consider withdrawing its reservation (A/48/38).

*Zimbabwe*

The Committee congratulates the Government for ratifying the Convention without reservations (A/53/38/Rev.1).

## E. Committee against Torture

### Positive remarks

On one occasion the Committee:

- welcomed information that a State party has decided to withdraw its reservation to article 20 (*Belarus*).
- welcomed the withdrawal of the reservation to article 20 and the declarations of acceptance of the procedures under article 21 and 22 of the Convention (*Russian Federation*).
- appreciated the determination of a State party to accede without reservations (*Denmark*).
- stated that it was confident that the State party would make a declaration in favour of articles 21 and 22 and withdraw its reservation on article 20 (*Czech Republic*).

On two occasions the Committee:

- welcomed the accession to/ratification of the Convention without reservations (*Bolivia, Brazil*).
- welcomed the declarations recognising the competence of the Committee under articles 21 and 22 (*Slovakia, Czech Republic*).
- appreciated the determination of a State party to accede without reservations (*Denmark, Liechtenstein*).

On three occasions the Committee:

- welcomed/regarded particularly noteworthy that a State party has acceded to/ratified the Convention without reservation and has declared in favour of articles 21 and 22 (*Algeria, Uruguay, Croatia*).
- noted with satisfaction a State party's withdrawal of its reservation to article 20 (*Zambia, Slovakia, Czech Republic*).

### Neutral remarks

On one occasion the Committee:

- stated that a State party has made the declarations provided for in articles 21 and 22 (*Venezuela*).
- stated that a State party has ratified the Convention without reservations (*Poland*).

- stated that a State party has made the declaration provided for in articles 21 or 22 and has not formulated any reservations or additional declarations (*Morocco*).
- stated that a State party has made a reservation to article 20 and 30 (*Israel*).
- stated that a State party has not expressed a reservation on article 20 of the Convention (*Georgia*).

On three occasions, the Committee stated that a State party has not made the declaration provided for in articles 21 or 22 (*Brazil, Costa Rica, Israel*).

### Critical remarks

On one occasion the Committee:

- stated that the maintenance of the reservation to article 20 and the non-existence of the declarations under articles 21 and 22 considerably restrict the scope of the Convention (*Morocco*).
- recommended that a State party should withdraw its reservation to article 20 (*Kuwait*).
- expressed the hope that the State party would review a reservation to article 14 (*New Zealand*).

On two occasions, the Committee hoped that the State party will review its reservation and make the declarations concerning article 21 and 22 (*Republic of Korea, Morocco*).

On three occasions, the Committee stated that a State party should consider withdrawing/suggests that a State party withdraw its reservation to article 20 and declaring in favour of articles 21 and 22 (*Ukraine, Israel, China*).

### Miscellaneous

In A/53/44, the CAT informed the ILC that the Committee had considered the Commission's preliminary conclusions during the November 1998 session, and that it shared the views expressed by the Human Rights Committee, which it considers as consistent with the Vienna Convention on the Law of Treaties, 1969.

#### *Algeria*

The Committee notes with satisfaction Algeria's commitment to institutionalize the rule of law and promote the protection of human rights as evidenced, *inter alia*, by its ratification of the Convention (without reservation and with declarations under articles 21 and 22 (A/52/44)).

#### *Argentina*

Argentina ratified the Convention without reservation on 24 September 1986 and, on the same date, made the declarations provided for in articles 21 and 22 (A/53/44).

*Belarus*

The Committee welcomes the information presented by the representatives of the State party that the Government of Belarus has decided to withdraw its reservation to article 20 of the Convention regarding the inquiry procedure (A/56/44).

*Bolivia*

.... Bolivia acceded to the Convention on 12 April 1999 without making any reservations. It has not made the declarations provided for in articles 21 and 22 (A/56/44).

*Brazil*

Brazil ratified the Convention on 28 September 1989 without making any reservation. The State party has not made the declarations provided for in articles 21 and 22 (A/56/44).

*Chile*

.... The possibility of withdrawing the existing reservation to the Convention and making declarations to the effect that the State party recognizes the competence of the Committee in the circumstances described in articles 21 and 22 of the Convention (A/50/44).

*China*

The Committee recommends to the State party the following:

(h) China is invited to consider withdrawing its reservations to article 20 and declaring in favour of articles 21 and 22 of the Convention (A/51/44).

.... The Committee also called upon the Government to consider making declarations with regard to articles 21 and 22 of the Convention and withdrawing the reservation entered in respect of article 20 of the Convention (A/48/44).

*Costa Rica*

Costa Rica deposited its instrument of ratification of the Convention on 11 November 1993 without making any reservation. The State party has not made the declarations provided for in articles 21 and 22 of the Convention (A/56/44).

*Croatia*

It is particularly noteworthy that Croatia has not expressed reservation to article 20 and has declared in favour of articles 21 and 22 of the Convention (A/51/44).

*Czech Republic*

The Committee welcomes the declarations made on 3 September 1996 recognizing the competence of the Committee under articles 21 and 22 and the withdrawal of the reservation on article 20 (A/56/44).

.... Even though the Czech Republic has not declared in favour of articles 21 and 22 and maintains its reservation on article 20 of the Convention, the Czech delegation explained that this was due to the weight of business in the legislative and executive fields and in no way reflects a lack of political will to remedy the situation. The Committee is confident that the Czech Republic will move to reform its situation in this regard and looks forward to its second periodic report (A/50/44).

*Denmark*

The Committee appreciates the determination of Denmark to guarantee respect for and protection of human rights, being one of the first States to accede without reservations to most of the international and regional instruments for the protection of such rights. Thus Denmark is a forefront State in the development of human rights standards (A/51/44).

*Georgia*

Georgia is one of the States parties that have not expressed a reservation on article 20 of the Convention (A/52/44).

*Hungary*

The Committee notes with satisfaction that Hungary earlier this year withdrew its reservation on geographical limitation to the 1951 Geneva Convention relating to the Status of Refugees, that previously excluded non-European asylum seekers. The Committee also notes with satisfaction, *inter alia*, the new legislation on asylum; Act LIX 1997 on Criminal Punishment System; the Ombudsman mechanism and Hungary's compliance with the previous recommendations of the Committee (A/54/44).

*Israel*

.... Israel should consider withdrawing its reservation to article 20 and declaring in favour of articles 21 and 22 (A/57/44).

.... Upon ratification, Israel made a reservation in respect of articles 20 and 30. Israel has not declared in favour of articles 21 and 22. The second periodic report was due on 1 November 1996 and was received on 6 March 1998 (A/53/44).

Israel should consider making the declarations provided for under articles 21 and 22 and withdrawing its reservation to article 20 of the Convention (A/52/44).

Israel ratified the Convention on 3 October 1991 and made reservations on articles 20 and 30. It also did not make the declarations to accept the provisions of articles 21 and 22 of the Convention (A/49/44).

*Kuwait*

The Committee recommends that Kuwait consider withdrawing its reservations to the Committee's article 20 jurisdiction (A/53/44).

*Liechtenstein*

The Committee appreciates the determination of Liechtenstein to guarantee respect for and the promotion of human rights through its accession without reservations to a number of international and regional instruments for the promotion of such rights (A/50/44).

*Morocco*

The maintenance of the reservations expressed in respect of article 20 and the non-existence of the declarations provided for in articles 21 and 22 of the Convention; this considerably restricts the scope of the Convention in respect of Morocco.

The Committee, which appreciates Morocco's ratification of most of the human rights covenants and conventions, hopes that the Moroccan Government will withdraw the reservations entered with regard to article 20 and make the declarations provided for in articles 21 and 22 of the Convention (A/50/44).

*New Zealand*

.... The Committee during its discussions raised the issue of the State party's reservation to one of the core articles of the Convention, article 14, regarding compensation for victims of torture. The Committee expressed the hope that the New Zealand authorities would review that reservation to ensure its full compliance with the articles of the Convention (A/48/44).

*Poland*

.... Poland is one of the first Eastern European countries to bring about broad and far-reaching reforms in all areas - political, economic, social and legislative. It has ratified the European Convention on Human Rights and the Convention against Torture without reservations, as well as other international human rights instruments (A/49/44).

*Republic of Korea*

The Committee hopes that the Republic of Korea will review its reservation and make the declarations concerning articles 21 and 22 of the Convention (A/52/44).

*Russian Federation*

The withdrawal of the reservation to article 20 and the declarations of acceptance of the procedures under articles 21 and 22 of the Convention are welcomed (A/52/44).

*Slovakia*

The Committee welcomes the following: ....

(b) The declarations made on 17 March 1995 recognizing the competence of the Committee under articles 21 and 22 and the withdrawal of the reservation on article 20 made on 7 July 1988 by the Czechoslovak Socialist Republic (A/56/44).

*Ukraine*

The Committee recommends that the State party: ...

(b) Deposit with the Secretary-General its declaration accepting the Committee's competence with respect to articles 21 and 22 of the Convention and the removal of its reservation in regard to article 20 (A/57/44);

The Committee encourages the Government of Ukraine to consider withdrawing its reservation to article 20 of the Convention and to make the declarations under articles 21 and 22, as well as ratify Protocol No. 6 to the European Convention on Human Rights (A/52/44).

*Uruguay*

The members of the Committee welcome the presentation of the second periodic report by the delegation of Uruguay and note that Uruguay was one of the first countries to ratify the Convention, that it has not made any reservations and that it has recognized the optional procedures set forth in articles 20, 21 and 22 of the Convention (A/52/44).

*Venezuela*

It made the declarations provided for under articles 21 and 22 on 21 December 1993, and has not formulated any reservations or additional declarations (A/54/44).

*Zambia*

The Committee notes with satisfaction the following elements:

(a) The State party's withdrawal of its reservation made with respect to article 20 of the Convention (A/57/44).

**F. Committee on the Rights of the Child**

**Positive remarks**

On six occasions the Committee:

- welcomed the intention to withdraw its reservations or to consider withdrawal or to review (*Indonesia, China, Mauritius, Poland, Croatia, Republic of Korea*);
- welcomed withdrawal or noted with satisfaction the withdrawal of one or more reservations (*Slovenia, Pakistan, United Kingdom, Tunisia, Norway, Myanmar*).

On one occasion the Committee:

- welcomed the State party's ratification without reservations (*Sudan*);
- noted the commitment expressed by the delegation to encourage the State party to withdraw its reservations and recommended that all necessary measures be taken to facilitate the process at the earliest possible opportunity (*Mali*);

- welcomed preparation of legislation that will facilitate withdrawal of reservations and encourages the State party to complete the revision of its legislation (*Liechtenstein*);
- expressed its appreciation to a State party for having expressed concern to reservations made by a State party which are incompatible with the object and purpose of the Convention (*Norway*);

### **Neutral remarks**

On one occasion the Committee:

- stated that the State party maintains reservations affecting certain articles. It took note of the commitment of the State party to review its reservations, in light of the Vienna Declaration and Programme of Action (*Austria*);
- noted the State party's initiative, through its Standing Committee on Procedural, to initiate the process of review of its reservation and encourages the State party to complete the process (*Denmark*).

### **Critical remarks**

On eighteen occasions, the Committee expressed its concern at particular reservations and recommended withdrawal or reiterated its recommendation to withdraw in light of the Vienna Declaration adopted by the World Conference on Human Rights (*Germany, Japan, Singapore, Argentina, Switzerland, Netherlands, Japan, Maldives, Luxembourg, Iraq, United Kingdom of Great Britain and Northern Ireland, Liechtenstein, Turkey, Monaco, France, Holy See, Canada, Denmark*

). On two of these occasions, the Committee also requested or wished to be kept informed of developments (*Canada, Denmark*).

On seven occasions the Committee:

- regretted that the concerns and recommendations it had expressed with respect to reservations upon consideration of a State party's initial report were insufficiently addressed in subsequent report/s. In such cases, the Committee reiterated the invitation to withdraw the reservations and declarations (*France, Canada, Bangladesh, Morocco, Republic of Korea, Czech Republic, Argentina*);
- expressed its concern that the broad and/ imprecise nature of a reservation/general reservation potentially negated many of the Convention's provisions and raised concern as to its compatibility with the object and purpose of the Convention. It recommended withdrawal in accordance with the Vienna Declaration and Programme of Action (*Jordan, Djibouti, Saudi Arabia, New Zealand, Jordan, Tunisia, United Kingdom*).

On five occasions, the Committee expressed its concern that a reservation raised questions about its compatibility with the principle and provisions of the Convention or might impede the full implementation of the Convention. It encouraged the State party to consider withdrawal

(*Slovenia, Australia, Indonesia, Pakistan, Republic of Korea*). In one of these cases, the Committee stated that it would like to be kept informed of developments (*Slovenia*).

On three occasions, the Committee set out the negative implications of certain reservations and recommended withdrawal (*Netherlands, Belgium, Malta*).

On two occasions the Committee:

- observed that some of a State party's reservations were superfluous and recommended withdrawal (*Jordan, Egypt*);
- while acknowledging openness of the State party towards the possibility of reviewing its reservations, remained concerned that these reservations might impede the full implementation of the Convention. It encouraged the State party to further review its reservations with a view to their withdrawal (*Bangladesh, Czech Republic*);
- recommended that the State party expedite the process for the withdrawal of the reservations and declarations (*Germany, New Zealand*);
- noted the efforts made towards removal of reservations but regretted the slow process of this withdrawal (*Canada, New Zealand*);
- recommended that the State party engage in dialogue with certain groups to facilitate withdrawal (*New Zealand, Germany*).

