

5. NON-DISCRIMINATION AND PROTECTION OF VULNERABLE GROUPS

5.1. Children

The HR Committee expressed concerns regarding children in respect of several States.³⁴⁷ It noted the use of child soldiers during the Kasai conflict and the high numbers of street children exposed to abuse in **DRC**, and recommended that **DRC** criminalise the recruitment of children under 18 years of age.³⁴⁸ The significant institutionalisation of children in **Romania**, especially from single-parent households and disadvantaged communities, and of children with disabilities, who then face abuse and exploitation, prompted the HR Committee to recommend alternatives to institutionalisation, including placement in family-based settings, and regular monitoring of childcare facilities.³⁴⁹

5.1.1. Early or Forced Marriage

Bangladesh, having one of the highest rates of early marriage in the world, with 32 percent of girls married before the age of 15% of girls married before the age of 18, and 90% refugee families having a member below 18 years of age, was of concern to the HR Committee. The State was asked to amend its child marriage restraint bill to maintain the legal minimum age of marriage for girls at 18 years.³⁵⁰

The HR Committee expressed concern about arranged marriages involving Roma minors in **Bosnia and Herzegovina**, including those between the ages of 12 and 14 years, and the reluctance of prosecutors to investigate cases that may involve child trafficking. Programmes specifically designed to reduce the incidence of child marriages and training of prosecutors to investigate cases of early marriage were recommended.³⁵¹

The HR Committee noted the different ages of marriage for girls and boys in **Cameroon** at 15 and 18, respectively, urging the State to amend such laws with adverse effects on girls.³⁵² It also recommended raising the minimum age of marriage from 16 to 18 years to eradicate *de jure* and *de facto* child marriage in the **Dominican Republic**.³⁵³ **Pakistan** was asked to ensure that the minimum age for marriage is set at 18 for all, and forced marriage is eradicated and legal remedies are available to victims.³⁵⁴

5.1.2. Harmful Traditional Practices

The HR Committee expressed concern over continuation of harmful traditional practices such as the imposition of the payment of dowries on the families of girls in **Bangladesh** and recommended that the State implement and widely publicise legislation outlawing dowry.³⁵⁵ In **DRC**, reports of abuse of children accused of witchcraft concerned the HR Committee, and it recommended that the State protect minors from abuse, especially through care and awareness programs targeting religious leaders and parents, and criminalising persecution of children accused of witchcraft.³⁵⁶

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³⁴⁷ Australia, §§25-28, 43-44; Bangladesh, §§13-14; Bosnia & Herzegovina, §§29-34, 39-40; Cameroon, §§17-18, 31-32; DRC §§45-46; Dominican Republic, §§33-34; Honduras, §§18-19, 36-37; Italy, §§10-11; Madagascar, §§31-32, 37-39, 41-42, 47-48; Mongolia, §§17-18, 27-28; Pakistan, §§41-42; Romania, §§11-12, 19-20, 23-24, 41-42; Serbia, §§14-15, 20-21, 30-31; Swaziland, §§42-43, 46-51; Switzerland, §§24-25; Thailand, §§41-42
³⁴⁸ DRC, §§27, 45-46
³⁴⁹ Romania, §§41-42
³⁵⁰ Bangladesh, §§13-14
³⁵¹ Bosnia & Herzegovina, §§33-34
³⁵² Cameroon, §§17-18
³⁵³ Dominican Republic, §§33-34
³⁵⁴ Pakistan, §§41-42
³⁵⁵ Bangladesh, §§13-14
³⁵⁶ DRC, §§45-46

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The requirement for setting 18 as the minimum age for marriage was emphasised by the CESCR in **Pakistan** and **Sri Lanka**. The CRC noted that customary marriages below the legal age continues in the **DRC**. It also echoed the HR Committee's concerns relating to reports of abuse of children accused of witchcraft in the **DRC**. The Committee recommended **Romania** to conduct awareness-raising campaigns concerning the many negative consequences of child marriage.³⁵⁷

5.1.3. Child Labour

The HR Committee expressed concern over reports of children in **Cameroon** being trafficked to work as domestic workers, and recommended to strengthen institutional mechanisms, especially the network against child trafficking and exploitation.³⁵⁸ The HR Committee noted with concern the economic exploitation of children in **DRC** and urged the State to eliminate child labour, especially in extractive industries.³⁵⁹ The HR Committee also urged **Swaziland** to fully eliminate child labour, being concerned about reports of children, orphans in particular, being forced into sex work and domestic servitude.³⁶⁰

Similar exploitation of children in **Serbia** and **Romania**;³⁶¹ engagement of children in dangerous and hazardous work, such as in agriculture, mining and horse-riding, in **Mongolia**;³⁶² recruitment of children for criminal activities by gangs (*maras*), slavery and forced labour, and trafficking for sexual exploitation in **Honduras**;³⁶³ children engaged in domestic work, agricultural work, mining and quarrying, and being commercially sexually exploited in **Madagascar**;³⁶⁴ and children doing hazardous and slavery-like labour in **Pakistan**,³⁶⁵ were of concern to the HR Committee, with protection-oriented recommendations being made to the respective States.

5.1.4. Juvenile Justice System

While noting the rebuttable presumption that a child between the ages of 10 and 14 years of age is incapable of committing a crime, the HR Committee expressed concerns over the minimum age of criminal responsibility in **Australia** being 10 years and recommended that it be raised in accordance with international standards.³⁶⁶

The HR Committee noted reports on the lack of units for minors in pre-trial detention in **Bosnia and Herzegovina** and recommended ensuring the separation of minor and adult detainees during all stages of deprivation of liberty.³⁶⁷ The same was recommended for **Madagascar**.³⁶⁸

Concerned at the lack of a specific judicial framework for minors in **Swaziland**, the HR Committee asked that the minimum age of criminal responsibility be commensurate with international standards; minors and adults be separately detained; juvenile chambers with trained judges be established; and international juvenile justice standards be implemented.³⁶⁹

The CAT noted that 80% of the children in custody in **Cameroon** were being held in pre-trial detention and it echoed the concerns of the HR Committee with respect to lack of special units for minors in **Bosnia and Herzegovina**. The CAT urged **Pakistan** to