On one occasion the Committee:

- expressed its concern/remained concerned at particular reservations and recommended withdrawal/reiterates its recommendation to withdraw and then described how the State party should reform its legislation to make withdrawal possible (*Republic of Korea*);
- expressed its concern that the broad nature of its reservations may cause misunderstandings about the nature of the State's commitment to implementing in the rights covered by these articles. It encouraged the State party to consider withdrawal and underlines that interpretative declarations by the State party might have the desired effect of clarifying the State position in respect of these particular rights (*Syrian Arab Republic*);
- expressed its deep concern that the broad and imprecise nature of a State party's reservation potentially negated many of the provisions and principles of the Convention as to its compatibility with the object and purpose of the Convention, as well as the overall implementation of the Convention. It strongly recommended that the State party expeditiously undertake the re-examination of its reservations with a view to reconsidering and ultimately withdrawing them, in accordance with the Vienna Declaration and Plan of Action of the World Conference on Human Rights (1993). In this regard, the Committee considered that the State party should benefit from the recent withdrawal of a similar reservation by another State party. In addition, the Committee recommended that the State party study particular reservations with a view to withdrawing them (*Brunei Darussalam*);

- while noting that the State party had set up a governmental working group to study the compatibility of existing laws with the Convention, was nevertheless concerned that the broad and imprecise nature of the general reservation potentially negated many of the Convention's provisions and raised concern as to its compatibility with the object and purpose of the Convention (*Iran*);
- recommended to the State party to study its reservation with a view to narrowing it, taking into account the Human Rights Committee's General Comment 22 and eventual withdrawal (*Jordan*);
- noted with regret the State party's reservation but welcomed information that it would be withdrawn once the law was reviewed (*Botswana*);
- remained deeply concerned about certain reservations which might impede the full implementation of the Convention, but welcomed the information from the delegation that the State party was willing to continue to review those reservations with a view to their withdrawal. In light of the Vienna Declaration and Programme of Action (1993), the Committee reiterated its previous recommendation that the State party withdraw its reservations to the Convention and recommended that the State party take into account the experience of other States parties in this regard (*Bangladesh*);
- welcomed the State party's withdrawal of certain reservations and while noting that consideration would be given to withdrawing the remaining reservations, it remained concerned about the extent of reservations and declarations made to the Convention. In particular, it remained concerned that certain reservations appear to be incompatible with the object and purpose of the Convention (*Tunisia*);
- regretted that no review been undertaken with respect to the reservations since the presentation of the initial report. In noting the State party's reasoning in its report, it reiterated its concern that the nature of the general reservation potentially negates many of the Convention's provisions and raises concern as to its compatibility with the object and purpose of the Convention. The Committee referred in particular to certain articles and highlights the unnecessary nature of certain reservations. It recommended that the State party, in accordance with the Vienna Declaration and Plan of Action, and taking account of the Human Rights Committee's general comment No. 22, study its reservations, in particular certain provisions (*Syrian Arab Republic*);
- appreciated the fact that the State party had reviewed its declaration and/ reservation but was concerned that it does not intend to withdraw them. It encouraged the State party to review with a view to withdrawal (*Belgium*);
- regretted that the State party has not withdrawn its reservation, highlights the unnecessary nature of its reservation and requests withdrawal (*Czech Republic*);
- welcomed information that a reservation would be withdrawn, but expressed concern about the remaining reservations and emphasised that it was a long established in international law that States parties to a treaty could not invoke provisions of their

domestic laws as justification for their inability to perform obligations under a treaty. It recommended that the State party withdraw some reservations and study others with a view to narrowing them (*United Arab Emirates*);

- welcomed information that the State party was re-examining its reservations to certain articles but was nevertheless concerned that its reservation to certain articles was not included in this re-examination. It recommended the State party to expeditiously to re-examine its reservations with a view to withdrawal in accordance with the Vienna Declaration and Plan of Action of the World Conference on Human Rights (*Oman*);
- welcomed information that the State party was re-examining its reservation. It was concerned that the broad and imprecise nature of a State party's reservation potentially negated many of the provisions and principles of the Convention as to its compatibility with the object and purpose of the Convention, as well as the overall implementation of the Convention. It encouraged the State party to expeditiously complete its re-examination with a view to withdrawal in accordance with the Vienna Declaration and Plan of Action of the World Conference on Human Rights (*Qatar*);
- expressed its concern at certain reservations, welcomed information that consideration would be given to withdrawal of other reservations, but remained concerned at the slow pace and the fact that some reservations will not be withdrawn. The Committee then described in detail what changes should be made to domestic legislation to facilitate withdrawal (*Switzerland*);
- regretted that a State party had not considered reviewing its position and withdrawing its reservation (*France*);
- noted with appreciation the withdrawal of certain reservations, but expressed its concern at the remaining reservations. It noted the State party's ratification of the ICCPR drawing its attention to relevant provisions and encouraged the State party to consider the possibility of reviewing its reservations with a view to withdrawal in light of the ratification of this treaty as well as the Vienna Declaration and Programme of Action (*Thailand*);
- noted its concern that a State party's reservations to the Convention remained and encouraged the State party to withdraw them (*Netherlands*);
- expressed its concern at a reservation/s, which affected the implementation of the rights guaranteed in a particular provision/s, but welcomed the information that the State party would reconsider the need for this reservation (*Morocco*);
- urged the State party to review its position and consider withdrawing its reservation (*France*);
- recommended that the State party make withdrawal of all reservations a matter of priority (*Indonesia*);

- acknowledged the information that reservations and declarations made by a State party upon ratification had become unnecessary but remained concerned at the lack of willingness of a certain group to accept withdrawal (*Germany*).

### **Comments with respect to other treaties**

On one occasion the Committee:

- was encouraged by the withdrawal of its reservations to article 20 of the CAT (*Bahrain*);
- recommended a State party to reconsider its reservation to a provision of the ICCPR (*Netherlands*).

### **Miscellaneous**

The CRC has touched upon the issue of reservations in its General Comment on articles 4, 42 and 44-6 (General Comment 05 (2003)). In its Annual Report, A/49/41, under the heading “Conclusions and Recommendations adopted by the Committee on the Rights of the Child”, the CRC referred to the issue of reservations, and *inter alia*, recognized the importance of tackling the question of reservations and declarations in the course of its consideration of reports submitted by States parties.

To mark the tenth anniversary of the adoption of the Convention on the Rights of the Child by the General Assembly, on 20 November 1999, the Committee during its twenty-second session, had a general discussion to assess the impact of the Convention and to elaborate recommendations to improve its implementation. One of the four themes related to reservations upon which the Committee came to certain conclusions, *inter alia*, that the Committee had a decisive role to play in the assessment of the validity and impact of reservations made by States parties, and will continue to systematically raise this issue with States parties. It asked that a study be carried out on existing reservations, and seemed open to “alternative approaches” it could adopt (A/55/41).

In its Annual Report A/57/41, under “Overview of the other activities of the Committee” the Committee highlighted its concern for the nature of the reservations made by States parties, particularly those of a general nature, because they serve to restrict the application of the Convention. It stated that it had recommended to States that, at the very least, they study their reservations or narrow them, with a view to eventual withdrawal. However, it noted that only one State party has done so during the period under consideration, the Committee is encouraged by some States having indicated their willingness to study and reconsider their reservations.

In its guidelines on reporting the Committee provides the States parties with specific guidelines on reporting on reservations and declarations.

*Argentina*

The Committee is furthermore concerned about the reservations entered by the Government of Argentina upon the ratification of the Convention with respect to article 21 (b) to (e) owing to their broad nature.

The Committee recommends that the Government of Argentina consider reviewing the reservation entered upon ratification of the Convention with a view to withdrawing it. In that connection, the attention of the State party is drawn to the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in June 1993, which encouraged States to withdraw reservations to the Convention (CRC/C/29).

The Committee regrets that most of the concerns and recommendations (*ibid.*) it made upon consideration of the State party's initial report (CRC/C/8/Add.2 and 17) have been insufficiently addressed, particularly those contained in paragraphs 14 (reservations) .... The Committee notes that those concerns and recommendations are reiterated in the present document.

The Committee urges the State party to make every effort to address those recommendations in the concluding observations of the initial report that have not yet been implemented and to address the list of concerns contained in the present concluding observations.

The Committee reiterates its concern about the reservations (*ibid.*, para. 8) entered by the Government of Argentina upon ratification of the Convention with respect to article 21 (b), (c), (d) and (e).

The Committee reiterates its recommendation (*ibid.*, para. 14) that the State party consider reviewing the reservations entered upon ratification of the Convention with a view to withdrawing them (CRC/C/121).

*Australia*

The Committee notes with concern the reservation made by the State party to article 37 (c) of the Convention. The Committee notes that this reservation might impede the full implementation of the Convention.

In the light of the Vienna Declaration and Programme of Action of 1993, the Committee encourages the State party to review its reservation to article 37 (c) with a view to its withdrawal. The Committee emphasizes that article 37 (c) allows for exemptions from the need to separate children deprived of their liberty from adults when that is in the best interests of the child (A/53/41).

*Austria*

The State party maintains two reservations affecting articles 13 and 15, and article 17 of the Convention. The Committee takes note of the commitment of the State party to review its reservations, in light of the Vienna Declaration and Programme of Action of 1993, with a view to their withdrawal (A/55/41).

*Bahrain*

The Committee is encouraged by the efforts made by the State party towards greater openness and accountability with respect to human rights, including the withdrawal of its reservation to article 20 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CRC/C/114).

*Bangladesh*

The Committee regrets that some of the concerns it expressed and the recommendations it made (CRC/C/15/Add.74) after its consideration of the State party's initial report (CRC/C/3/Add.38), particularly those contained in paragraphs 28-47, regarding the withdrawal of the reservations (para. 28). Those concerns and recommendations are reiterated in the present document.

The Committee urges the State party to implement the previous recommendations that have not yet been implemented, as well as the recommendations contained in the present concluding observations.

The Committee remains deeply concerned about the reservations to articles 14, paragraphs 1 and 21 of the Convention, which might impede the full implementation of the Convention, but welcomes the information from the delegation that the State party is willing to continue to review those reservations with a view to their withdrawal. In light of the Vienna Declaration and Programme of Action (1993), the Committee reiterates its previous recommendation that the State party withdraw its reservations to the Convention (art. 14, paras. 1 and 21) and recommends that the State party take into account the experience of other States parties in this regard (CRC/C/133).

While acknowledging the openness of the State party towards the possibility of reviewing its reservations to articles 14, paragraph 1, and 21 of the Convention, the Committee remains concerned that these reservations might impede the full implementation of the Convention.

In the light of the Vienna Declaration and Programme of Action, the Committee encourages the State party to further review its reservations to articles 14, paragraph 1, and 21 of the Convention, with a view to their withdrawal. The Committee is of the opinion that, in the light of the proposed reforms to national legislation, the reservations may not be necessary (A/53/41).

*Belgium*

The Committee appreciates the fact that the State party has reviewed its declaration on article 2 and its reservation to article 40.2 (v) of the Convention, pursuant to the previous concluding observations. Nevertheless, it is concerned that the State party does not intend to withdraw them. With respect to article 2, the Committee, noting that the general principle of non-discrimination in the Convention prohibits differences in treatment on grounds that are arbitrary and objectively unjustifiable, including nationality, is concerned that the declaration on article 2 may restrict the enjoyment of non-Belgian children in Belgium of rights contained in the Convention. The Committee emphasizes that the guarantee of non-discrimination in the

Convention applies to “each child within [the State party’s] jurisdiction”. With respect to the reservation to article 40, the Committee is concerned that the possibility of appeal to the Court of Cassation against judgements and measures imposed by the Court of Assizes (sitting here as the court of first and last instance) is strictly limited to points of law and therefore deprives the defendant of a full review of his case by a higher court, which is all the more important in that the Court of Assizes handles the most severe cases and imposes relatively heavy sentences.

The Committee encourages the State party to review its declaration and reservation with a view to withdrawing them in accordance with the Declaration and Programme of Action of the Vienna World Conference on Human Rights (1993) (CRC/C/118).

*Botswana*

The Committee notes with regret the reservation that the State party has made to article 1 of the Convention, but welcomes the information during the dialogue that the reservation will be withdrawn as soon as the review of the law is completed.

The Committee recommends that the State party withdraw its reservation to article 1 of the Convention at the earliest time possible by expediting the law review process (CRC/C/143).

*Brunei Darussalam*

The Committee is deeply concerned that the broad and imprecise nature of the State party’s general reservation potentially negates many of the provisions and principles of the Convention as to its compatibility with the object and purpose of the Convention, as well as the overall implementation of the Convention.

The Committee strongly recommends that the State party expeditiously undertake the re-examination of its reservations with a view to reconsidering and ultimately withdrawing them, in accordance with the Vienna Declaration and Plan of Action of the World Conference on Human Rights (1993). In this regard, the Committee considers that the State party should benefit from the recent withdrawal of a similar reservation by another State party. In addition, the Committee recommends that the State party study its reservations to articles 14, 20 and 21 of the Convention with a view to withdrawing them (CRC/C/133).

*Canada*

The Committee, while noting the implementation of some of the recommendations (CRC/C/15/Add.37 of 20 June 1995) it made upon consideration of the State party’s initial report (CRC/C/11/Add.3), regrets that the rest have not been, or have been insufficiently, addressed, particularly those contained in: paragraph 18, referring to the possibility of withdrawing reservations .... The Committee notes that those concerns and recommendations are reiterated in the present document.

The Committee urges the State party to make every effort to address those recommendations contained in the concluding observations on the initial report that have not yet been implemented and to provide effective follow-up to the recommendations contained in the present concluding observations on the second periodic report.

The Committee notes the efforts of the Government towards the removal of the reservation to article 37 (c) of the Convention, but regrets the rather slow process and regrets even more the statement made by the delegation that the State party does not intend to withdraw its reservation to article 21. The Committee reiterates its concern with respect to the reservations maintained by the State party to articles 21 and 37 (c).

In light of the 1993 Vienna Declaration and Programme of Action, the Committee urges the State party to reconsider and expedite the withdrawal of the reservations made to the Convention. The Committee invites the State party to continue its dialogue with the Aboriginals with a view to the withdrawal of the reservation to article 21 of the Convention. (CRC/C/133).

The Committee notes with concern that the State party made reservations to articles 21 and 37 (c) of the Convention.

The Committee wishes to encourage Canada to review its reservations to the Convention and to consider the possibility of withdrawing them, and would like to be kept informed of developments on this fundamental matter (CRC/C/43).

#### *China*

In the light of the discussion in the Committee on the question of the continuing need for the State party's reservation to article 6 of the Convention and the information provided by the State party that it is open to considering making adjustments in regard to its reservation, the Committee encourages the State party to review its reservation to the Convention with a view to its withdrawal (A/53/41).

#### *Croatia*

The Committee welcomes the statement by the delegation that the Government intends to withdraw its reservation to article 9 of the Convention (CRC/C/50).

The Committee welcomes .... the withdrawal of its reservation on article 9, paragraph 1, of the Convention in 1998 (CRC/C/143).

#### *Czech Republic*

The Committee regrets that some of its recommendations in the previous concluding observations (CRC/C/15/Add.81) have been insufficiently addressed, inter alia the reservation to article 7, paragraph 1, of the Convention (*ibid.*, para. 26).... The Committee notes that those recommendations are reiterated in the present document.

The Committee urges the State party to make every effort to address those recommendations contained in the concluding observations on the initial report that have not yet been fully implemented and to address the list of concerns contained in the present concluding observations on the second periodic report.

The Committee regrets that the State party has not withdrawn its reservation to article 7, paragraph 1, of the Convention. Based on the dialogue, it is the Committee's understanding that the civil registration of irreversible adoption does not necessarily mean that the adopted child has no possibility of knowing his or her (biological) parents.

The Committee therefore recommends that the State party reconsider its position and withdraw its reservation (CRC/C/132).

While acknowledging the openness of the State party towards the possibility of reviewing its reservation to article 7, paragraph 1, of the Convention, the Committee remains concerned that this reservation might impede the full implementation of the Convention.

In the light of the Vienna Declaration and Programme of Action of 1993, the Committee encourages the State party to review its reservation to article 7, paragraph 1, of the Convention (A/53/41).

#### *Denmark*

The Committee notes the initiative of the State party, through its Standing Committee on Procedural Law, to initiate the process of reviewing its reservation to article 40 (2) (b) (v) of the Convention.

In light of the Vienna Declaration and Plan of Action of the World Conference on Human Rights (1993), the Committee encourages the State party to complete the process of review of its reservation to article 40 (2) (b) (v) of the Convention with a view to withdrawing it (CRC/C/108).

The Committee notes with concern that the State party made a reservation to article 40 (2) (b) (v) of the Convention, but also notes that the Government may reconsider that reservation.

The Committee wishes to encourage the State party to consider the possibility of withdrawing its reservation to the Convention, and would like to be kept informed of developments on this matter (CRC/C/38).

#### *Djibouti*

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

In the light of the Vienna Declaration and Programme of Action, and bearing in mind the provisions of article 27 of the Vienna Convention on the Law of Treaties, the Committee encourages the State party to review the general nature of its declaration to the Convention on the Rights of the Child with a view to its withdrawal. Initial report (CRC/C/97).

*Egypt*

The Committee observes that the State party's reservation to articles 20 and 21 of the Convention is unnecessary. It points out that article 20 (3) of the Convention expressly recognizes kafalah of Islamic law as a form of alternative care. Article 21 expressly refers to those States that "recognize and/or permit" the system of adoption, which does not apply to the State party because it does not recognize the system of adoption.

The Committee recommends that the State party continue its efforts to consider withdrawal of its reservation to articles 20 and 21 of the Convention, in accordance with the Vienna Declaration and Plan of Action of the World Conference on Human Rights (1993) (CRC/C/103).

*Federal Republic of Yugoslavia (Serbia and Montenegro)*

The Committee encourages the State party to review its reservation to the Convention with a view to considering its withdrawal (CRC/C/50).

*France*

The Committee regrets that some of the concerns and recommendations (CRC/C/15/Add.20) it made upon consideration of the State party's initial report (CRC/C/3/Add.15) have been insufficiently addressed, particularly those contained in paragraphs: 11, 17 (on the reservation to article 30) .... The Committee notes that those concerns and recommendations are reiterated in the present document.

The Committee urges the State party to make every effort to address those recommendations from the concluding observations of the initial report that have not yet been implemented and to address the list of concerns contained in the present concluding observations on the second periodic report. The Committee also urges the State party to incorporate the concept of the child as a subject of rights in all policies, programmes and projects and reiterates the invitation to the State party to withdraw its reservation and both declarations.

The Committee welcomes information provided in the State party's report that all children in France are equal before the law and have a right to freedom of religion, expression in their own language in private affairs and right to cultural activities. However, the Committee remains concerned that equality before the law may not be sufficient to ensure equal enjoyment of rights by certain minority groups, such as the Roma, among others, who may face de facto discrimination. The Committee regrets that the State party has not considered reviewing its position and withdrawing its reservation to article 30 of the Convention.

The Committee encourages the State party to continue measures to prevent and combat racism, xenophobia, discrimination and intolerance, by, inter alia, ensuring follow-up to the recommendations of the United Nations treaty bodies and the European Commission against Racism and Intolerance (ECRI), in particular as concerns children. The Committee urges the State party to review its position with respect to children belonging to minority groups and to consider withdrawing its reservation to article 30 (CRC/C/140).

The Committee notes with concern the reservation made by the State party to article 30 of the Convention. The Committee wishes to emphasize that the Convention on the Rights of the Child seeks to protect and guarantee the individual rights of children, including the rights of children belonging to minorities.

The Committee wishes to encourage the State party to consider reviewing its reservation to article 30 of the Convention with a view to withdrawing it (CRC/C/29).

*Germany*

The Committee acknowledges the information (CRC/C/83/Add.7, paras. 84 and 844 and written replies, pp. 46 and 47) that the reservations and declarations the State party made upon ratification have become unnecessary, *inter alia*, due to recent legislation. But the Committee remains concerned at the lack of willingness of the majority of the Länder to accept the withdrawal of these reservations and declarations.

In light of the 1993 Vienna Declaration and Programme of Action, and in line with its previous recommendations (CRC/C/15/43, para. 22), the Committee recommends that the State party expedite the process for the withdrawal of the reservations and declarations it had made before the submission of its next periodic report and increase, in particular, its efforts to convince the Länder of the need to withdraw them.

In addition to the reservations to article 40 (2) (b) (ii) and (v), the Committee is concerned at the increasing number of children placed in detention, disproportionately affecting children of foreign origin, and that children in detention or custody are placed with persons up to the age of 25 years.

The Committee is concerned about the reservations to articles 26, 37 and 40 entered by the State party on its accession to the Convention.

In light of the Vienna Declaration and Plan of Action adopted by the World Conference on Human Rights in 1993, the Committee recommends that the State party withdraw its reservations to the Convention (CRC/C/137).

*Holy See*

The Committee is concerned about reservations entered by the Holy See to the Convention on the Rights of the Child, in particular with respect to the full recognition of the child as a subject of rights (CRC/C/46).

*Indonesia*

The Committee welcomes the information that Law No. 23 of 2002 on Child Protection renders the reservations made by the State party with regard to articles 1, 14, 16, 17, 21, 22 and 29 of the Convention unnecessary and that all reservations will therefore be withdrawn shortly.

The Committee, in line with its previous recommendations (CRC/C/15/Add.25), and in light of the 1993 Vienna Declaration and Programme of Action, recommends that the State party make the withdrawal of all reservations a matter of priority and that it take the necessary procedural measures to that effect (CRC/C/137).

The Committee takes note of the willingness expressed by the State party to review its national legislation in the light of its obligations under the Convention and as reflected in the “Beijing consensus” of August 1992. It also welcomes the State party’s commitment to review the reservations it has made to the Convention with a view to considering withdrawing them.

The Committee is deeply concerned at the extent of the reservations made to the Convention by the State party. The Committee feels that the broad and imprecise nature of these reservations raises serious concern as to their compatibility with the object and purposes of the Convention (A/49/41).

*Iran (Islamic Republic of)*

Noting information from the State party that a governmental working group has been established to study the compatibility of existing laws with the Convention, the Committee is nevertheless concerned that the broad and imprecise nature of the State party’s general reservation potentially negates many of the Convention’s provisions and raises concern as to its compatibility with the object and purpose of the Convention.

The Committee recommends that the State party expedite this study and use the findings to review the general nature of its reservation with a view to narrowing, and in the long-term withdrawing in accordance with the Vienna Declaration and Programme of Action (CRC/C/97).

*Iraq*

The Committee notes with concern the reservation to article 14.1 made by the State party upon ratification of the Convention. In the light of the Vienna Declaration and Programme of Action (1993), the Committee encourages the State party to consider the possibility of reviewing the reservation with a view to its withdrawal (A/55/41).

*Japan*

The Committee is concerned about the State party’s declarations on articles 9 and 10 and its reservation to article 37 (c). In accordance with the Vienna Declaration and Plan of Action adopted by the World Conference on Human Rights in 1993 (A/CONF.157/23), the Committee reiterates its recommendation that the State party withdraw its declarations on and reservation to the Convention (CRC/C/37).

The Committee notes with concern the reservation made by the State party to article 37 (c) of the Convention, as well as the declarations made in relation to articles 9, paragraph 1, and 10, paragraph 1.

In light of the Vienna Declaration and Programme of Action of 1993, the Committee encourages the State party to consider reviewing its reservation to article 37 (c) and its declarations with a view to their withdrawal (A/55/41).

*Jordan*

The Committee observes that the State party's reservation to articles 20 and 21 of the Convention is superfluous. It points out that article 20 (3) of the Convention expressly recognizes *kafalah* of Islamic law as alternative care, and article 21 expressly refers to those States that "recognize and/or permit" the system of adoption, which in any case does not apply to Jordan.

The Committee recommends to the State party to withdraw its reservation to articles 20 and 21 of the Convention, in accordance with the Vienna Declaration and Programme of Action.

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

In light of its previous recommendations (CRC/C/15/Add.21), the Committee recommends to the State party to study its reservation to article 14 with a view to narrowing it, taking account of the Human Rights Committee's General Comment 22 and recommendations (CCPR/C/79/Add.35), and eventually, to withdraw it in accordance with the Vienna Declaration and Programme of Action (CRC/C/97).

The Committee is concerned that the broad nature of the reservations made to articles 14, 20 and 21 of the Convention by the State party may affect the implementation of the rights guaranteed in these articles and may raise questions about the compatibility of the reservations with the object and purpose of the Convention.

The Committee expresses the hope that the Government will consider the possibility of reviewing its reservations to articles 14, 20 and 21 of the Convention, with a view to the withdrawal of these reservations (CRC/C/29).

*Liechtenstein*

The Committee welcomes the State party's preparation of legislation that will further facilitate access to Liechtenstein citizenship for stateless persons. In this regard, it further welcomes the intention of the State party to withdraw its reservations to article 7 of the Convention and to accede to the relevant international conventions on statelessness.

The Committee encourages the State party to complete the revision of the legislation regarding acquisition of Liechtenstein citizenship as soon as possible, in light of the Convention. Additionally, the Committee encourages the State party to pay special attention to the position of children born in Liechtenstein to stateless parents. In this connection, the Committee also recommends that the State party withdraw its reservation to article 7 at the earliest possible opportunity and ratify the 1954 Convention relating to the Status of Stateless Persons and 1961 Convention on the Reduction of Statelessness.

The Committee is concerned about the reservation made by the State party to article 10 (2) of the Convention as well as the State's policy regarding family reunification. These suggest that the State party has serious difficulties in dealing with applications for the purpose of family reunification in a positive, humane and expeditious manner and without adverse consequences for the applicants.

The Committee recommends that the State party take the necessary legal and other measures to establish a practice in the area of family reunification in accordance with the principles and provisions of the Convention. The Committee further encourages the State party to consider the withdrawal of its reservation to article 10 (2) of the Convention (CRC/C/103).

*Luxembourg*

The Committee is concerned that the State party has made reservations affecting articles 2, 6, 7 and 15 of the Convention.

In the light of the Vienna Declaration and Programme of Action of 1993, the Committee encourages the State party to consider reviewing its reservations with a view to their withdrawal (A/55/41).

*Maldives*

The Committee is concerned that the reservations made to articles 14 and 21 of the Convention by the State party may affect the implementation of the rights guaranteed in these articles.

In the light of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in June 1993, which encouraged States to withdraw reservations to the Convention on the Rights of the Child, the Committee recommends the State party to consider reviewing its reservations to the Convention with a view to withdrawing them (A/55/41).

*Mali*

The Committee notes the commitment expressed by the delegation to encourage the State party to withdraw its reservation to article 16 of the Convention and recommends that all necessary measures be taken to facilitate the process at the earliest possible opportunity, in the light of the Vienna Declaration and Programme of Action (1993) (A/55/41).

*Malta*

The Committee notes that the reservation to article 26 of the Convention entered by the State party upon ratification of this international instrument may have an adverse effect on the existing levels of social services and benefits for children.

In light of the 1993 Vienna Declaration and its Programme of Action, the Committee recommends that the State party review the reservation made to article 26 of the Convention with a view to withdrawing it (CRC/C/97).

*Mauritius*

The Committee welcomes the oral and written commitment of the Government of Mauritius to withdrawing its reservation to article 22 of the Convention.

In the spirit of the Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights in June 1993, in which States were urged to withdraw reservations to the Convention on the Rights of the Child, the Committee wishes to encourage the State party to take steps to withdraw its reservation to article 22 of the Convention (A/53/41).

*Monaco*

The Committee is concerned that some legislative provisions are not in full conformity with provisions of the Convention.

The Committee recommends that the State party proceed with efforts to amend domestic legislation with a view to ensuring full respect for the provisions of the Convention. Noting ongoing efforts to change domestic legislation with regard to nationality, the Committee recommends withdrawal of the State party's reservation in this regard. The Committee recommends, in addition, that the State party pursue its current efforts towards ratification of the Convention on the Elimination of All Forms of Discrimination against Women.

The Committee is concerned at the State party's declaration and reservation made upon ratification of the Convention.

The Committee welcomes the State party's indication of its intention to withdraw its declaration made upon ratification of the Convention and its willingness to consider withdrawal of its reservation (CRC/C/108).

*Morocco*

The Committee welcomes the publication of the Convention in the *Official Gazette* and the ratification of ILO Convention No. 138, but regrets that some of the concerns it expressed and the recommendations it made (CRC/C/15/Add.60) after its consideration of the State party's initial report (CRC/C/28/Add.1) have been insufficiently addressed, particularly those contained in paragraphs 20 to 28, such as the reservation made to article 14 of the Convention ... Those concerns and recommendations are reiterated in the present document.

The Committee urges the State party to make every effort to address the previous recommendations that have not yet been implemented and the concerns contained in the present concluding observations.

The Committee is concerned at the reservation made to article 14 of the Convention by the State party, which affects the implementation of the rights guaranteed in this article, but welcomes the information given during the dialogue that the State party will reconsider the need for this reservation.

The Committee, in line with its previous recommendations (CRC/C/15/Add.60, para. 18) and in light of the 1993 Vienna Declaration and Programme of Action, encourages the State party to reconsider its reservation to article 14 with a view to withdrawing it (CRC/C/132).

The Committee is concerned at the reservation made to article 14 of the Convention by the State party, which may affect the implementation of the rights guaranteed in this article and may raise questions about the compatibility of the reservation with the objective and purpose of the Convention.

The Committee recommends that the Government of Morocco consider reviewing the reservation entered upon ratification of the Convention with a view to withdrawing it, in the spirit of the Vienna Declaration and Programme of Action, adopted in June 1993, in which the World Conference on Human Rights urged States to withdraw reservations to the Convention on the Rights of the Child (A/53/41).

*Myanmar*

The Committee welcomes the fact that the State party has withdrawn its reservations on articles 15 and 37 of the Convention (A/53/41).

*Netherlands*

The Committee is encouraged that the State party has indicated its willingness to reconsider its reservation to article 10 of the International Covenant on Civil and Political Rights. However, it notes with concern the reservations to articles 26, 37 and 40 of the Convention made by the State party. In the light of the Vienna Declaration and Programme of Action (1993), the Committee encourages the State party to consider withdrawing all of its reservations.

The Committee is seriously concerned about the implications of the reservation entered by the State party on the applicability of adult criminal law to children over 16 years of age. The Committee is also seriously concerned at information provided which indicates that children aged 12 to 15 are also sometimes tried under adult criminal law. The Committee urges the State party to ensure that under the existing law no child under the age of 16 at the time of the commission of a crime is tried under adult criminal law, and to review the reservation mentioned above with a view to withdrawing it. The Committee further recommends that the State party takes legislative steps to ensure that a life sentence cannot be imposed on children who are tried under adult criminal law (A/55/41).

The Committee is concerned that the reservations made by the State party with respect to articles 26, 37 and 40 of the Convention, as well as the declaration concerning article 22, have not yet been withdrawn and are still applicable to the Netherlands Antilles.

In light of the Vienna Declaration and Programme of Action (1993), the Committee encourages the State party in its intention, as stated by the delegation, to withdraw all of its reservations and declarations, including with respect to the Netherlands Antilles.

The Committee is seriously concerned about the implications of the reservation entered by the State party on the applicability of adult criminal law to children over 16 years of age which is applicable to the Netherlands Antilles, and the reservation to article 40, which stipulates that for

minor offences children need not be heard in the presence of a legal representative. The Committee is further concerned at reports that minors below 16 are held together with adults in detention facilities. In addition, the Committee is concerned that there are insufficient facilities for children in conflict with the law, limited training programmes for professionals working in the juvenile justice system, no available complaint mechanism directly accessible for children whose rights have been violated, and a lack of statistical data on the juvenile justice system (CRC/C/118).

*New Zealand*

While noting that the State party is considering withdrawing its reservations to the Convention, the Committee is disappointed by the slow pace of this process and that it has not yet resulted in the withdrawal of a reservation. The Committee remains very concerned at the State party's general reservation and the reservations specific to articles 32, paragraph 2 and 37 (c).

In accordance with the Vienna Declaration and Programme of Action of 1993, the Committee recommends that the State party:

Expedite the changes in legislation and administrative procedures necessary for the withdrawal of its general reservation and the reservations to articles 32, paragraph 2 and 37 (c);

Continue its discussions with the people of Tokelau with a view to extending the application of the Convention to their territory (CRC/C/133).

The Committee is concerned about the broad nature of the reservations made to the Convention by the State party, which raise questions as to their compatibility with the object and purpose of the Convention. Moreover, the Committee regrets that the State party has not extended the Convention with respect to the territory of Tokelau, which is not at present a sovereign State and remains a Non-Self-Governing Territory in important respects (A/53/41).

*Norway*

The Committee welcomes the withdrawal of the State party's reservation to article 40 (2) (b) (v) of the Convention in 1995, following amendments to the Criminal Procedure Act. In addition, the Committee is encouraged by amendments to the Children Act which strengthen the position of children and the protection of their rights (CRC/C/97).

The Committee welcomes the steps taken by the Government of Norway to review its reservation to the Convention with a view to its withdrawal. It also appreciates the concern expressed by the Government of Norway as to reservations made by any State party which are incompatible with the object and purpose of the Convention as prohibited in the Convention's article 51.

The Committee wishes to encourage the State party to take the necessary steps for withdrawing its reservation to the Convention in the very near future and would like to be kept informed of developments on this matter (CRC/C/29).

*Oman*

The Committee welcomes information that the State party is re-examining its reservations to articles 7, 9, 21 and 30 of the Convention. While noting difficulties that the State party may have, the Committee is nevertheless concerned that its reservation to article 14 is not included in this re-examination.