³⁵⁷ CESCR, Pakistan, §§55-57; CESCR, Sri Lanka, §§41-42; CRC, Concluding observations on the combined third to fifth periodic reports of the Democratic Republic of Congo, UN Doc. CRC/C/COD/CO/3-5, 2017, §§27-28, (CRC, DRC); CRC, Concluding observations on the fifth periodic report of Romania, UN Doc. CRC/C/ROU/CO/5, 2017, §27, (CRC, Romania)

³⁵⁸ Cameroon, §§31-32

³⁵⁹ DRC, §§45-46

³⁶⁰ Swaziland, §§42-43

³⁶¹ Serbia, §§30-31; Romania, §§41-42

³⁶² Mongolia, §§27-28

³⁶³ Honduras, §§18-19; 36-37

³⁶⁴ Madagascar, §§41-42

³⁶⁵ Pakistan, §§43-44

³⁶⁶ Australia, §§43-44

³⁶⁷ Bosnia & Herzegovina, §§29-30

³⁶⁸ Madagascar, §§37-38

³⁶⁹ Swaziland, §§46-47

ensure the existence of effective mechanisms for appealing age determination in a timely manner in cases of execution of individuals who were reportedly minors at the time of the offence. The Committee on the Elimination of Racial Discrimination (CERD) recommended **Australia** to address the high proportion of incarceration of indigenous children and make provisions for placement in alternative care, in consultation with the indigenous peoples.³⁷⁰

5.1.5. Violence against Children

The HR Committee expressed concerns over severe forms of violence against children, including domestic violence, in **Serbia** and the inadequacy of response of law enforcement and judicial authorities to such cases. Adequate response through investigation, prosecution and punishment; allocation of resources to address the issue; and public awareness campaigns on the adverse effects of such violence were recommended.³⁷¹

While noting that the Action Plan for Children of **Bosnia and Herzegovina** (2015-2018) envisages prohibition of corporal punishment of children in all settings, the HR Committee recommended practical steps, including legislative measures and public information campaigns to end corporal punishment, raise awareness about its harmful effects, and encourage non-violent forms of discipline.³⁷²

The HR Committee made the same recommendations to **Swaziland**,³⁷³ where the use of corporal punishment as a judicial sentence for children had been abolished, but it remains lawful in the home, alternative care, day care, schools and penal institutions; to **Madagascar**,³⁷⁴ where the practice is not yet formally prohibited in schools; and to **Romania**.³⁷⁵ Similar recommendations were made for **Mongolia**, where both domestic violence against children and corporal punishment remain causes of concern.³⁷⁶

Issues relating to violence against children were dealt with by the CESCR and the CRC. Despite significant progress made in **Sri Lanka**, the CESCR remained concerned over children employed as street vendors, in domestic service, in agriculture, mining, construction, manufacturing, transport and fishing. The CRC noted the violence perpetrated against children by police, especially those involved in protests and under suspicion of association with Boko Haram in **Cameroon**. It urged the state to direct the prosecution office to expeditiously investigate and prosecute reported cases of torture by police, ensuring that perpetrators are severely sanctioned and adequate compensation and rehabilitation is provided for the victims. It recommended that **DRC** develop a comprehensive national action plan to combat sexual violence and abuse of children both by civilians and in the context of armed conflict and to undertake a study on the extent and forms of sexual violence and collect disaggregated data on gender-based violence. The CRC called for the explicit prohibition of corporal punishment in law in all settings and strengthening of mechanisms for early detention and prevention of child abuse in **Cameroon, DRC** and **Romania**.³⁷⁷

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³⁷⁰ CERD, Concluding observations on the eighteenth to twentieth periodic reports of Australia, CERD/C/AUS/CO/18-20, 2017, §§25-26 (**CERD, Australia**); CAT, Bosnia & Herzegovina, §30; CAT, Cameroon, §31; CAT, Pakistan, §§40-41
³⁷¹ Serbia, §§20-21
³⁷² Bosnia & Herzegovina, §§31-32
³⁷³ Swaziland, §§50-51
³⁷⁴ Madagascar, §§31-32
³⁷⁵ Romania, §§23-24
³⁷⁶ Mongolia, §§17-18
³⁷⁷ CRC, Cameroon, §§23-25; CRC, DRC, §§23-26; CRC, Romania, §§24-26; CESCR, Sri Lanka, §43

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5.1.6. Right to Identity

The HR Committee was concerned about low birth registration or absence of identity registration of births in its observations regarding several countries, including **Bosnia and Herzegovina**, **DRC**, **Dominican Republic**, **Madagascar**, **Pakistan**, **Serbia**, **Swaziland**, and **Thailand**.³⁷⁸

While acknowledging the efforts made by the **Bosnia and Herzegovina** to eliminate discrimination against and exclusion of the Roma people, including by improvements in birth registration, the HR Committee recommended that the State continue its efforts, particularly for the Roma people.³⁷⁹ The HR Committee was concerned about the continued difficulties for internally displaced Roma in **Serbia** in registering births and acquiring identification documents, including as a result of a narrow interpretation of the law on permanent and temporary residence. The State was recommended to increase its efforts to facilitate and enable registration of children born to parents without identification documents, including by reviewing the law on residence.³⁸⁰

With respect to the low rate of birth registration noted in **DRC**, **Dominican Republic**, **Madagascar**, **Pakistan**, and **Swaziland**, the states were recommended to intensify efforts to facilitate birth registration, including by raising public awareness, and facilitating and expediting access to civil registry offices. **DRC**, **Madagascar**, **Pakistan** and **Swaziland** were recommended to expedite the registration of all births, including children who remain unregistered, and run public and family awareness-raising campaigns concerning birth registration.³⁸¹ Reports of barriers and unreasonable requirements for the registration of children in cases where one of the parents does not hold Dominican nationality, especially children of Haitian descent, concerned the HR Committee and the **Dominican Republic** was recommended to continue efforts to ensure that all children born in its territory, including those who were not born in a hospital or whose parents are not of Dominican nationality, are registered and issued with an official birth certificate.³⁸²