The Committee recommends that the State party:

- (a) Expeditiously complete its re-examination of its reservations to articles 7, 9, 21 and 30 of the Convention with a view to withdrawing them in accordance with the Vienna Declaration and Plan of Action of the World Conference on Human Rights (1993);
- (b) Study its reservation to article 14 with a view to narrowing it, taking account of the Human Rights Committee's general comment No. 22 on freedom of thought, conscience and religion (CRC/C/111).

*Pakistan*

The Committee welcomes the withdrawal on 23 July 1997 of the State party's general reservation to the Convention (CRC/C/133).

The Committee is of the opinion that the broad and imprecise nature of the reservation made to the Convention raises deep concern as to its compatibility with the object and purpose of the Convention.

The Committee expresses the firm hope that the State party will review its reservation with a view to withdrawing it (CRC/C/29).

*Poland*

The Committee further welcomes the intention expressed by the delegation to review the contents of the reservations and declarations made at the moment of the ratification of the Convention on the Rights of the Child with a view to considering their possible withdrawal (CRC/C/29).

*Qatar*

The Committee welcomes information that the State party is re-examining its reservation to the Convention with a view to amending or withdrawing it. The Committee is concerned that the broad and imprecise nature of the State party's general reservation potentially negates many of the Convention's provisions and raises concern as to its compatibility with the object and purpose of the Convention, as well as the overall implementation of the Convention.

The Committee encourages the State party to expeditiously complete its re-examination of its reservation with a view to narrowing and ultimately withdrawing it, in accordance with the Vienna Declaration and Plan of Action of the World Conference on Human Rights of 1993 (CRC/C/111).

*Republic of Korea*

The Committee regrets that most recommendations in the concluding observations (CRC/C/15/Add.51), adopted following its consideration of the State party's initial report (CRC/C/8/Add.21), have been insufficiently addressed, particularly those regarding:

- (a) The withdrawal of reservations (para. 19) ....

The Committee remains very concerned at the State party's reservations to articles 9, paragraph 3, 21, paragraph (a), and 40, paragraph 2 (b) (v).

The Committee, noting that juveniles sentenced for having committed a crime have the right to appeal, encourages the State party to withdraw, as soon as possible, the reservations made to article 40, paragraph 2 (b) (v). The State party is also encouraged to expedite the process of reforming the Civil Act so that both children and parents are guaranteed the right to maintain contact with each other, and to strengthen its efforts to change public attitudes to domestic adoption, in order to withdraw the reservations to articles 21, paragraph (a), and 9, paragraph 3, in accordance with the Vienna Declaration and Programme of Action, adopted in 1993 (CRC/C/132).

The Committee also welcomes the openness, reflected in the written replies and reaffirmed by the delegation during the dialogue, towards considering the possibility of withdrawing the reservations entered by the State party to the Convention. The Committee is encouraged by the revision of the Civil Code that is being undertaken with the aim of incorporating the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis. It is also encouraged by the fact that, as stated by the delegation, such a measure will enable the State party to withdraw its reservation pertaining to article 9, paragraph 3 of the Convention.

The Committee is of the view that the reservations made by the State party to article 9, paragraph 3, article 21, paragraph (a) and article 40, paragraph 2 (b)(v) raise questions about their compatibility with the principles and provisions of the Convention, including the principles of the best interests of the child and respect for the views of the child.

The Committee encourages the Government to continue to consider reviewing its reservations to article 9, paragraph 3, article 21, paragraph (a) and article 40, paragraph (b)(v), with a view to withdrawing them (CRC/C/50).

*Saudi Arabia*

The Committee is concerned that the broad and imprecise nature of the State party's general reservation potentially negates many of the Convention's provisions and raises concern as to its compatibility with the object and purpose of the Convention, as well as the overall implementation of the Convention.

The Committee recommends that the State party withdraw its reservation, in accordance with the Declaration and Plan of Action of the World Conference on Human Rights (CRC/C/103).

*Singapore*

The Committee is concerned about the declarations on articles 12-17, 19 and 39 and reservations to articles 7, 9, 10, 22, 28 and 32 entered by the State party on its accession to the Convention.

In light of the Vienna Declaration and Programme of Action of the 1993 World Conference on Human Rights, the Committee recommends that the State party withdraw its declarations on and reservations to the Convention (CRC/C/133).

*Slovenia*

The Committee is of the view that the reservation made by the State party to article 9, paragraph 1, raises questions about its compatibility with the principles and provisions of the Convention, including the principle of the best interests of the child.

The Committee takes note of the statement made by the delegation that the reservation on article 9, paragraph 1, made by Slovenia upon ratification of the Convention may be reviewed, with a view to its eventual withdrawal. It wishes to encourage the State party to consider withdrawing this reservation to the Convention, and would like to be kept informed of developments on this matter (A/53/41).

The Committee welcomes a number of positive developments in the reporting period, including:

- (a) The recent official withdrawal of the State party's reservation to article 9, paragraph 1, of the Convention (CRC/C/137).

*Sudan*

The Committee expresses satisfaction at the State party's early ratification of the Convention without any reservations and for the timely submission of its initial report. However, the Committee feels that in the light of the adopted guidelines further information would be required, *inter alia*, on special protection measures and on the policies and strategies required to realize health care and education goals (A/49/41).

*Switzerland*

The Committee is concerned at the reservations made by the State party to articles 5, 7, 10 and 37 and the four reservations made with regard to article 40, but welcomes the information that the State party is considering the withdrawal of most of these reservations thanks to recent and current revisions of the Constitution and other relevant laws, following a tentative timetable presented during the dialogue. Despite this information, the Committee remains concerned at the rather slow pace of this withdrawal process and even more at the fact that some reservations may not be withdrawn at all, or only in the distant future.

In light of the 1993 Vienna Declaration and Programme of Action, the Committee recommends that the State party:

- (a) Expedite as much as possible the process for the withdrawal of the reservations regarding the provision of an interpreter free of charge (art. 40 (2) (b) (vi)) and use this process to withdraw as soon as possible the reservation to article 5, given the fact that this reservation is, according to the State party, only an interpretative declaration that is not intended to affect the meaning of article 5;
- (b) Expedite the current revision of the naturalization law and withdraw as soon as possible after the approval of this revision the reservation made to article 7;
- (c) Expedite the current revision of the Foreign Nationals Act (formerly Federal Act concerning the Permanent and Temporary Residence of Foreigners) and withdraw as soon as possible after the approval of the revision the reservation made to article 10, paragraph 1, regarding family reunification;
- (d) Expedite the approval and enactment of the new Juvenile Penal Law in order to start as soon as possible thereafter the withdrawal of the reservation to article 40 (2) (b) (ii) regarding legal assistance and to article 37 (c) regarding separation of juveniles deprived of their liberty from adults;
- (e) Reconsider the reservation made with regard to the possibility of having the same juvenile judge as an investigating and a sentencing judge since the requirement of an independent and impartial authority or judicial body (art. 40 (2) (b) (iii)) does not necessarily and under all circumstances mean that investigating and sentencing juvenile judges cannot be the same person;
- (f) Expedite the current legal reform which abolishes the competence of the Federal Tribunal as a court of first instance and withdraw as soon as possible after approval of that reform the reservation made to article 40 (2) (b) (v).

While welcoming the entry into force of the federal asylum legislation (Federal Asylum Act and Ordinance 1 on Asylum Procedure) on 1 October 1999, the Committee remains concerned that the procedure used for unaccompanied minors is not always in their best interests nor fully in line with relevant provisions of the Convention. In addition, in relation to the reservation made to article 10 of the Convention, the Committee is concerned that the right to family reunification is too restricted.

The Committee recommends that the State party simplify its approach regarding the procedures for requesting asylum and take all necessary measures to expedite them and to ensure they take into account the special needs and requirements of children, in particular unaccompanied children; these include the designation of a legal representative, the placement of such children in centres, and their access to health care and education. In addition, the Committee recommends that the State party review its system for family reunification, notably for refugees who stay for a long period in the State party (CRC/C/118).

*Syrian Arab Republic*

The Committee regrets that no review has been undertaken with respect to the reservations since the presentation of the initial report. Noting the State party's reasoning in the report, it reiterates its concern that the nature of the general reservation potentially negates many of the Convention's provisions and raises concern as to its compatibility with the object and purpose of the Convention. In particular, concerning article 14, the reservation gives rise to infringements of the freedoms of thought, conscience and religion; concerning articles 20 and 21, the reservation is unnecessary: the Committee points out that article 20 (3) of the Convention expressly recognizes *kafalah* as a form of alternative care. Article 21 expressly refers to those States that "recognize and/or permit" the system of adoption, which does not apply to the State party because it does not recognize the system of adoption.

The Committee recommends that the State party, in accordance with the Vienna Declaration and Plan of Action, and taking account of the Human Rights Committee's general comment No. 22, study its reservation, particularly concerning articles 14, 20 and 21, with a view to withdrawing it (CRC/C/132).

The Committee is concerned that the broad nature of the reservations made by the State party to articles 14, 20 and 21 of the Convention may cause misunderstandings about the nature of the State's commitment to implementing the rights covered by these articles.

The Committee encourages the State party to review its reservations to articles 14, 20 and 21 of the Convention. In this regard, the Committee underlines that interpretative declarations by the State party might have the desired effect of clarifying the State position in respect of these particular rights (A/53/41).

*Thailand*

While noting with appreciation that the State party has withdrawn its reservation with respect to article 29 of the Convention, the Committee is concerned at the remaining reservations (to arts. 7 and 22), made by the State party upon ratification of the Convention. In this regard, the Committee notes that the State party has recently (1997) ratified without reservation the International Covenant on Civil and Political Rights, and wishes to draw attention in particular to the provisions of articles 2 and 24 of the Covenant. In the light of the Vienna Declaration and Programme of Action of 1993 and the recent ratification of the International Covenant on Civil and Political Rights, the Committee encourages the State party to consider the possibility of reviewing its reservations with a view to withdrawing them (A/55/41).

*Tunisia*

In light of the previous recommendations (*ibid.*, para. 10), the Committee notes with satisfaction the withdrawal, on 1 March 2002, of the reservation with regard to article 40, paragraph 2 (b) (v), and the declaration in which the State party declared that "its undertaking to implement the provisions of this Convention shall be limited by the means at its disposal".

While welcoming the State party's withdrawal of its reservation with regard to article 40, paragraph 2 (b) (v), and its declaration, as noted above, and noting the statement by the delegation that consideration will be given to withdrawing the remaining reservations, the Committee remains concerned about the extent of reservations and declarations made to the Convention by the State party. In particular, the Committee reiterates that the reservation relating to the application of article 2 appears to be incompatible with the object and purpose of the Convention.

The Committee, in line with its previous recommendation, and in light of the Vienna Declaration and Programme of Action (1993), encourages the State party to consider reviewing its reservations and declarations to the Convention with a view to withdrawing them, in particular the reservation relating to article 2 (CRC/C/118).

The Committee is concerned about the extent of the reservations and declarations made to the Convention by the State party. In particular, the reservation relating to the application of article 2 raises concern as to its compatibility with the object and purpose of the Convention.

In the spirit of the final document of the World Conference on Human Rights, the Committee wishes to encourage the State party to consider reviewing its reservations and declarations to the Convention with a view to withdrawing them, including particularly the reservation relating to article 2 of the Convention (CRC/C/43).

#### *Turkey*

The Committee notes with concern the reservations to articles 17, 29 and 30 of the Convention. It also notes that, in some cases, in particular in the fields of education and freedom of expression and the right to enjoy their own culture and use their own language, these reservations may have a negative impact on children belonging to ethnic groups which are not recognized as minorities under the Treaty of Lausanne of 1923, in particular children of Kurdish origin.

The Committee encourages the State party to consider withdrawing its reservations to articles 17, 29 and 30 of the Convention (CRC/C/108).

#### *United Arab Emirates*

The Committee welcomes information by the delegation that the reservation to article 21 will be withdrawn. However, the Committee is concerned about the remaining reservations to the Convention entered by the State party. In particular:

- (a) That the exercise of the rights in articles 7 and 17 are subject to their compatibility with domestic law; and
- (b) That the broad and imprecise nature of the reservation to article 14 potentially gives rise to infringements of the freedoms of thought, conscience and religion.

The Committee emphasizes that it is long established in international law that States parties to a treaty cannot invoke provisions of their domestic laws as justification for their inability to perform obligations under a treaty. The Committee recommends that the State party:

(a) Withdraw its reservations to articles 7 and 21; and

(b) Study its reservation to article 14 with a view to narrowing it, taking account of the Human Rights Committee's general comment No. 22 and in the long term, to withdraw it in accordance with the Vienna Declaration and Programme of Action of the World Conference on Human Rights (1993) (CRC/C/118).

*United Kingdom of Great Britain and Northern Ireland*

The Committee welcomes:

(a) The withdrawal of two reservations made to articles 32 and 37 (d) of the Convention (CRC/C/121).

The Committee takes note of the adoption by the State party of a Children's Act applicable to England and Wales. The Committee also observes that the State party has extended the application of the Convention to many of its dependent territories. The Committee welcomes the intention of the State party to consider withdrawing the reservation it made to article 37 of the Convention as it relates to the procedures governing children's hearings in Scotland.

The Committee is concerned about the broad nature of the reservations made to the Convention by the State party which raise concern as to their compatibility with the object and purpose of the Convention. In particular, the reservation relating to the application of the Nationality and Immigration Act does not appear to be compatible with the principles and provisions of the Convention, including those of its articles 2, 3, 9 and 10.

The Committee wishes to encourage the State party to consider reviewing its reservations to the Convention with a view to withdrawing them, particularly in light of the agreements made in this regard at the World Conference on Human Rights and incorporated in the Vienna Declaration and Programme of Action (CRC/C/38).

*United Kingdom of Great Britain and Northern Ireland (Hong Kong)*

With the extension of the Convention to Hong Kong in September 1994 further reservations to the Convention applicable to the territory of Hong Kong were deposited by the Government of the United Kingdom. It is a matter of regret to the Committee that the State party has not yet decided to withdraw its reservations, particularly as they relate to the issues of working hours for children, of juvenile justice and of refugees (A/53/41).

*United Kingdom of Great Britain and Northern Ireland (Isle of Man)*

The Committee is concerned that the reservations made by the State party with respect to articles 32 and 37 (c) of the Convention on the Rights of the Child have not yet been withdrawn and are still applicable to the Isle of Man. The Committee welcomes the island's commitment to discussing further the possible withdrawal of all of its reservations to the Convention.

In the light of the 1993 Vienna Declaration and Programme of Action, the Committee encourages the State party to consider the possibility of reviewing its reservations with a view to their full withdrawal, including with respect to the Isle of Man. In order to remove the apparent obstacles to the withdrawal of the reservation to article 37 (c) of the Convention, the Isle of Man is encouraged to reinforce its efforts to complete the construction of a separate security unit for children deprived of their liberty.

The Committee notes the Isle of Man's reservation with respect to article 32 of the Convention and is concerned about the lack of information and adequate data on the situation with regard to child labour and economic exploitation in the island.

The Committee encourages the Isle of Man to consider withdrawing its reservation to article 32 of the Convention. The Committee recommends that the State party undertake a comprehensive study to assess the situation with regard to child labour in the Isle of Man. Additionally, the Committee encourages the Isle of Man to introduce and/or strengthen, where appropriate, monitoring mechanisms to ensure the enforcement of labour laws and to protect children from economic exploitation, particularly in the informal sector. The Committee also suggests that the State party consider extending to the Isle of Man ILO Convention No. 182 concerning the Elimination of the Worst Forms of Child Labour. The Committee further suggests that the State party consider extending to the Isle of Man ILO Convention No. 138 concerning Minimum Age for Admission to Employment (CRC/C/100).

*United Kingdom of Great Britain and Northern Ireland (Overseas Territories)*

The Committee is concerned that the reservations made by the State party with respect to articles 32 and 37 (c) of the Convention on the Rights of the Child have not yet been withdrawn and are still applicable to the Overseas Territories. It also notes with concern that the reservation to article 22 of the Convention made in respect to the Cayman Islands has not yet been withdrawn. In the light of the 1993 Vienna Declaration and Programme of Action, the Committee encourages the State party to consider the possibility of reviewing the reservations with a view to their full withdrawal including with respect to all the Overseas Territories (CRC/C/100)

**Annex 2****Tables of reservations, objections and withdrawals**

Numbers next to a State in the rows of individual substantive provisions refer to the specific paragraph of the provision reserved or declared against, unless otherwise indicated.

The table is correct as of 23 March 2005.

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

Substantive provisions by article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Global	Saudi Arabia	Antigua and Barbuda Bahamas Bahrain Barbados Guyana Iraq Jamaica Kuwait Libya Nepal Syria Thailand Turkey (two declarations) United Arab Emirates United Kingdom (two declarations) United States of America (three declarations) Yemen	Austria, Finland, Netherlands, Norway, Spain (to Saudi Arabia); Cyprus (to Turkey); France, Romania (to Thailand); Germany (to Saudi Arabia and Thailand); Sweden (to Saudi Arabia, Thailand and Turkey); United Kingdom (to Thailand and Turkey); Israel (to Bahrain, Iraq, Kuwait, Libya, Syria, United Arab Emirates, Yemen)		Denmark Egypt
Article 1 (definition and special measures					

Substantive provisions by article	Reservations	Declarations/Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 2 (condemnation and elimination of race discrimination)	Switzerland (1) United Kingdom	Monaco (1) United States of America (three with respect (1))			Tonga
Article 3 (condemnation and elimination of apartheid)	United Kingdom	United States of America			Tonga
Article 4 (condemnation and prohibition of racist organizations and activities)	Japan (a) and (b) Switzerland Thailand (a), (b) and (c)	Antigua and Barbuda (a), (b) and (c) Australia (a) Austria (a), (b) and (c) Bahamas (a), (b) and (c) Barbados (a), (b) and (c) Belgium (a), (b) and (c) Fiji (a), (b) and (c) France Ireland (a), (b) and (c) Italy (a) and (b) Malta (a), (b) and (c) Monaco Nepal (a), (b) and (c) Papua New Guinea* (a), (b) and (c) Tonga (a), (b) and (c) United Kingdom (a), (b) and (c)			
Article 5 (equal enjoyment of rights)	Fiji (c) Tonga (d) United Kingdom (c), (d) and (e) Yemen (c) and (d) (three reservations)	United States of America	Australia, Belgium, Canada, Czechoslovakia, Denmark, Finland, France, Germany, Italy, Mexico, Netherlands, New Zealand, Norway, Sweden,		Tonga (c) and (e)

\* None of the States concerned having objected to the reservation by the end of a period of ninety days after the date when it was circulated by the Secretary-General, the said reservation is deemed to have been permitted in accordance with the provisions of article 20 (1) of the Convention.

Substantive provisions by article	Reservations	Declarations/Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
			United Kingdom (to Yemen)		
Article 6 (right to effective protection and remedy)	China	Fiji France Italy Malta Nepal Tonga			
Article 7 (combating prejudice)					

*Procedural/technical provisions*

Provisions	Reservations	Declarations/Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 14 (individual complaints)		Algeria, Australia, Austria, Azerbaijan, Belgium, Brazil, Bulgaria, Chile, Costa Rica, Cyprus, Czech Republic, Denmark, Ecuador, Finland, France, Germany, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Mexico, Monaco, Netherlands, Norway, Peru, Poland, Portugal, Republic of Korea, Romania, Russia, Senegal, Serbia and Montenegro, Slovakia, Slovenia, South Africa, Spain, Sweden,			

Provisions	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
		Switzerland, Former Yugoslav Republic of Macedonia, Ukraine, Uruguay, Venezuela			
Article 15 (right of petitions)		Fiji France Tonga United Kingdom (two declarations)			
Article 17 (opening for signature)		Afghanistan Belarus (1) Bulgaria (1) Cuba Hungary (1) Mongolia (1) Poland (1) Romania Russia (1) Ukraine (1) Viet Nam (1) Yemen (1)			
Article 18 (opening for accession)		Afghanistan Bulgaria (1) Cuba Hungary (1) Poland (1) Romania Viet Nam (1) Yemen (1)			
Article 20 (reservations regime)		Fiji Tonga United Kingdom			
Article 22 (ICJ dispute resolution)	Afghanistan Bahrain China* Cuba Egypt Equatorial Guinea	India	Pakistan (to India)		Belarus Bulgaria Czechoslovakia Hungary Mongolia Poland

Provisions	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
	Indonesia Iraq Israel Kuwait Lebanon Libya Madagascar Morocco Mozambique Nepal Rwanda Saudi Arabia Syria Thailand Turkey United States of America Viet Nam* Yemen				Romania Russia Spain Ukraine
Article 26		Belarus (1)			

### B. International Covenant on Civil and Political Rights

Substantive provisions by article	Reservations	Declarations/ Understandings	Objections <sup>1</sup>	Withdrawal (partial)	Withdrawal (total)
Global		Australia France Iraq Portugal/China (two declarations) Turkey (three declarations)	Cyprus, Germany, Greece and Sweden (to Turkey); Netherlands (to United States of America); Israel (Iraq and Syria)		

Substantive provisions by article	Reservations	Declarations/Understandings	Objections <sup>1</sup>	Withdrawal (partial)	Withdrawal (total)
		United Kingdom (three declarations) United States of America (declarations) Syria			
Article 1 (self-determination)		Algeria (article as a whole and para. 3) India Romania (3) Thailand (1) United Kingdom	France, Germany, Netherlands (to India)		
Article 2 (remedy)		Austria (1) Germany (1) Kuwait (1 and 3) Monaco (two declarations to paragraph 1, and one to paragraph 2) United States of America (1)	Finland and Sweden (to Kuwait and United States of America); United Kingdom (to Australia)		Australia Belgium
Article 3 (sex equality in Covenant provisions)		Kuwait Liechtenstein Monaco	Finland and Sweden (to Kuwait)		Belgium
Article 4 (derogation) <sup>2</sup>	France (1) Trinidad and Tobago (2)	United States of America (1)	Finland and Sweden (to United States of America); Germany and Netherlands (to Trinidad and Tobago)		
Article 5 (savings)					
Article 6 (life)	United States of America	Thailand (5)	Belgium, Denmark, Finland, France, Germany, Portugal, Spain and Sweden (to United States of America);		Ireland Norway

Substantive provisions by article	Reservations	Declarations/Understandings	Objections <sup>1</sup>	Withdrawal (partial)	Withdrawal (total)
			Netherlands (to United States of America and Thailand)		
Article 7 (torture and cruel, inhuman or degrading treatment or punishment)	Botswana United States of America		Denmark, Italy Netherlands, Portugal, Spain and Sweden (to United States of America and Botswana); Finland, Germany (to United States of America); Austria, France and Ireland (to Botswana)		
Article 8 (slavery)			Norway (to Kuwait)		Iceland
Article 9 (detention)	Austria France	India (article as a whole and paragraph 5) Italy (5) Mexico (5) Thailand (3) United States of America (5)	Norway (to Kuwait)		Finland
Article 10 (treatment of prisoners)	Australia (two reservations to paragraph 2 and one to paragraph 3) Austria (3) Belgium (2 and 3) Denmark (3) Finland (2 and 3) Iceland (2 and 3) Ireland (2) Netherlands (2 and 3) New Zealand (2, and two reservations to paragraph 3)	Bangladesh (3) Luxembourg (3) United States of America (2 and 3)	United Kingdom (to Australia) (2)	Australia	

Substantive provisions by article	Reservations	Declarations/ Understandings	Objections <sup>1</sup>	Withdrawal (partial)	Withdrawal (total)
	Norway (2 and 3) Sweden (3) Switzerland (2) Trinidad and Tobago (2 and 3) United Kingdom (two reservations to paragraph 2 and one to paragraph 3) United States of America (2 and 3, each two reservations)				
Article 11 (imprisonment for inability to fulfil contractual obligation)	Congo United Kingdom	Bangladesh	Belgium, United Kingdom and Netherlands (to Congo)		
Article 12 (freedom of movement, entry and exit)	Austria (4) Belize Botswana (3) Netherlands (1, 2 and 4) Portugal (2) Switzerland (1) Trinidad and Tobago (2) United Kingdom (1 and 4)	Italy (4)	Austria, Denmark, France, Ireland, Italy, Netherlands and Sweden (to Botswana)		
Article 13 (removal of aliens)	Iceland Malta Mexico Portugal United Kingdom	France Monaco			Finland
Article 14 (fair trial and appeal)	Australia (6) Austria (2 reservations to whole article, and further reservations to paragraphs 3, 5 and 7)	Bangladesh (3 and 6) France (5) Germany (3 and 5) Italy (3 and 5)	Netherlands, United Kingdom and Czechoslovakia (to Republic of Korea) (2)	Australia Luxembourg <sup>3</sup> Norway	Finland (2) Ireland Republic of Korea Switzerland

Substantive provisions by article	Reservations	Declarations/ Understandings	Objections <sup>1</sup>	Withdrawal (partial)	Withdrawal (total)
	Bangladesh (3) Barbados (3) Belgium (1 and 5) Belize (2) Denmark (1, 5 and 7) Finland (7) France Gambia (3) Guyana (3 and 6) Iceland (7) Ireland Liechtenstein (1) Malta (2 and 6) Netherlands (3, 5 and 7) New Zealand (6) Norway (two reservations to paragraph 5, and one to paragraph 7) Republic of Korea (5) Sweden (7) Switzerland (two reservations to para. 1 and one to para. 5) Trinidad and Tobago (5 and 6) United Kingdom (3) United States of America (4 - two reservations) Venezuela (3)	Luxembourg (two declarations to paragraph 5) Monaco (5) United Kingdom (3) United States of America (two reservations to paragraph 3, and one each to paragraphs 6 and 7)			
Article 15 (criminal retroactivity)	United States of America (1)	Argentina Germany (1) Italy (1) Trinidad and Tobago (1) <sup>4</sup>	Sweden (to United States of America)		

Substantive provisions by article	Reservations	Declarations/Understandings	Objections <sup>1</sup>	Withdrawal (partial)	Withdrawal (total)
Article 16 (legal personality)					
Article 17 (interference with family life and privacy)	Liechtenstein (1)				Australia
Article 18 (freedom of thought and religion)		Mauritania Mexico (3)			
Article 19 (freedom of opinion and expression)	Australia Belgium Ireland (2) Malta Netherlands (2) United Kingdom	Australia Austria France Germany Italy (3) Luxembourg (2) Malta Monaco United Kingdom United States of America (3)			Australia France
Article 20 (prohibited forms of expression)	Australia Denmark (1) Finland (1) Iceland (1) Ireland (1) Malta Netherlands (1) New Zealand Norway (1) Sweden (1) Switzerland (1) United Kingdom United States of America	Australia Belgium (as a whole and para. 1) France Luxembourg (as a whole and para. 1) Malta Thailand (1) United Kingdom			Liechtenstein Switzerland

Substantive provisions by article	Reservations	Declarations/Understandings	Objections <sup>1</sup>	Withdrawal (partial)	Withdrawal (total)
Article 21 (peaceful assembly)	Australia Belgium Trinidad and Tobago United Kingdom	Australia Austria France Germany Monaco United Kingdom			
Article 22 (association)	Belgium Malta New Zealand Republic of Korea	Austria Algeria France Germany Japan (2) Monaco	Netherlands, United Kingdom and Czechoslovakia (to Republic of Korea); Germany (to Algeria and Republic of Korea)		
Article 23 (protection of family unit)	Israel United Kingdom (3)	Algeria (4) Belgium (2) Kuwait Mauritania (4)	Finland and Sweden (to Kuwait) Portugal, Germany (to Algeria)		Ireland Republic of Korea
Article 24 (protection of children)	Liechtenstein (3) United Kingdom (3)		Sweden (to a general understanding of the United States of America as applied to article 24)		
Article 25 (political rights)	Kuwait (b) Mexico (b) Portugal (b) Switzerland (b) United Kingdom (b)	Monaco (3 declarations) United Kingdom (2)	Finland and Sweden (to Kuwait)	Mexico	Australia Belgium Netherlands United Kingdom
Article 26 (equality before law and non-discrimination)	Liechtenstein Switzerland Trinidad and Tobago	Austria Monaco Ukraine (1) United States of America	Finland (to United States of America)		
Article 27 (minority rights)	Turkey	France	Finland, Germany, Portugal and Sweden (to Turkey); Germany (to France)		

*Procedural/technical provisions*

Provisions	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 41 (State to State complaints)		Algeria, Argentina, Australia, Austria, Belarus, Belgium, Bosnia and Herzegovina, Belgium, Canada, Chile, Congo, Croatia, Czech Republic, Denmark, Ecuador, Finland, Gambia, Germany, Ghana, Guyana, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Netherlands, New Zealand, Norway, Peru, Philippines, Poland, Republic of Korea, Russia, Senegal, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Tunisia, Ukraine, United Kingdom, United States of America, Zimbabwe			
Article 47 (Non-impairment of inherent resource rights)		United States of America			
Article 48 (Opening for signature)		Afghanistan (1 and 3) Belarus (1) Bulgaria (1 and 3) Guinea (1)			

Provisions	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
		Hungary (1 and 3) Mongolia (1) Romania (1) Russia (1) Syria (1) Turkey (1) Viet Nam (1)			

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

Substantive provisions by article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (whole)
Global		Chile El Salvador Guatemala Ireland			
Article 1 (Committee's complaint competence)		Croatia France Malta Russian Federation Slovenia Sri Lanka Trinidad and Tobago	Demark, France, Germany, Ireland, Italy, Netherlands, Norway, Spain, Sweden (to Trinidad and Tobago)		Trinidad and Tobago subsequently denounced the Optional Protocol
Article 2 (Right of communication)					
Article 3 (Basic inadmissibility criteria)					
Article 4 (Exchanges of submissions)					
Article 5 (Committee consideration)	Denmark (2) France (2) Germany (three reservations to para. 2) Iceland (2)	Austria (2) Croatia (2) Italy (2) Luxembourg (2) Malta (2)			

Substantive provisions by article	Reservations	Declarations/Understandings	Objections	Withdrawal (partial)	Withdrawal (whole)
	Ireland (2) Norway (2) Poland (2) Slovenia (2) Uganda (2)	Romania (2) Spain (2) Sweden (2)			
Article 6 (Reporting requirement)	Guyana <sup>5</sup>		Finland, France, Germany, Netherlands, Poland, Spain, Sweden (to Guyana)		
Article 7 (Savings)		France			

Venezuela reiterated its reservation to article 14 of the Covenant on becoming party to the Optional Protocol.