The HR Committee acknowledged the progress made by **Thailand** since the adoption of the Civil Registration Act of 2008, its regulations on birth and late registration of children, and its commitments to eliminating statelessness by 2024; but was still concerned about the high number of stateless people, in particular among indigenous peoples and ethnic minorities, which has a detrimental impact on access to basic services. **Thailand** was recommended to ensure that rural and isolated populations are informed of and have access to the procedures relating to the acquisition of nationality.³⁸³

5.1.7. Education

The HR Committee expressed concerns over Roma children and disabled children accessing education in **Bosnia and Herzegovina** and **Romania**.³⁸⁴ Measures against statelessness were recommended as its detrimental impact on the access to education for children of indigenous people and ethnic minorities in **Thailand** was noted.³⁸⁵

³⁷⁸ Bosnia & Herzegovina, §§39-40; DRC, §§45-46; Dominican Republic, §§33-34; Madagascar, §§47-48; Pakistan, §§43-44; Serbia, §§14-15; Swaziland, §§48-49; Thailand, §§41-42

³⁷⁹ Bosnia & Herzegovina, §§39-40

³⁸⁰ Serbia, §§14-15

³⁸¹ DRC, §§45-46; Madagascar, §§47-48; Pakistan, §§43-44; Swaziland, §§48-49

³⁸² Dominican Republic, §§33-34

³⁸³ Thailand, §§41-42

³⁸⁴ Bosnia & Herzegovina, §§31-32, 39;

Romania, §§11-12, 19-20

³⁸⁵ Thailand, §§41-44

The CERD urged **Serbia** to put an end to de facto public-school segregation of Roma children and ensure access to quality education for Roma children, including through anti-racism and human rights training for school staff, awareness-raising efforts targeting parents and increased employment of Roma teachers. **Serbia** was also asked to take measures to avoid a so-called “white flight” from schools where Roma are enrolled, including by developing effective mechanisms with a view to preventing further de facto segregation in schools.³⁸⁶

5.1.8. Equal Protection for Children Living in Same-Sex Families

The HR Committee expressed concern over the law in **Italy** not affording full legal protection to children living in same-sex families, recommending that the State ensure the same legal protection for such children as for those living in heterosexual families.³⁸⁷

5.1.9. Intersex Children and Children with Gender Dysphoria

The HR Committee addressed the issue of irreversible and invasive medical interventions for gender assignment of children born with intersex variations in **Australia** and **Switzerland**, recommending an end to such procedures unless they constitute an absolute medical necessity, due to the inability of such children to provide fully informed and free consent.³⁸⁸ The HR Committee welcomed **Australia's** willingness to reconsider the requirement for authorization by the Family Court for stage two hormone treatment for young people diagnosed with gender dysphoria, as the delays and costs associated with obtaining such authorization may compromise the success of such treatment and cause psychological harm. The State was asked to consider ways to expedite access to the treatment, including removal of the need for court authorization in cases featuring uncontested agreement among guardians, the child and the medical team.³⁸⁹

The CESCR urged the **Netherlands** to review the practice of early surgery and medical interventions on intersex children, in order to make sure that they are mature enough to be consulted on their preferred treatments on the basis of their informed choices and consent. The CRC recommended **Denmark** to undertake investigation of incidents of surgical and other medical treatment of intersex children without informed consent and adopt legal provisions in order to provide redress to the child victims of such treatment, including adequate compensation.³⁹⁰

5.2. Migrants, Asylum Seekers, Stateless Persons and Internally

Displaced Persons (IDPs)

The HR Committee expressed concern over reports that **Bangladesh** intends to relocate over 30,000 Rohingya refugees to the island of Thengar Char, an area which is prone to flooding and currently lacks the infrastructure necessary for respect of basic human rights, and that such relocation might take place without the full and free consent of the affected individuals. It recommended that the refugees not be forcibly relocated and that planned relocation sites not have conditions of life

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³⁸⁶ CERD, Concluding observations on the combined second to fifth periodic reports of Serbia, CERD/C/SRB/CO/2-5, 2018, §§20-21, **(CERD, Serbia)**

³⁸⁷ Italy, §§10-11

³⁸⁸ Australia, §§25-26; Switzerland, §§24-25

³⁸⁹ Australia, §§27-28

³⁹⁰ CRC, Concluding observations on the fifth periodic report of Denmark, UN Doc. CRC/C/DNK/CO/5, 2017, §24, **(CRC, Denmark)**; CESCR, Concluding observations on the sixth periodic report of the Netherlands, UN Doc. E/C.12/NLD/CO/6, 2017, §§48-49, **(CESCR, Netherlands)**

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incompatible with the international obligations of the State.³⁹¹ The HR Committee noted with concern the reports of Jordan stripping the nationality of its Palestinian-origin nationals and the forcible return of Palestinian refugees to the Syrian Arab Republic.³⁹² Similarly, situations in Serbia and Thailand were also cause for concern.³⁹³

Unaccompanied minors arriving in **Italy** as asylum seekers were identified as especially vulnerable, and insufficient safeguards for them prompted the HR Committee to recommend: (i) ensuring that age assessment procedures are based on safe and scientifically sound methods, accounting for the children's mental well-being; (ii) reviewing the guardian assignment procedure to ensure that all of them are provided with legal guardians in a timely manner; (iii) ensuring adequate conditions in reception facilities, including segregation from adults; (iv) preventing their disappearance and finding the whereabouts of those already missing.³⁹⁴

The HR Committee found it regrettable that **Madagascar** did not have a coherent legal framework on refugees and stateless persons, notwithstanding that there had been very few refugees and asylum seekers in the State. It recommended the amendment of laws to ensure that asylum seekers have access to a fair and satisfactory procedure for the determination of their status as refugees; and to consider ratifying the Protocol relating to the Status of Refugees.³⁹⁵

While welcoming the end to the use of sedatives during forced repatriations by air, as well as the presence of the National Commission for the Prevention of Torture during such operations by **Switzerland**, the HR Committee recommended the expedited investigation into the case of Chiakwa, who died in 2010 during such repatriation.³⁹⁶ **Pakistan** was commended for hosting millions of Afghan refugees for years and the State's plan for registration of undocumented Afghans in August 2017 was welcomed. It was recommended that **Pakistan** expedite the adoption of national refugee law in compliance with international human rights and humanitarian standards; and investigate allegations of abuse against refugees by the government forces, while taking measures to prevent such abuses.³⁹⁷