#### **D. International Covenant on Economic, Social and Cultural Rights**

Substantive provisions by article	Reservations	Declarations/Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Global		China Egypt France Iraq Libya Pakistan Portugal/China (two declarations) Syria Turkey (three declarations) United Kingdom Yemen	Cyprus, Germany, Greece, Portugal (to Turkey) Denmark (to Pakistan) Sweden (to Pakistan and Turkey); Israel (Libya, Iraq and Syria)		
Article 1 (self-determination)		Algeria (whole article and 3) Bangladesh Guinea (3)	France, Germany, Netherlands (to Bangladesh and India) Portugal (to Algeria)		

Substantive provisions by article	Reservations	Declarations/Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
		India Romania (3) Thailand (1) United Kingdom	Sweden (to Bangladesh)		
Article 2 (realization of rights and non-discrimination)	Ireland (2)	Bangladesh Belgium (2 and 3) Kuwait (2) Monaco (2) United Kingdom (3)	Finland, Italy, Norway (to Kuwait) Denmark and France (to Bangladesh) Germany, Netherlands, Sweden (to Kuwait and Bangladesh)		
Article 3 (sex equality)		Bangladesh Kuwait	Finland, Italy, Norway (to Kuwait) Denmark and France (to Bangladesh) Germany, Netherlands, Sweden (to Kuwait and Bangladesh)		
Article 4 (limitations)		India			
Article 5 (savings)					
Article 6 (work)	China United Kingdom	France Monaco			
Article 7 (conditions of work)	Barbados (a) <sup>6</sup> Denmark (d) Japan (d) Sweden (d) United Kingdom (a)	Bangladesh India (c)	Denmark, France, Germany, Netherlands, Sweden (to Bangladesh)		Denmark (a)
Article 8 (trade unions and strikes)	China (1) Japan (1) Kuwait (1) New Zealand Norway (1)	Algeria Bangladesh China (1) France India	Finland, Italy (to Kuwait); Denmark and France (to Bangladesh); Norway (to Kuwait and China);		

Substantive provisions by article	Reservations	Declarations/Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
	Trinidad and Tobago (1 and 2) United Kingdom (1)	Japan (2) Mexico Monaco (whole, 1 and 2)	Portugal (to Algeria); Netherlands, Sweden (to Kuwait, China and Bangladesh); Germany (to Algeria, Bangladesh and Kuwait)		
Article 9 (social security)	United Kingdom	France Kuwait Monaco	Finland, Germany, Italy, Netherlands, Norway, Sweden (to Kuwait)		
Article 10 (family, maternal and child protection)	Barbados (2) New Zealand (2)	Bangladesh Kenya (2)	Denmark, France, Germany (to Bangladesh)	New Zealand (2)	
Article 11 (standard of living)		France Monaco			
Article 12 (health)					
Article 13 (education)	Barbados (2) Ireland (2) Japan (2) Madagascar (2) Turkey (3 and 4) United Kingdom (2) Zambia (2)	Algeria (3 and 4) Bangladesh France India Malta Monaco	Denmark (to Bangladesh) Finland, Portugal, Sweden (to Turkey) Netherlands (to Algeria) Portugal (to Algeria) Germany (to Bangladesh and Turkey)		Congo (3 and 4)
Article 14 (primary education)	United Kingdom	Algeria Guinea Romania			
Article 15 (cultural life, scientific progress, intellectual property)					

*Procedural/technical provisions*

Provisions	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 26 (Opening for signature)		Afghanistan (1 and 3) Bulgaria (1 and 3) Guinea (1) Hungary (1 and 3) Mongolia (1) Ukraine (1) Romania (1) Russia Syria (1) Viet Nam (1)			Belarus

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

*Substantive provisions*

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Global	Iraq Maldives <sup>7</sup> Mauritania Saudi Arabia Singapore Syrian Arab Republic Libyan Arab Jamahiriya <sup>8</sup> {Pakistan, Thailand, Tunisia} <sup>9</sup>	Australia France Netherlands Germany	Israel (to Iraq) Finland, Denmark, Austria, Canada, Germany, Netherlands, Norway, Portugal, Sweden (to Maldives); Ireland, France, Austria and Denmark, Finland, Germany, Netherlands, Norway, Portugal, Sweden, United Kingdom (to Mauritania); Denmark and Portugal, Austria, Finland, Germany, Netherlands, Norway (to Pakistan);		New Zealand <sup>10</sup> United Kingdom <sup>11</sup>

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
			Denmark, Sweden, Finland, Netherlands (to Singapore); Austria, Denmark, Finland, France, Germany, Ireland, Netherlands, Norway, Portugal, Spain, Sweden, United Kingdom (to Saudi Arabia); Denmark and Finland, Germany, Mexico, Netherlands, Norway, Sweden (to Libyan Arab Jamahiriya)		
Article 1 (definition)	Liechtenstein United Kingdom <sup>12</sup>				United Kingdom <sup>13</sup>
Article 2 (incorporation equal treatment in legislation)	Algeria Bahamas (a) Bahrain, Bangladesh, Egypt Democratic Peoples Republic of Korea, (f) Iraq (f and g) Lesotho (e) Libyan Arab Jamahiriya Micronesia (f) Morocco <sup>14</sup> New Zealand (f) Niger (d and f) Singapore Syrian Arab Republic		Sweden, Portugal, Denmark, Germany, Netherlands, Norway (to Algeria); Austria, Finland, France, Germany, Netherlands Ireland, Denmark, Norway, Portugal, Spain, Sweden, United Kingdom (to Democratic Peoples Republic of Korea); Denmark, Finland, Netherlands, Norway (to Lesotho);		United Kingdom <sup>16</sup> (f and g) Malaysia (f)

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
	United Arab Emirates United Kingdom (f and g) <sup>15</sup>		France and Netherlands, Norway, Denmark and Finland, Sweden (to Niger); Denmark and Sweden, Finland, Netherlands, Norway (to Singapore); Austria, Denmark, Finland, Germany, Greece, Netherlands, Sweden, United Kingdom (to Bahrain); Austria, Denmark, Finland, France, Germany, Greece, Italy, Netherlands, Norway, Romania, Spain, Sweden, United Kingdom (to Syrian Arab Republic); Finland, Germany, France, Denmark, Netherlands, Norway (to Malaysia); Germany, Netherlands, Sweden (to Egypt); Germany, Mexico, Netherlands, Sweden (to Bangladesh); Germany, Mexico, Netherlands, Sweden (to Iraq) Mexico, Sweden (to New Zealand); Netherlands (to Morocco)		

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 4 (temporary special measures)		United Kingdom <sup>17</sup>			
Article 5 (modify customary practices)	Malaysia (a) <sup>18</sup> Micronesia New Zealand (a) <sup>19</sup> Niger (a)	France India (a) Niger (b)	United Mexican States, <sup>20</sup> Germany, Mexico, Netherlands, Sweden (to Malawi); Denmark, Germany, Finland, France and Netherlands, Norway <sup>21</sup> (to Malaysia); France and Netherlands, Denmark, Finland, Norway, Sweden (to Niger); Mexico, Sweden (to New Zealand); Netherlands (to India); Netherlands (to Fiji)		Fiji (a) France (b) Malawi <sup>22</sup>
Article 7 (right to participate in public and private life)	Australia <sup>23</sup> Israel (b) Kuwait (a) Luxembourg Malaysia (b) <sup>24</sup> Maldives (a) <sup>25</sup> New Zealand Spain <sup>26</sup>		Belgium, Austria, Portugal, Denmark, Finland, Netherlands, Norway, Sweden (to Kuwait); Denmark France, Netherlands Germany, Finland, Norway (to Malaysia); <sup>27</sup> Finland, Germany (to Thailand); Finland, Germany (to Maldives)		Austria (b) Belgium France Germany (b) Switzerland (b) Thailand
Article 9 (nationality law)	Algeria (2), Bahamas (2), Bahrain (2) Democratic Peoples Republic of Korea (2) Egypt (2)		Sweden, Portugal, Denmark, Germany, Netherlands, Norway (to Algeria); Ireland, Denmark,	United Kingdom <sup>32</sup>	Cyprus(2) Fiji Ireland (1) Jamaica (2) Liechtenstein (2)

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
	Iraq (1 and 2) Kuwait (2) Lebanon (2) Malaysia <sup>28</sup> Morocco (2) Saudi Arabia (2) Syrian Arab Republic of Korea (2) Tunisia (2) Turkey (1) United Arab Emirates United Kingdom <sup>29</sup> Jordan <sup>30</sup> (2)		Austria, Finland, France, Germany, Netherlands, Norway, Portugal, Spain, Sweden (to Democratic Peoples Republic of Korea); Denmark, Finland, Netherlands, Norway, Sweden (to Kuwait) Denmark, France, Netherlands, Finland and Germany, Norway (to Malaysia); <sup>31</sup> Austria, Netherlands, Sweden, Denmark (to Lebanon); Austria, Denmark, Finland, France, Germany, Ireland, Netherlands, Norway, Portugal, Spain (to Saudi Arabia); Austria, Denmark, Estonia, Finland, France, Germany, Italy, Netherlands, Norway, Romania, Spain, Sweden (to Syrian Arab Republic); Austria, Denmark, Finland, France, Germany, Netherlands, Sweden (to Bahrain); Germany, Mexico, Netherlands, Sweden (to Egypt);		Thailand (2) Republic of Korea

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
			Germany, Mexico, Netherlands, Sweden (to Jamaica); Germany, Mexico, Netherlands, Sweden (to Thailand); Germany, Netherlands, Sweden (to Tunisia); Germany, Mexico, Israel Netherlands, Sweden (to Iraq (1)); Germany, Israel, Mexico, Netherlands (to Iraq (2)); Mexico (to Cyprus); Netherlands (to Morocco and Fiji); Sweden (to Jordan); Germany, Mexico, Netherlands, Sweden (to Republic of Korea)		
Article 10 (education)			Germany (to Thailand)		Thailand United Kingdom <sup>33</sup> (C)
Article 11 (employment)	Australia (2) Austria ( <i>applying provision on night work within limits established by national legislation</i> ) Malaysia Malta Micronesia (1) (d) and (2) (b) New Zealand (2) (b) Singapore (1) United Kingdom <sup>34</sup>	United Kingdom <sup>35</sup>	Denmark, Netherlands, Finland, Germany, France, Norway (to Malaysia); Denmark and Sweden, Finland, Netherlands, Norway (to Singapore); Germany, Mexico, Netherlands, Sweden (to Mauritius); Germany (to Thailand)	United Kingdom partial withdrawal of declaration and reservation <sup>36</sup>	Canada (1) (d) Ireland (1) Mauritius (1) (b and d) New Zealand (2) (b) <sup>37</sup> Thailand (1) (b)

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 13 (economic and social life)	Malta United Kingdom <sup>38</sup>		Germany, Netherlands, Sweden, Mexico (to Bangladesh)		Bangladesh (a) Ireland (a, b and c) United Kingdom <sup>39</sup>
Article 14 (rural women)	France (2) (c and h)				
Article 15 (equality before the law)	Algeria, Bahrain, (4) Malta Morocco <sup>40</sup> Niger (4) Syrian Arab Republic (4) Switzerland (2) Tunisia (4) United Arab Emirates (2) United Kingdom (4) <sup>41</sup> Jordan (4) <sup>42</sup>	United Kingdom (2 and 3) <sup>43</sup>	Sweden, Portugal, Denmark, Germany, Netherlands, Norway (to Algeria); France and Netherlands, Denmark, Finland, Norway, Sweden (to Niger); Austria, Denmark, Finland, France, Germany, Netherlands, Sweden (to Bahrain); Austria, Denmark, Estonia, Finland, France, Germany, Italy, Netherlands, Norway, Romania, Spain, Sweden (to Syrian Arab Republic); Germany, Netherlands, Sweden (to Brazil); Germany, Mexico, Netherlands, Sweden (to Thailand); Germany, Netherlands, Sweden (to Tunisia); Germany, Mexico, Netherlands (to Turkey); Netherlands (to Morocco); Sweden (to Jordan)	United Kingdom (2) <sup>44</sup>	Belgium (2 and 3) Brazil (4) France (2) and (3) Ireland (3 and 4) Thailand (3) Turkey (2) and 4)

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 16 (equal treatment matters family law)	Algeria Bahamas (h) Bahrain Egypt France (1) (g) Iraq Ireland (1) (d and f) Israel Kuwait (f) Lebanon (1) (c, d, f, and g) Libyan Arab Jamatirya (c and d) Luxembourg (1) (g) Malaysia (1) (a) (2) <sup>45</sup> Maldives <sup>46</sup> Malta (1) (e) Micronesia Morocco Niger (1) (c, e, and g) Republic of Korea (1) (g) Singapore Syrian Arab Republic (1) (c, d, f and g) and (2) Switzerland (1) (g and h) Thailand Tunisia (c, d, f, g, h) United Arab Emirates United Kingdom <sup>47</sup> (1) (f) Jordan (1) (c, d, g) <sup>48</sup>	India (1 and 2)	Sweden, Portugal, Denmark, Germany, Netherlands, Norway (to Algeria); Belgium, Austria and Portugal, Denmark, Finland, Netherlands, Norway, Sweden (to Kuwait); Austria, Denmark, Netherlands, Sweden (to Lebanon); Denmark, Finland, France, Germany and Netherlands, Norway <sup>49</sup> (to Malaysia); France, Netherlands, Denmark <sup>50</sup> , Finland, Norway, Sweden (to Niger); Denmark and Sweden, Finland, Netherlands, Norway (to Singapore); Austria, Sweden (to Lebanon); Austria, Denmark Finland, France Germany, Greece, Netherlands, Sweden, United Kingdom (to Bahrain); Austria, Denmark, Estonia, Finland, France, Germany, Greece, Italy, Netherlands, Norway, Romania, Spain, Sweden, United Kingdom (to Syrian Arab Republic);	Republic of Korea (1) (c, d and f)	Bangladesh (1) (c) and (f) Brazil (1) (a, c, g, and h) France (1) (c, d, and h) Mauritius (1) (g) Turkey (1)(c, d, f, and g) United Kingdom (1) <sup>51</sup> (undertaking only) Malaysia (b, d, e, and h)

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
			Finland (to Libyan Arab Jamahiriya); Germany, Mexico, Netherlands, Sweden (to Egypt); Germany, Mexico, Netherlands, Sweden (to Bangladesh); Germany, Netherlands, Sweden (to Brazil); Mexico, Sweden, Germany, Netherlands (to Korea); Germany, Mexico, Netherlands, Sweden (to Mauritius); Germany, Mexico, Netherlands, Sweden (to Thailand); Germany, Netherlands, Sweden (to Tunisia); Germany, Mexico, Netherlands (to Turkey); Germany, Mexico, Netherlands, Sweden (to Iraq); Netherlands (to India and Morocco); Sweden (to Jordan); Germany and Finland (to Maldives)		

*Procedural provisions*

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 29 (dispute resolution)	Algeria, Argentina, Bahamas, Bahrain, Brazil, China, Cuba, Korea, Egypt, El Salvador, Ethiopia, France, India, Indonesia, Iraq, Israel, Jamaica, Kuwait, Lebanon, Mauritius, Micronesia, Morocco, Myanmar, Niger, Pakistan, Saudi Arabia, Singapore, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, United Arab Emirates, Venezuela, Vietnam, Yemen (1)				Russian Federation, Belarus, Ukraine, Bulgaria, Hungary, Malawi, Mongolia, Poland, Romania, Czech Republic

**F. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**

*Substantive provisions*

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Global	Ecuador Qatar Syrian Arab Republic	Chile Germany Holy See	Italy, Denmark, Portugal, United Kingdom of Great Britain and Northern Ireland, Finland, France,		

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
			Germany, Luxembourg, Netherlands, Norway, Spain, Sweden (to Qatar)		
Article 1 (definition)	Botswana	Luxembourg (1) Netherlands (1) United States of America	Denmark, Norway, Sweden (to Botswana); Netherlands, Sweden, Germany (to United States of America)		
Article 2 (preventative measures)		Cuba (1)	Italy, Denmark, Luxembourg, Czechoslovakia, France, Sweden, Spain, Norway, Portugal, Greece, Finland, Canada, Turkey, Australia, Netherlands, Switzerland, United Kingdom of Great Britain and Northern Ireland, Austria, New Zealand, and Bulgaria (to Chile (3))		Chile
Article 3 (non-refoulement)		United States of America Germany	Italy, Denmark, Luxembourg, Czechoslovakia, France, Sweden, Spain, Norway, Portugal, Greece, Finland, Canada, Turkey, Australia, Netherlands, Switzerland,		Chile

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
			United Kingdom of Great Britain and Northern Ireland, Austria, New Zealand, and Bulgaria (to Chile); Netherlands, Sweden, Germany (to United States of America)		
Article 5 (jurisdiction)		Austria			
Articles 10-13 (education on torture, systematic review practices etc., prompt and impartial investigation and examination)		United States of America			
Article 14 (right to compensation)	New Zealand Bangladesh <sup>52</sup>	United States of America United States of America	Finland, France, Spain, Germany, Sweden, Netherlands (to Bangladesh); Germany (to United States of America)		
Article 15 (evidence extracted by torture)		Austria			
Article 16 (cruel, inhuman, or degrading treatment or punishment)	United States of America	United States of America	Finland, Netherlands, Sweden, Germany (to United States of America)		

*Procedural provisions*

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 17 (establishment of Committee)		Germany	United Kingdom of Great Britain and Northern Ireland, <sup>53</sup> France, Luxembourg, Sweden, Austria, Denmark, Norway, Canada, Greece, Spain, Switzerland, Italy, Portugal, Australia, Finland, New Zealand and Netherlands (to Germany) <sup>54</sup>		Germany (7)
Article 18 (rules of procedure and expenses)		Germany (5)	United Kingdom of Great Britain and Northern Ireland, France, Luxembourg, Sweden, Austria, Denmark, Norway, Canada, Greece, Spain, Switzerland, Italy, Portugal, Australia, Finland, New Zealand and Netherlands (to Germany)		Germany (5)
Article 20 (inquiry)	Afghanistan China Equatorial Guinea <sup>55</sup> Israel Kuwait Mauritania Morocco Saudi Arabia Syrian Arab Republic	Cuba Indonesia			Russian Federation, Belarus, Ukraine, Bulgaria, Chile, Czechoslovakia Slovakia, Germany, Guatemala, Hungary, Zambia, Bahrain

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 21 (inter-State complaints)		Germany, Algeria, Argentina, Australia, Austria, Belgium, Bosnia and Herzegovina, <sup>56</sup> Bulgaria, Cameroon , Canada, Chile, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Ecuador, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Malta, Monaco, Netherlands, New Zealand, Norway, Paraguay, Peru, Poland, Portugal, Russian Federation, Senegal, Serbia and Montenegro, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Togo, Tunisia, Turkey, Uganda, Ukraine, United Kingdom, United States of America, Uruguay, Venezuela (1)			
Article 22 (individual complaints)		Germany, Algeria, Argentina, Australia, Austria, Belgium, Bosnia and Herzegovina, <sup>57</sup> Azerbaijan, Bulgaria,			

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
		Burundi, Cameroon, Canada, Chile, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Ecuador, Finland, France, Germany, Greece, Guatemala, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Mexico, Monaco, Netherlands, New Zealand, Norway, Paraguay, Peru, Poland, Portugal, Russian Federation, Senegal, Seychelles, Serbia and Montenegro, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Togo, Tunisia, Turkey, Ukraine, Uruguay, Venezuela (1)			
Article 30 (dispute settlement)	Afghanistan Cuba <sup>58</sup> Ghana <sup>59</sup> Bahrain China Equatorial Guinea France, Indonesia Israel Kuwait Mauritania Monaco	South Africa		Russian Federation, Belarus, Ukraine Bulgaria, Czechoslovakia, Germany, Guatemala, Hungary	

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
	Panama Saudi Arabia Turkey United States of America				

#### **G. Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**

None.

#### **H. Convention on the Rights of the Child**

##### *Substantive provisions*

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Global	Brunei Darussalam Djibouti <sup>60</sup> Holy See Iran Kuwait Luxembourg <sup>61</sup> New Zealand Oman Qatar Saudi Arabia Singapore Syrian Arab Republic Thailand Tunisia <sup>62</sup> United Kingdom <sup>63</sup>	Denmark <sup>64</sup> Holy See Monaco Swaziland Switzerland United Kingdom <sup>65</sup>	Ireland, Finland, Sweden, Austria, Denmark, Germany, Italy, Netherlands, Norway, Portugal (to Brunei Darussalam); Czech Republic, Slovak Republic, Ireland, Portugal (to Kuwait); Sweden, Denmark, Netherlands, Ireland, Norway, Portugal (to Djibouti); Netherlands, Ireland, Portugal, Netherlands (to Indonesia);		Denmark Indonesia Pakistan Tunisia

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
			Denmark, Austria, Italy, Finland, Germany, Ireland, Netherlands, Portugal, Norway, Sweden (to Iran); Denmark Netherlands, Finland, Ireland, Portugal, Sweden (to Pakistan); Sweden, Denmark, Austria Belgium, Finland, Germany, Italy, Netherlands, Norway, Portugal, Slovakia (to Qatar); Finland, Austria, Ireland, Netherlands, Norway, Sweden, Portugal (to Saudi Arabia); Sweden, Portugal, Belgium, Finland, Germany, Italy, Netherlands, Norway (to Singapore); Denmark, Netherlands, Finland, Germany, Italy, Norway, Sweden (to Syrian Arab Republic); Sweden (to Thailand); Germany and Ireland (to Tunisia); Finland, Germany, Netherlands, Norway, Sweden (to Oman)		

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 1 (definition)	Botswana Malaysia	Argentina Cuba Liechtenstein	Denmark, Germany, Italy, Netherlands (to Botswana); Netherlands, Finland, Ireland, Norway, Portugal, Sweden (to Indonesia); Austria, Belgium, Denmark, <sup>66</sup> Finland, Ireland, Netherlands, Portugal, Sweden, Germany Norway (to Malaysia)		Indonesia
Article 2 (discrimination)	Cook Islands Malaysia Tunisia	Bahamas Belgium (1) Cook Island (1)	Austria, Belgium, Denmark, Finland, Ireland, Netherlands, Portugal, Sweden, Germany Norway (to Malaysia); Germany Ireland (to Tunisia)		
Article 3 (best interests of the child)	Luxembourg	Cook Islands (2) Germany (2)			
Article 5 (parental/guardian rights)					Switzerland
Article 6 (right to life)	China Luxembourg	France Tunisia			
Article 7 (right to name, nationality, registration, to know and cared for by parents)	Liechtenstein Luxembourg Malaysia Oman Poland Switzerland Tunisia United Arab Emirates Thailand	Andorra) Czech Republic (1) Monaco Kuwait	Austria, Belgium and Denmark, Finland Ireland, Netherlands, Portugal, Sweden, Germany Norway (to Malaysia); Sweden, Ireland (to Thailand); Austria, Netherlands (to United Arab Emirates);		

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
			Finland, Germany, Netherlands, Norway, Portugal (to Oman); Ireland (to Tunisia); Netherlands (to Liechtenstein); Netherlands <sup>67</sup> (to Andorra)		
Article 8 (preservation of identity)		Andorra	Netherlands (to Andorra)		
Article 9 (separation from parents)	Bosnia and Herzegovina (1) Japan (1) Oman (4) Republic of Korea (3)	Iceland	Finland, Germany, Netherlands, Norway, Sweden (to Oman)		Croatia (1) Serbia and Montenegro (1) Slovenia (1)
Article 10 (family reunification)	Cook Islands Japan (1) Liechtenstein (2) Switzerland (1)		Netherlands (to Liechtenstein)	Liechtenstein (2)	
Article 12 (right to freely express views)		Poland Singapore Kiribati			
Article 13 (freedom of expression)	Austria Holy See Malaysia	Algeria Belgium <sup>68</sup> Poland Singapore Kiribati	Austria, Belgium, Denmark, Finland, Ireland, Netherlands, Portugal, Sweden, Germany Norway (to Malaysia)		
Article 14 (freedom thought, conscience and religion)	Algeria (1 and 2) <sup>69</sup> Bangladesh Brunei Darussalam Holy See Iraq Jordan Malaysia	Belgium Netherlands Poland Singapore Kiribati	Ireland, Finland, Sweden, Austria, Denmark, Germany, Italy, Netherlands, Norway, Portugal (to Brunei Darussalam); Netherlands, Finland,		Indonesia

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
	Maldives Morocco Oman Syrian Arab Republic United Arab Emirates		Ireland, Norway, Portugal, Sweden (to Indonesia); Finland, Ireland, Sweden (to Jordan); Austria, Belgium and Denmark, Finland, Ireland, Netherlands, Portugal, Sweden, Germany Norway (to Malaysia); Denmark, Netherlands, Finland, Germany Italy, Norway, Sweden (to Syrian Arab Republic); Austria, Italy, Netherlands (to United Arab Emirates); Finland, Germany, Netherlands, Norway, Sweden (to Oman); Ireland, Portugal (to Bangladesh)		
Article 15 (freedom of association and peaceful assembly)	Austria Holy See Luxembourg Malaysia	Belgium, <sup>70</sup> Poland Singapore Kiribati	Austria, Belgium and Denmark, Finland, Ireland, Netherlands, Portugal, Sweden, Germany, Norway (to Malaysia) Sweden, Germany, Ireland, Portugal (to Myanmar)		Myanmar
Article 16 (freedom arbitrary or unlawful interference)	Holy See Mali	Algeria Poland Singapore Kiribati	Netherlands, Finland, Ireland, Norway, Portugal, Sweden (to Indonesia)		Indonesia

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 17 (right to access to information)	Austria Turkey United Arab Emirates	Algeria Singapore	Netherlands, Finland, Ireland, Norway, Portugal, Sweden (to Indonesia) Austria, Italy (to United Arab Emirates); Ireland, Portugal (to Turkey)		Indonesia
Article 18 (responsibility for upbringing and development)		Germany (1)			
Article 19 (protection from abuse)		Singapore	Norway (to Singapore)		
Article 20 (deprived of family environment)	Brunei Darussalam Jordan Syrian Arab Republic		Ireland, Finland, Sweden, Austria, Denmark, Germany, Italy, Netherlands, Norway, Portugal (to Brunei Darussalam); Finland, Ireland, Sweden (to Jordan); Denmark, Netherlands, Finland, Germany, Italy, Norway, Sweden (to Syrian Arab Republic)		Egypt
Article 21 (adoption)	Argentina (b, c, d, e) Bangladesh Brunei Darussalam Canada Jordan Maldives Oman Republic of Korea (a) Syrian Arab Republic United Arab Emirates	Spain (d) Venezuela (b, d)	Sweden, Ireland, Portugal (to Bangladesh); Ireland, Finland, Sweden, Austria, Denmark, Germany, Italy, Netherlands, Norway, Portugal (to Brunei Darussalam);		Egypt Indonesia

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
			Finland, Ireland, Sweden (to Jordan); Denmark, Netherlands, Finland, Germany, Italy, Norway, Sweden (to Syrian Arab Republic); Austria, Italy (to United Arab Emirates); Netherlands, Finland, Ireland, Norway, Portugal, Sweden (to Indonesia); Finland, Germany, Netherlands, Norway, Sweden (to Oman)		
Article 22 (refugee children)	Mauritius Thailand	Netherlands United Kingdom <sup>71</sup>	Netherlands, Finland, Ireland, Norway, Portugal, Sweden (to Indonesia); Austria, Belgium and Denmark, Finland, Ireland, Netherlands, Portugal, Sweden, Germany Norway (to Malaysia); Sweden, Ireland (to Thailand)		Indonesia Malaysia
Article 24 (health)	Holy See Kiribati (b, c, d, e, f)	Argentina (2) (f) Ecuador Poland (2) (f)	Sweden, Austria, Netherlands, Portugal (to Kiribati)		
Article 26 (right to social security)	Kiribati Netherlands		Sweden, Austria, Netherlands, Portugal (to Kiribati)		Malta
Article 28 (education)	Holy See Kiribati (b, c, d) Malaysia (1) (a) Samoa (1) (a) Singapore (1) (a)	Malaysia (1) (a)	Sweden, Austria, Netherlands, Portugal (to Kiribati); Austria, Belgium and Denmark, Finland, Ireland,		Malaysia (1) (a, c, d, e) (2) and (3)

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
			Netherlands, Portugal, Sweden, Germany Norway (to Malaysia); Sweden, Portugal, Belgium, Finland, Germany, Italy, Netherlands (to Singapore)		
Article 29 (direction of education)	Turkey		Netherlands, Finland, Ireland, Norway, Portugal, Sweden (to Indonesia); Sweden, Ireland (to Thailand) Ireland, Portugal (to Turkey)		Indonesia Thailand
Article 30 (minorities)	France Oman Turkey	Canada Venezuela	Finland, Germany, Netherlands, Norway, Sweden (to Oman); Ireland, Portugal (to Turkey)		
Article 32 (economic exploitation)	New Zealand (1, 2) Singapore India 2(a) <sup>72</sup>	United Kingdom <sup>73</sup>	Sweden, Portugal, Belgium, Finland, Germany, Italy, Netherlands (to Singapore)		United Kingdom <sup>74</sup>
Article 37 (freedom torture ill-treatment, capital punishment and life imprisonment, deprivation liberty)	Australia (c) Canada (c) Cook Islands (c) Japan (c) Malaysia Netherlands New Zealand (c) Switzerland (c) United Kingdom <sup>75</sup> (c)	Iceland Singapore	Belgium and Denmark, Austria, Finland Ireland, Netherlands, Portugal, Sweden, Germany Norway (to Malaysia); Sweden, Germany, Ireland, Portugal (to Myanmar); Norway (to Singapore)		Myanmar United Kingdom (d)

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 38 (armed conflicts)	Columbia (2 and 3) Uruguay (2, 3) <sup>76</sup>	Andorra (2 and 3) Argentina Austria (2 and 3) Columbia Ecuador Germany (2) Netherlands Spain (2, 3)			
Article 40 (criminal justice)	Denmark <sup>77</sup> (2) (b) (v) Germany (2) (b) (ii)( v) Monaco (2) (b) (v) Netherlands Republic of Korea (2) (b) (v) Switzerland	Belgium (2) (b) (v) France (2) (b) (v)	Belgium and Denmark, Austria, Finland, Ireland, Netherlands, Portugal, Sweden, Germany, Norway (to Malaysia)		Malaysia (3, 4) Norway(2) (b) (v) Switzerland (2) (b) (vi) Tunisia (2) (b) (v)
Article 41 (savings provision)		Netherlands			

### *Procedural provisions*

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 44 (submission of reports)			Austria, Belgium and Denmark, Finland, Ireland, Netherlands, Portugal, Sweden, Germany, Norway (to Malaysia)		Malaysia
Article 45 (effective implementation)			Austria, Belgium and Denmark, Finland, Ireland, Netherlands, Portugal, Sweden, Germany, Norway (to Malaysia)		Malaysia

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

*Substantive provisions<sup>78</sup>*

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Global					
Article 3 (minimum age)	Oman Turkey	Afghanistan, Argentina, Austria, Andorra, Azerbaijan, Bahrain, Bangladesh, Belgium, Belize, Benin, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Cambodia, Canada, Cape Verde, Chad, Chile, Costa Rica, Croatia, Czech Republic, Democratic Republic of the Congo, Denmark, Dominica, Ecuador, El Salvador, Eritrea, Finland,	Cyprus (to Turkey)		

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
		France, Greece, Germany, Guatemala, Holy See, Honduras, Iceland, Ireland, Italy, Jamaica, Japan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lesotho, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Maldives, Mali, Malta, Monaco, Mongolia, Morocco, Mexico, Mozambique, Namibia, New Zealand, Nicaragua, Norway, Oman, Panama, Paraguay, Peru, Philippines, Portugal, Qatar, Republic of Korea,			