The CRC and the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) jointly adopted a General Comment on Migrant Children in 2017. The CEDAW and the CERD echoed the call for **Jordan** to end the practice of stripping the nationality of its Palestinian-origin nationals. **Italy** was recommended by the CEDAW to set in place a gender-appropriate and culturally and age sensitive reception centres and provide individual screening and assessment procedures. It was also urged not to prevent rescue boats of NGOs to disembark on Italian ports.³⁹⁸

5.2.1. Non-Refoulement

The HR Committee expressed concerns that the domestic legal framework governing extradition, transfer or removal of non-

³⁹¹ Bangladesh, §§31-32

³⁹² Jordan, §§24-25

³⁹³ Serbia, §§32-33; Thailand, §§27-30

³⁹⁴ Italy, §26-27

³⁹⁵ Madagascar, §§43-44

³⁹⁶ Switzerland, §§32-33

³⁹⁷ Pakistan, §§45-46

³⁹⁸ CEDAW, Italy, §§15-16; CEDAW, Jordan, §§11-12; CERD, Jordan, §§16-17

citizens, including asylum seekers and refugees in **Australia**, does not afford full protection against non-refoulement.

It recommended that **Australia** (i) repeal section 197(c) of the Migration Act 1958, wherein persons can be removed without an assessment of non-refoulement and irrespective of non-refoulement obligations; (ii) review its policy and practices during interceptions at sea, including on-water assessments, to ensure that all persons under the State party's jurisdiction in need of international protection have access to fair and efficient asylum procedures within the territory of the State, including access to legal representation where appropriate, and to legal remedies, and allow monitoring of the processing of intercepted persons by international observers, including the UNHCR; (iii) consider repealing the Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014 with its 'fast track' assessment process for illegal maritime arrivals that removes key procedural safeguards at merits review, includes a limited paper appeal process, restricts consideration of new evidence, narrows access to free government-funded legal assistance for most asylum seekers, and excludes certain categories of asylum seekers from the limited merits review.³⁹⁹

Reports that large numbers of asylum seekers fleeing violence in Myanmar were returned to Myanmar at the border of **Bangladesh** concerned the HR Committee, and the State was recommended to comply with the non-refoulement principle, as also ratify the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.⁴⁰⁰

Reports of ill-treatment of refugees and asylum-seekers, and collective expulsion for alleged terrorist affiliations in **Cameroon** concerned the HR Committee, wherein it reiterated importance of the obligation of non-refoulement, the training of border personnel and access to refugee status determination procedures according to international standards at all border areas.⁴⁰¹

The **Dominican Republic** was urged to review its laws and practices to ensure compliance with international standards on asylum-seekers and refugees; train its border personnel; and publish relevant statistics over concerns about high number of deportations and mass expulsions of persons of Haitian descent, including unaccompanied minors; and remedy the restrictive criteria for admissibility, insufficient procedural guarantees for asylum-seekers and refugees, lack of information on procedures of asylum and of access to lawyers.⁴⁰²

The principle was reaffirmed in the context of forced expulsion or return by the CAT in its review of **Cameroon, Pakistan** and **Italy**. The CRC recommended **Cameroon** to ensure that the best interests of the child are a primary consideration in all decisions and agreements in relation to the transfer of any asylum-seeking or refugee children, and that all returns are voluntary. **Romania** was asked to improve its administrative practices to ensure adequate protection measures for asylum-seeking and refugee children, including qualified legal representatives (guardians) and proper age-assessment procedures that take into consideration the psychological characteristics and maturity of children. The CERD urged **Serbia** to take urgent measures to ensure timely and fair

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³⁹⁹ Australia, §§33-34

⁴⁰⁰ Bangladesh, §§31-32

⁴⁰¹ Cameroon, §§35-36

⁴⁰² Dominican Republic, §§23-24

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processing of asylum claims, including sufficient funding for relevant decision-making bodies and to ensure consistent respect for the principle of non-refoulement.⁴⁰³

5.2.2. Immigration Detention

The HR Committee noted that the significant levels of control and influence exercised by **Australia** over the operation of the offshore regional processing centres in Papua New Guinea (Manus Island), Nauru, and Christmas Island, including over their establishment, funding and services provided therein, meet the effective control standard as set out in its General Comment No. 31. It recommended that the State end its offshore transfer arrangements and cease any further offshore transfers of refugees or asylum seekers; take all measures necessary to protect the rights of refugees and asylum seekers affected by the closure of processing centres, and ensure their transfer to Australia or their relocation to other safe countries; and consider closing the Christmas Island detention centre.⁴⁰⁴

The HR Committee, while noting that the mandatory detention scheme under the Migration Act 1958 does not meet the legal standards under Article 9 of the Covenant, expressed concern about the use of detention as a general deterrent against unlawful entry, rather than in response to an individual risk, and the continued mandatory detention of children and unaccompanied minors, despite the reduction in the number of children in immigration detention. It recommended that **Australia** reduce initial mandatory detention period; ensure that detention beyond the initial period is justified and subject to judicial review; expand the use of alternatives to detention; consider introducing a time limit on overall detention; provide meaningful appeal remedies; ensure that children are not detained except as a last resort; address the conditions of detention in immigration facilities; provide adequate mental health care; refrain from applying force or physical restraints against migrants and ensure that all victims of excessive of force have effective redress.⁴⁰⁵

Prolonged detention in **Italy** was of concern to the HR Committee, wherein it reiterated that immigration detention is to be applied only for the shortest period possible and as a measure of last resort.⁴⁰⁶ Alternatives to migrant detention and separation of minors from adults were also strongly recommended to **Switzerland**.⁴⁰⁷

With respect to **Italy**, the CAT noted that detention pending deportation should be further reduced and only applied as an exceptional measure. The CESCR urged **Australia** to halt its policy of offshore processing of asylum claims; and complete the closure of the regional processing centres, repatriate all concerned persons to **Australia** and process their asylum claims with all procedural safeguards, while respecting their right to family reunification. The CERD too urged **Australia** to amend the Maritime Powers Act 2013 to remove powers to detain, halt its policy of offshore processing of asylum claims and process the remaining claims while guaranteeing all procedural safeguards, and to use detention only as a measure of last resort and to ensure regular judicial review of detention decisions.⁴⁰⁸

⁴⁰³ CAT, Cameroon, §17; CRC, Cameroon, §40; CAT, Italy, §§20-21; CAT, Pakistan, §§34-35; CRC, Romania, §40; Serbia (CRC) §§26-27

⁴⁰⁴ Australia, §§35-36

⁴⁰⁵ Australia, §§37-38

⁴⁰⁶ Italy, §§25-26

⁴⁰⁷ Switzerland, §§34-35

⁴⁰⁸ CAT, Italy, §§28-29; CESCR, Australia, §§17-18; CERD, Australia, §§29-33

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5.2.3. Migrant Workers

While recognizing **Jordan's** efforts to protect migrant workers, the HR Committee expressed concerns about allegations that employers withhold passports and salaries, and restrict the freedoms of employees; and that the authorities detain undocumented migrant workers for prolonged periods before bringing them before a competent judicial authority. **Jordan** was asked to ensure that migrant domestic workers are afforded the same rights as other workers under labour laws and that legislation preventing their abuse is enforced.⁴⁰⁹ **Pakistan** was asked to ensure that Pakistani migrant workers sentenced to death overseas are provided with sufficient legal and consular services throughout their legal proceedings.⁴¹⁰

The CESCR recommended **Australia** to take steps to raise awareness among migrant workers about their rights and existing avenues to file complaints, and increase labour inspections, including to industries where migrant workers are numerous, with a view to detecting labour rights violations, bringing exploitative employers to justice, and compensating victims. It recommended **Sri Lanka** to ensure that workers enjoy their trade union rights without undue restrictions or interference, and urges it to effectively investigate all allegations of violations of trade union rights and ensure that migrant workers have the right to join trade unions freely and to take part in trade union activities.⁴¹¹

The CEDAW echoed the plight of migrant women workers specifically in **Jordan** and recommended the abolition of the *kafalah* system and urged the state to take steps to ensure their protection while the legal proceedings were under way. It recommended **Sri Lanka** to abolish the Family Background Report, with a view to lifting the sex-specific restrictions on migration, which impose restrictions only on migrant women, namely to appoint guardians for any children under six years of age.⁴¹²

5.2.4. Stateless Persons

The HR Committee regretted the decision TC 0168/13 of the Constitutional Court of **Dominican Republic**, which left thousands of Dominicans, the majority being of Haitian descent, without Dominican nationality and in a situation of statelessness; the State's denial of cases of statelessness; and the State's non-compliance with the August 2014 judgment of the Inter American Court of Human Rights in the case of expelled Dominicans and Haitians. It was recommended that the State adopt necessary *de jure* and *de facto* measures to prevent and reduce statelessness, including restoration of Dominican nationality to all persons affected by State Court's judgment.⁴¹³ Birth registration difficulties, especially for children of Haitian descent even when one of the parents is of Dominican origin, putting such children at high risk of statelessness were to be done away with.⁴¹⁴

Complicated statelessness determination procedures in **Italy**, which put children at a high risk of inheriting the stateless status of their parents, prompted the HR Committee to recommend simplification of statelessness determination procedures, reformation of the citizenship law and expedition of adoption of legislation to reduce statelessness.⁴¹⁵

⁴⁰⁹ Jordan, §§22-23

⁴¹⁰ Pakistan, §18 (e)

⁴¹¹ CESCR, Australia, §§27-28; CESCR, Sri Lanka, §§34-37

⁴¹² CEDAW, Jordan, §§45-46; CEDAW, Sri Lanka, §§38-39

⁴¹³ Dominican Republic, §§25-26

⁴¹⁴ Ibid, §§33-34

⁴¹⁵ Italy, §§22-23

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Statelessness among indigenous people and ethnic minorities in **Thailand** was of concern as it has a detrimental impact on access to basic services and leads to increased vulnerability to criminal trafficking and prostitution networks. The State was asked to spread awareness on the acquisition of nationality and to ensure protection for the stateless.⁴¹⁶

5.2.5. Internally Displaced Persons

While welcoming **Bosnia and Herzegovina's** efforts towards closing collective centers for internally displaced persons and providing them with alternative housing, the HR Committee remained concerned that returnees and internally displaced persons continue to face discrimination, including in employment and education, which hampers their reintegration into society, and that persons granted subsidiary international protection do not receive access to services on an equal basis with refugees. The State was asked to strengthen efforts to fully implement the revised strategy for the implementation of annex VII to the Dayton Peace Agreement to facilitate reintegration of returnees and internally displaced persons and enjoyment of their rights without discrimination; and ensure that persons with international subsidiary protection receive access to services on an equal basis with refugees, including for family reunification and travel documents.⁴¹⁷

Honduras was asked to step up its efforts to prevent internal displacements; ensure that victims receive care, assistance and full reparation, with particular consideration for the needs of women and girls; and ensure secure and viable options for return, local integration or resettlement elsewhere in the country.⁴¹⁸ The HR Committee recommended that **Serbia** work with internally displaced Roma communities to develop durable solutions that are suitable to them, including their local integration into Serbian society.⁴¹⁹

The HR Committee also mentioned reports of force displacement caused by State officials in **DRC** and the lack of a legal framework to address the situation of internally displaced persons, wherein 1.3 million internally displaced persons had fled from the Kasai conflict. Establishing a legal framework and a national strategy to assist and protect internally displaced people according to international standards; and creating the necessary conditions for displaced persons to attain durable solutions, including voluntary return in total security, were recommended.⁴²⁰

The CESCR recommended **Sri Lanka** to effectively implement the National Policy on Durable Solutions for Conflict-Affected Displacement (adopted in 2016) and urgently address the factors that impede a resettlement of internally displaced persons and was urged to provide compensation for destroyed housing and assistance to returnees to enable them to repair or build houses and to ensure that basic infrastructural needs are met, including adequate roads, schools and hospitals where people have been or are to be resettled. The CRC recommended the **DRC** to establish a coherent database and national programmes for refugee and internally displaced children, with a view to ensuring full protection of their rights.⁴²¹