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
		Republic of Moldova, Romania, Rwanda, Senegal, Serbia and Montenegro, Sierra Leone, Slovenia, Spain, Sri Lanka, Syrian Arab Republic, Sweden, Switzerland, Tajikistan, Macedonia, Timor-Leste, Tunisia, Turkey, Uganda, United Kingdom, United Republic of Tanzania, United States of America, Uruguay, Venezuela, Viet Nam			

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

*Substantive provisions<sup>79</sup>*

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Global	Oman Qatar	Turkey United States of America Syrian Arab Republic	Ireland, Finland, Netherlands, Austria, France, Germany, Norway, Spain, Sweden (to Qatar); Cyprus (to Turkey) Israel (to Syrian Arab Republic); Sweden (to Turkey)		
Article 2 (definition)		Argentina Denmark (c) Sweden (c) United States of America (a) (c)			
Article 3 (incorporation into domestic legislation)	Kuwait (5) Syrian Arab Republic (1) (a) (ii) and (5) United States of America (1)	Argentina Republic of Korea (1) (a) (ii) United States of America (1) (a) (i) (ii) (5)			
Article 4 (jurisdiction)	United States of America (1)				
Article 5 (extraditable offences) <sup>80</sup>	Viet Nam (1) (2) (3) (4)	El Salvador			
Article 7 (seizure and confiscation)		Argentina Colombia			

## **K. International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families**

*Substantive provisions<sup>81</sup>*

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Global	Chile (waiting for translations)				
Article 4 (definition)	Egypt				
Article 8 (freedom of movement)		Sri Lanka (2)			
Article 15 (arbitrary deprivation of property)	Columbia	Turkey			
Article 18 (equality before courts and tribunals)	Egypt (6), Uganda (3) (d)				
Article 22 (freedom collective expulsion)	Mexico (4)				
Article 29 (right to name, nationality and registration)		Sri Lanka			
Article 32 (transfer earnings, property etc.)		El Salvador			
Article 40 (right to form trade unions)	Turkey				
Article 45 (equality of treatment in relation to education, etc.)		Turkey (2) (3) (4)			

Article	Reservations	Declarations/ Understandings	Objections	Withdrawal (partial)	Withdrawal (total)
Article 46 (exemption import and export duties)	Columbia	El Salvador Turkey			
Article 47 (transfer of funds)	Columbia	El Salvador			
Article 48 (taxation)		El Salvador			
Article 49 (authorization of residence)		Sri Lanka			
Article 54 (equality in relation to employment)		Sri Lanka			
Article 61 (project-tied workers)		El Salvador (4)			

*Procedural provisions*

Article 76 (inter-State complaints)		Turkey			
Article 77 (individual communications)		Turkey			
Article 92 (dispute settlement)	El Salvador, Morocco				

## Notes

<sup>1</sup> The actions listed are not always described as objections but in some manner contest the referred to action.

<sup>2</sup> The very numerous declarations of particular states of emergency under article 4 of the Covenant are not included here.

<sup>3</sup> The partial withdrawal not being objected to by any other States over a 12-month period, the reservation was accepted from 1 December 2004.

<sup>4</sup> By subsequent communication, the State party confirmed that this declaration did not aim to modify the legal effect of the provision.

<sup>5</sup> It appears Guyana's reservation may amount to a technical error in its reference to article 6 (being the death penalty provision of the ICCPR). Article 1 of the Optional Protocol would appear more appropriate, as in the case of Trinidad and Tobago.

<sup>6</sup> Barbados refers in error to paragraph (1) in addition to subparagraph (a).

<sup>7</sup> Modified on 29 January 1999, refers to reservations to article 7 (a) and 16. It is not clear if modification, in this case introduction of reservations to articles 7 and 16 means that the original general reservation has been withdrawn or amounts to an addition. It is treated here as an addition.

The Secretary-General proposed to receive this modification to the State party's global reservation in the absence of any objection on the part of any of the contracting States within the 90 days, i.e. 23 June 1999. No objection having been received, the modification was accepted for deposit upon the expiration of the 90-day period. Finland and Germany made objections on 17 August 1999 and 16 August 1999, respectively. It is interesting to note that Germany states (article 19 VCLT) that modifications may not be made post signing, ratifying, accepting approving or acceding to a treaty but only to withdraw or partially withdraw original reservations.

<sup>8</sup> Modified in 1995 to include two reservations, relating to articles 2 and 16.

<sup>9</sup> Although described by the Office of Legal Affairs as declarations these actions appear to be reservations as they limit the application of the Convention to the Constitution.

<sup>10</sup> It is not clear to which article/s this relates; it is in respect of women working as underground miners.

<sup>11</sup> Reservation had only applied to the United Kingdom of Great Britain and Northern Ireland.

<sup>12</sup> Continues to apply with respect to overseas territories only.

<sup>13</sup> Reservation had applied to the United Kingdom of Great Britain and Northern Ireland, the Isle of Man, the British Virgin Islands, the Falkland Islands, South Georgia and the South Sandwich Islands, and the Turks and Caicos Islands. Withdrawn relates to United Kingdom of Great

Britain and Northern Ireland. As to the withdrawal the United Kingdom informed the Secretary-General that “for the avoidance of doubt, that the declarations and reservations entered in respect of the dependent territories on behalf of which the Convention was also ratified on 7 April 1986 continue to apply, but are under active review”.

<sup>14</sup> Although described as a declaration this appears to be a reservation limiting the application of the Convention to the Constitution, and the provisions of Islamic Shariah law.

<sup>15</sup> Continues to apply to Overseas Territories.

<sup>16</sup> Reservation had applied to the United Kingdom of Great Britain and Northern Ireland, the Isle of Man, the British Virgin Islands, the Falkland Islands, South Georgia and the South Sandwich Islands, and the Turks and Caicos Islands. Withdrawn relates to United Kingdom of Great Britain and Northern Ireland. As to the withdrawal the United Kingdom informed the Secretary-General that “for the avoidance of doubt, that the declarations and reservations entered in respect of the dependent territories on behalf of which the Convention was also ratified on 7 April 1986 continue to apply, but are under active review”.

<sup>17</sup> Applies to the United Kingdom of Great Britain and Northern Ireland, the Isle of Man, the British Virgin Islands, the Falkland Islands, South Georgia and the South Sandwich Islands, and the Turks and Caicos Islands.

<sup>18</sup> The Secretary-General proposed to receive modifications subsequently made to this provision in the absence of any objection on the part of any of the Contracting States within 90 days, i.e. on 20 July 1998. France and Netherlands made their objections to the partial withdrawal and modifications on 20 July and 21 July 1998. Germany, Finland, Denmark, Netherlands and Norway made its objections in 1996 to original reservations.

<sup>19</sup> Relates to the Cook Islands only.

<sup>20</sup> Not objection but a desire that reservation would not be protracted.

<sup>21</sup> See footnote 9.

<sup>22</sup> Article not cited, but as it relates to traditional customs it is assumed it relates to article 5.

<sup>23</sup> Article not cited, but as it relates to combat duties, assumed to relate to article 7.

<sup>24</sup> See footnote 9.

<sup>25</sup> The Secretary-General proposed to receive this modification to the State party’s global reservation in the absence of any objection on the part of any of the contracting States within the 90 days, i.e. 23 June 1999. No objection having been received, the modification was accepted for deposit upon the expiration of the 90-day period. Finland and Germany made objections on 17 August 1999 and 16 August 1999, respectively. It is interesting to note that Germany states (article 19 VCLT) that modifications may not be made post signing, ratifying, accepting approving or acceding to a treaty but only to withdraw or partially withdraw original reservations.

<sup>26</sup> Although described as a declaration (“shall not affect the constitutional provisions concerning succession of the Spanish crown”) appears to be a reservation similar to that of Luxembourg.

<sup>27</sup> See footnote 9.

<sup>28</sup> See footnote 9.

<sup>29</sup> Applies to the United Kingdom of Great Britain and Northern Ireland, the Isle of Man, the British Virgin Islands, the Falkland Islands, South Georgia and the South Sandwich Islands, and the Turks and Caicos Islands.

<sup>30</sup> This appears to be a reservation, although described as a declaration “does not consider it bound”.

<sup>31</sup> See footnote 9.

<sup>32</sup> Reservation had applied to the United Kingdom of Great Britain and Northern Ireland, the Isle of Man, the British Virgin Islands, the Falkland Islands, South Georgia and the South Sandwich Islands, and the Turks and Caicos Islands. Partial withdrawal relates to United Kingdom of Great Britain and Northern Ireland. As to the withdrawal the United Kingdom informed the Secretary-General that “for the avoidance of doubt, that the declarations and reservations entered in respect of the dependent territories on behalf of which the Convention was also ratified on 7 April 1986 continue to apply, but are under active review”.

<sup>33</sup> Reservation appears to apply to the United Kingdom of Great Britain and Northern Ireland and not to the Overseas Territories.

<sup>34</sup> Applies to the United Kingdom of Great Britain and Northern Ireland, the Isle of Man, the British Virgin Islands, the Falkland Islands, South Georgia and the South Sandwich Islands, and the Turks and Caicos Islands.

<sup>35</sup> Applies to the United Kingdom of Great Britain and Northern Ireland.

<sup>36</sup> Reservation had applied to the United Kingdom of Great Britain and Northern Ireland, the Isle of Man, the British Virgin Islands, the Falkland Islands, South Georgia and the South Sandwich Islands, and the Turks and Caicos Islands. Partial withdrawal relates to United Kingdom of Great Britain and Northern Ireland. As to the withdrawal the United Kingdom informed the Secretary-General that “for the avoidance of doubt, that the declarations and reservations entered in respect of the dependent territories on behalf of which the Convention was also ratified on 7 April 1986 continue to apply, but are under active review”.

<sup>37</sup> Withdrawal only applies to metropolitan territory.

<sup>38</sup> Applies to the United Kingdom of Great Britain and Northern Ireland, the Isle of Man, the British Virgin Islands, the Falkland Islands, South Georgia and the South Sandwich Islands, and the Turks and Caicos Islands.

<sup>39</sup> Reservation had applied to the United Kingdom of Great Britain and Northern Ireland, the Isle of Man, the British Virgin Islands, the Falkland Islands, South Georgia and the South Sandwich Islands, and the Turks and Caicos Islands. Partial withdrawal relates to United Kingdom of Great Britain and Northern Ireland. As to the withdrawal the United Kingdom informed the Secretary-General that “for the avoidance of doubt, that the declarations and reservations entered in respect of the dependent territories on behalf of which the Convention was also ratified on 7 April 1986 continue to apply, but are under active review”.

<sup>40</sup> Although described as a declaration appears to be a reservation, limiting its application to its compatibility with the Moroccan Code.

<sup>41</sup> Applies to the United Kingdom of Great Britain and Northern Ireland, the Isle of Man, the British Virgin Islands, the Falkland Islands, South Georgia and the South Sandwich Islands, and the Turks and Caicos Islands.

<sup>42</sup> This appears to be reservation although described as a declaration “does not consider it bound”.

<sup>43</sup> Applies to the United Kingdom of Great Britain and Northern Ireland, the Isle of Man, the British Virgin Islands, the Falkland Islands, South Georgia and the South Sandwich Islands, and the Turks and Caicos Islands.

<sup>44</sup> Reservation had applied to the United Kingdom of Great Britain and Northern Ireland, the Isle of Man, the British Virgin Islands, the Falkland Islands, South Georgia and the South Sandwich Islands, and the Turks and Caicos Islands. Partial withdrawal relates to United Kingdom of Great Britain and Northern Ireland. As to the withdrawal the United Kingdom informed the Secretary-General that “for the avoidance of doubt, that the declarations and reservations entered in respect of the dependent territories on behalf of which the Convention was also ratified on 7 April 1986 continue to apply, but are under active review”.

<sup>45</sup> See footnote 9.

<sup>46</sup> See footnote 12.

<sup>47</sup> Applies to the United Kingdom of Great Britain and Northern Ireland, the Isle of Man, the British Virgin Islands, the Falkland Islands, South Georgia and the South Sandwich Islands, and the Turks and Caicos Islands.

<sup>48</sup> This appears to be a reservation although described as a declaration “does not consider it bound”.

<sup>49</sup> See footnote 9.

<sup>50</sup> According to Denmark no time limit applies to objections against reservations which are inadmissible under international law.

<sup>51</sup> Applies to the United Kingdom of Great Britain and Northern Ireland. The Government of the United Kingdom stated “for the avoidance of doubt, that the declarations and reservations

entered in respect of the dependent territories on behalf of which the Convention was also ratified on 7 April 1986 continue to apply, but are under active review”.

<sup>52</sup> Although the United Nations Office of Legal Affairs described this (“will apply article 14, paragraph 1 in consonance with the existing laws and legislation in the country”) as a declaration, it appears to be a clear reservation similar to the reservation made by New Zealand.

<sup>53</sup> This is described as an “understanding” of the declaration rather than an objection.

<sup>54</sup> Although described as a declaration by the State party and the United Nations Office of Legal Affairs, most objecting States parties treat it as a reservation.

<sup>55</sup> The United Nations Office of Legal Affairs and the State party regard this as a declaration but it appears to be a reservation (“pursuant to article 28 of the Convention, it does not recognize the competence of the Committee provided for in article 20 of the Convention”).

<sup>56</sup> It is not clear whether the declaration applies to article 21 alone or also article 22. It has been this accorded widest application, that is, with respect to both provisions.

<sup>57</sup> It is not clear whether the declaration applies to article 21 alone or also article 22. It has been this accorded widest application, that is, with respect to both provisions.

<sup>58</sup> The United Nations Office of Legal Affairs (OLA) classifies this as a declaration, although it appears to be a reservation as the wording is similar to reservations of other States.

<sup>59</sup> See footnote 58.

<sup>60</sup> Although described as a declaration, this appears to be a reservation as relates to the implementation which must be in compliance with its religion and traditional values.

<sup>61</sup> It is not clear to which article/s this reservation relates.

<sup>62</sup> Although described as a declaration this appears to be a reservation as provides that the implementation of the Convention may not conflict with the Constitution.

<sup>63</sup> Applies to overseas territories as well as United Kingdom of Great Britain and Northern Ireland.

<sup>64</sup> On 11 May 1993, Denmark notified the Secretary-General that it had decided to withdraw its declaration with regard to the application of the Convention to Greenland and the Faroe Islands, which had declared that the Convention should not apply to these Islands.

<sup>65</sup> General declarations apply to Overseas Territories, as well as United Kingdom of Great Britain and Northern Ireland.

<sup>66</sup> In the view of Denmark and Belgium there is no time limit to making objections to reservations which are inadmissible under international law.

<sup>67</sup> The Netherlands objects to the reservations by Andorra but the statements made are referred to as declarations. Statements made relating to article 7 and 8 appear to be reservations.

<sup>68</sup> This same action (same wording) is described as a reservation when made by Austria.

<sup>69</sup> Although described as a declaration, this appears to be a reservation as it states that the Convention must be applied in compliance with the Algerian legal system.

<sup>70</sup> This same action (same wording) is described as a reservation when made by Austria.

<sup>71</sup> Applies to Cayman Islands and Hong Kong.

<sup>72</sup> Although described as a declaration, this appears to be a reservation as it states that this article must be implemented in accordance with its national legislation.

<sup>73</sup> Applies to Overseas Territories except Pitcairn.

<sup>74</sup> Withdrawal does not apply to Overseas Territories.

<sup>75</sup> Applies to Overseas Territories, as well as to United Kingdom of Great Britain and Northern Ireland.

<sup>76</sup> Unclear why in both of these cases the action taken is referred to as a reservation.

<sup>78</sup> No declarations or reservations were made to any of the procedural provisions.

<sup>79</sup> No declarations or reservations were made to any of the procedural provisions.

<sup>80</sup> No article referred to, but appears to relate to article 5 only.

<sup>81</sup> No declarations or reservations were made to the procedural provisions.

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