⁴¹⁶ Thailand, §§41-44

⁴¹⁷ Bosnia & Herzegovina, §§35-36

⁴¹⁸ Honduras, §§28-29

⁴¹⁹ Serbia, §15

⁴²⁰ DRC, §§25-26

⁴²¹ CRC, DRC, §4; CESCR, Sri Lanka, §51

5.3. Indigenous Peoples

The HR Committee expressed concern about the significant overrepresentation of indigenous Australians in prisons.⁴²² It recommended that **Australia** take robust measures to address the issue, by identifying and revising regulations and policies leading to high rates of incarceration, including the mandatory sentencing laws and imprisonment for fine default. Ensuring adequate, culturally-appropriate and accessible legal services, and reviewing the impact of restrictions on prisoner voting on political participation by indigenous peoples were also recommendations made by the HR Committee.⁴²³

Furthermore, the HR Committee recommended that **Australia** (i) provide adequate funding to the National Congress of Australia's First Peoples; (ii) consider revising the Constitution to recognize the special status and fully protect the equal rights of Aboriginal and Torres Strait Islander peoples; (iii) take measures to protect and promote their rights; and (iv) ensure genuine consultations with land holders and effective protection and management of indigenous heritage sites.⁴²⁴ It noted with concern the extreme difficulties in obtaining compensation under the current native title scheme for those people who had their native title extinguished, and that many of the recommendations of the Australia Law Reform Commission and the Council of Australian Governments on the matter had not been implemented.

Australia was asked to remove the barriers to the full protection of indigenous land rights and to establish a national reparation mechanism for victims of the 'stolen generation'.⁴²⁵

For **Bangladesh**, the HR Committee similarly recommended the recognition of the legal status of indigenous peoples; facilitation of reporting, investigation, prosecution and compensation in case of violations of their rights; resolution of land disputes through the implementation of the Chittagong Hill Tracts Land Dispute Resolution Commission Act 2016 and through the use of an independent land commission; and inclusion of indigenous persons in political and decision-making processes.⁴²⁶

Noting the disproportionate effect that gender-based violence has on indigenous women, the HR Committee recommended intensifying preventive measures and their implementation, including those funded through the Indigenous Advancement Strategy's Safety and Wellbeing Programme in **Australia**, and providing effective remedies in **Bangladesh**.⁴²⁷

The HR Committee expressed concern over the particular vulnerability of the Pygmies in **DRC**, including discrimination against them especially in health and education sectors; serious violations of human rights and forced displacement in Tanganyika Province; and the delay in adopting the law on the rights of indigenous peoples. The State was urged to recognize the Pygmies as indigenous people, enact and implement laws to protect them, and consult with them for decisions affecting them.⁴²⁸

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⁴²² Australia, §39

⁴²³ Ibid, §§40, 47-48

⁴²⁴ Ibid, §§49-50

⁴²⁵ Australia, §§51-54

⁴²⁶ Bangladesh, §12

⁴²⁷ Australia, §§21-22; Bangladesh, §§17-18

⁴²⁸ DRC, §§49-50

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The indigenous community in **Honduras** was identified as at risk of violence, discrimination, trafficking and forced labour, and the State was asked to protect them.⁴²⁹

The CESCR highlighted the serious socio-economic disadvantage faced by the indigenous peoples in its concluding observations on **Australia**. The CERD expressed regret over the under-resourcing and low level of implementation in the “Closing the gap” strategy adopted by the state. **Australia** was asked to carry out genuine consultations with indigenous peoples, their representatives, and non-governmental organizations to refresh the strategy and to provide detailed updates on the impact and results of such measures in its next periodic report. The CERD also recommended the lowering of the standard of proof required to establish the claims of indigenous peoples to land by amending the Native Title Act 1993. The CRC urged **Cameroon** to allocate adequate resources for the implementation of the national action plan for indigenous peoples, the Pygmies and the Mbororo, ensuring its objective is to respect, protect and promote the rights of indigenous children, including education, and to eliminate their food insecurity, poverty and vulnerability to violence and exploitation, with their full and effective participation.⁴³⁰

5.4. Persons with Disabilities

The HR Committee welcomed the ratification of the Convention on the Rights of Persons with Disabilities and/or its Optional Protocol by **Australia, Bangladesh, DRC, Honduras, Italy, Madagascar, Mauritius, Pakistan, Romania, Swaziland, Switzerland** and **Thailand**.⁴³¹

The HR Committee, while noting the Senate Standing Committee on Community Affairs recommendations for limiting the practice of sterilizing persons for psychosocial reasons and strengthening the safeguards against abuse in **Australia**, remained concerned about the compatibility of the practice of involuntary non-therapeutic sterilization of women and girls with intellectual disabilities and/or cognitive impairments with the provisions of the Covenant, including those concerning the prohibition against cruel, inhuman and degrading treatment, the right to privacy and equality before the law, and recommended abolition of the practice.⁴³² **Australia** was also asked to ensure that legislation does not discriminate against persons with intellectual and psychosocial disabilities by denying them the right to vote on bases that are disproportionate or have no reasonable relation to their ability to vote.⁴³³

The HR Committee raised similar concerns in this context over limited access to justice, education, employment and political participation; forced placement in medical institutions; isolation and forced treatment of large numbers of persons with mental, intellectual and psychosocial disabilities; reported tendency to resort to the deprivation of legal capacity; inadequacy of the current legal frameworks to achieve deinstitutionalization and enhance appropriate community-based support; and limited scope of protections against discrimination on grounds of disability in **Serbia**.⁴³⁴

⁴²⁹ Honduras, §§ 10-11, 36-37, 40-41

⁴³⁰ CESCR, Australia, §§ 23, 31-33, 40-58; CERD, Australia, §§ 17-22, 27-28; CRC, Cameroon, § 42

⁴³¹ Australia, § 4; Bangladesh, § 4; DRC, § 4; Honduras, § 4; Italy, § 4; Madagascar, § 4; Mauritius, § 4; Pakistan, § 4; Romania, § 4; Swaziland, § 7; Switzerland, § 4; Thailand, § 4

⁴³² Australia, §§ 23-24

⁴³³ Australia, §§ 47-48

⁴³⁴ Serbia, §§ 16-17

The disproportionate effect that domestic violence has on women with disabilities in **Australia** was noted, and the HR Committee recommended improved support services.⁴³⁵

The HR Committee expressed concern over personal disability benefits received by civilian victims of war in **Bosnia and Herzegovina** being significantly lower than those received by war veterans and asked for harmonization of such disability benefits "so that personal disability benefits received by civilian victims are comparable to personal disability benefits received by war veterans".⁴³⁶

The CRPD recommended **Bosnia and Herzegovina** to revise the provisions of disability allowances by harmonizing laws and regulations at all levels of government in order to repeal the current discriminatory practice that is based on the cause of impairment, in particular for war-related and non-war-related disabilities.⁴³⁷

Bangladesh, Italy and **Pakistan** were asked to adopt anti-discrimination legislation that protects against direct and indirect discrimination in the public and private sphere based on a comprehensive list of grounds for discrimination, including disability.⁴³⁸ Similarly, **Cameroon**, with almost 10% of its population suffering from disabilities, **Mongolia** and **Romania** were urged to ensure accessibility to employment, public services and infrastructure.⁴³⁹ In this regard, **Liechtenstein** was asked to ensure that employers fulfil their obligation to give access for disabled persons to the labour market by providing reasonable accommodation as one of the measures to ensure enjoyment of their rights.⁴⁴⁰

Noting that children with disabilities remain outside the education system altogether in **Bosnia and Herzegovina**,⁴⁴¹ the HR Committee recommended special efforts for integrating them in regular schools, and in special schools where absolutely necessary.

The CRC recommended **Romania** to develop a national policy on disability with a human rights perspective that specifically addresses children with disabilities and aims to ensure their full participation in society and provide sufficient human and financial resources for the implementation of the Strategy on the Rights of Persons with Disabilities and Roma Inclusion and for the National Authority for People with Disabilities to carry out its mandate effectively. The CESCR discussed the situation of Persons with Disabilities in the context of access to education in **Liechtenstein**, healthcare and work in **Netherlands** and **Pakistan**, and violence against persons with disabilities in **Australia**.⁴⁴²

5.5. Persons with HIV/AIDS

While acknowledging the efforts made by **Swaziland** to promote and protect the life and health of persons with HIV/AIDS, the HR Committee remained concerned at the continued high number of infections; the persistence of stigma and discrimination against such persons; and the absence of laws prohibiting discrimination

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⁴³⁵ Australia, §§21-22

⁴³⁶ Bosnia & Herzegovina, §§17-18

⁴³⁷ CRPD, Concluding observations on the initial report of Bosnia and Herzegovina, UN Doc. CRPD/C/BIH/CO/1, 2017, §51, **(CRPD, Bosnia and Herzegovina)**

⁴³⁸ Bangladesh, §12; Italy, §9; Pakistan, §12

⁴³⁹ Cameroon, §§15-16; Mongolia, §§13-14; Romania, §§19-20

⁴⁴⁰ Liechtenstein, §17

⁴⁴¹ Bosnia & Herzegovina, §§31-32

⁴⁴² CRC, Romania, §§31-32; CESCR, Concluding observations on the combined second and third periodic reports of Liechtenstein, UN Doc.

E/C.12/LIE/CO/2-3, 2017, §18, **(CESCR, Liechtenstein)**; CESCR, Netherlands, §52, CESCR, Pakistan, §23; CESCR, Australia, §§35-36

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on the basis of HIV/AIDS. The State was urged to intensify efforts to fight stigma and prohibit discrimination in this context.⁴⁴³

Serbia was asked to remedy the situation of discrimination against such persons and violations of their right to privacy, especially in the context of health care, by strengthening measures to eradicate social stigmatization, discrimination and violence against such persons, as were **Madagascar** and **Romania**.⁴⁴⁴

Turkmenistan was asked to lift its HIV-related travel restrictions.⁴⁴⁵

5.6. Persons with Albinism

The HR Committee expressed concern over reports of discrimination and violence against persons with albinism in **Swaziland**, where the State is yet to adopt effective strategies to ensure that they are afforded equal protection. It recommended that the State remedy this gap in protection.⁴⁴⁶

X v Tanzania, UN Doc. CRPD/C/18/D/22/2014, 2017

[Key words: *Torture, inhuman and degrading treatment; discrimination against a person with albinism*]

The author is a Tanzanian national with albinism who had one of his arms cut off by two strangers due to his condition of albinism. He claimed that his right to access to justice had been significantly limited due to the unduly prolonged investigation process.

The CRPD found that the State's failure to take all necessary measures to prevent, efficiently investigate and punish acts of violence amounted to discrimination based on disability and that there had been a failure to protect his physical and mental integrity, in violation of articles 5 (Equality and non-discrimination) and 15 (Freedom from torture or cruel, inhuman or degrading treatment or punishment) of the CRPD.

It also considered that the suffering experienced by the author due to a lack of State's action became a cause of re-victimization and amounted to psychological torture and/or ill-treatment, violating article 17 (Protecting the integrity of the person) in conjunction with article 4 (General obligations).

5.7. MINORITIES

Racism, hate speech and hate crimes caused concern to the HR Committee, resulting in recommendations to **Australia, Bangladesh, Serbia, Honduras, Pakistan, Romania, Switzerland, and Thailand**,⁴⁴⁷ to promote tolerance, protect people, provide adequate remedies, investigate cases and prosecute perpetrators.

The HR Committee welcomed efforts made to eliminate discrimination against the Roma people in **Bosnia and Herzegovina**, including improvements in birth registration and increased enrolment of Roma children in schools, but remained concerned about persistent *de facto* discrimination with respect to Roma children accessing education, high unemployment rates and the lack of access to adequate housing. The State was recommended to continue to tackle the discrimination through practical measures, and awareness-raising initiatives to ensure full

⁴⁴³ Swaziland, §§20-21

⁴⁴⁴ Serbia, §§12-13; Madagascar, §16; Romania, §§17-18

⁴⁴⁵ Turkmenistan, §33

⁴⁴⁶ Swaziland, §§22-23

⁴⁴⁷ Australia, §§19-20; Bangladesh, §§11-

12; Serbia, §§10-11; Honduras, §§10-11;

Pakistan, §34; Romania, §§13-14, 43-44;

Switzerland, §§20-23; Thailand, §§11-12,

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enjoyment of all their Covenant rights.⁴⁴⁸ The Roma community continue to suffer from widespread discrimination and exclusion, unemployment, forced eviction, and *de facto* housing and educational segregation even in **Serbia** and **Romania**,⁴⁴⁹ wherein the HR Committee recommended inclusion strategies. Discrimination against and segregation of Roma, Sinti and Camminanti communities in **Italy** made the HR Committee recommend that the State intensify its efforts to eradicate such practices.⁴⁵⁰ **Switzerland** was asked to establish a coordinated action plan with its cantons to ensure sufficient stopping areas for its nomadic 'Travelers'.⁴⁵¹

The HR Committee asked **Cameroon** to remove any unnecessary restrictions on the freedom of assembly and demonstration, especially for the country's English-speaking minorities.⁴⁵² Afro-Hondurans in **Honduras** were a vulnerable group being trafficked or forced into slavery, and the State was called upon to combat this.⁴⁵³ While noting the adoption of quotas for minority persons in parliaments and in public services in **Pakistan**, the HR Committee expressed concern that the minority quota are applied only to religious minorities, and regretted the absence of sufficient information on the implementation of these quotas. It expressed concern over the removal of Ahmadis from the general electoral list and their registration on a separate voting list, and asked the State to ensure that all citizens can exercise their right to vote.⁴⁵⁴ Interestingly, the HR Committee specifically requested that **Bangladesh** and **Pakistan** consult minority and marginalized groups in preparing their next periodic reports.⁴⁵⁵

Notably, with regard to **Australia's** voluntary, non-binding postal survey on the legalization of same-sex marriage, the HR Committee stated that "resort to public opinion polls to facilitate upholding rights under the Covenant in general, and equality and non-discrimination of minority groups in particular, is not an acceptable decision-making method and that such an approach risks further marginalizing and stigmatizing members of minority groups."⁴⁵⁶

The CESCR urged **Pakistan** to take urgent legal measures to recognize the status of minorities other than religious ones, including racial, ethnic and linguistic minorities, in order to enable persons belonging to all minorities to enjoy their relevant rights and benefit from the policies and programmes designed for the protection of minority groups. It also recommended **Sri Lanka** to conduct a comprehensive census that includes the element of the right to free self-identification of the Veddah people and that it address the root causes of their socio-economic marginalization.⁴⁵⁷

5.8 Human Rights Defenders

The HR Committee repeatedly expressed concern over various instances of intimidation, harassment, threats and violence against human rights defenders, journalists, civil society organizations, political opponents and individuals.

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⁴⁴⁸ Bosnia & Herzegovina, §§39-40

⁴⁴⁹ Serbia, §§14-15; Romania, §§11-12

⁴⁵⁰ Italy, §§14-15

⁴⁵¹ Switzerland, §§50-51

⁴⁵² Cameroon, §42

⁴⁵³ Honduras, §§36-37

⁴⁵⁴ Pakistan, §§47-48

⁴⁵⁵ Bangladesh, §35; Pakistan, §51

⁴⁵⁶ Australia, §29 (*Australia has since then legalized same-sex marriage with effect from 9 December 2017, following a favorable public opinion survey*)

⁴⁵⁷ CESCR, Pakistan, §§29-30; CESCR, Sri Lanka, §§69-70

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5.9. LGBTI Persons

The HR Committee noted with concern the prevalence of violence and discrimination against LGBTI persons, and made observations and recommendations on their rights of same-sex couples in the context of several States.

5.9.1. Stigmatization and Discrimination

Noting that the stigmatization of LGBTI persons has resulted in barriers to their seeking employment, the HR Committee recommended to **Bangladesh** that it remove such barriers and violations of the dignity of such persons.⁴⁵⁸ Similar observations were made for **Mongolia, Romania, Serbia** and **Swaziland**.⁴⁵⁹

For the eradication of all forms of social stigmatization, the HR Committee made recommendations to (i) adopt legislation that prohibited hate crimes, (ii) ensure that all acts of discrimination are investigated, that perpetrators are prosecuted, and if convicted, punished with appropriate penalties, and that victims are provided with full reparation, and (iii) provide training and sensitization of law enforcement personnel to vigorously combat stereotypes and negative attitudes towards LGBTI persons.⁴⁶⁰

5.9.2. Decriminalization of Same-Sex Relationships

The HR Committee called for the decriminalization of consensual sex between same-sex individuals in **Bangladesh, Cameroon, Mauritius, Swaziland** and **Turkmenistan**.⁴⁶¹ In its observations on **Turkmenistan**, the HR Committee, while acknowledging diversity of cultures and beliefs, stressed on universality of human rights and recommended that States ensure that there exists no form of discrimination or violence against these individuals.⁴⁶²

C v. Australia, UN Doc. CCPR/C/119/D/2216/2012, 2017.

[Key words: *Non-discrimination; Equal access to court*]

The author claimed that she had been discriminated against by Australia on the basis of her sexual orientation as the State did not recognize foreign same sex marriages, and therefore, did not provide for divorce proceedings.

The HR Committee considered that the author being precluded from accessing divorce proceedings, while other heterosexual foreign marriages, which would not be legal if carried out in Australia, were recognized, amounted to a differential treatment. It recalled that for such a treatment not to constitute discrimination it has to derive from reasonable and objective criteria which aim to achieve a legitimate purpose. However, it considered that State's justification for recognizing the other categories of marriages so as to enable them to access assistance, relief and help in relation to children's, property and maintenance matters was not reasonable, as Australia failed to explain why these motives did not apply for same sex marriages.

The HR Committee therefore declared a violation of Article 26 of the Covenant. The State was asked to make full reparations and prevent future violations.

⁴⁵⁸ Bangladesh, § 12

⁴⁵⁹ Mongolia, § 11; Romania, § 15; Serbia, § 12; Swaziland, § 18

⁴⁶⁰ Bangladesh, § 12; Mongolia, § 12; Romania, § 16; Serbia, § 13; Swaziland, § 19

⁴⁶¹ Bangladesh, § 12; Cameroon, § 14; Mauritius, § 10; Swaziland, § 19;

Turkmenistan, § 9

⁴⁶² Turkmenistan, § 9

5.9.3. Marriage Equality and Rights of Same-Sex Couples

The HR Committee made observations and recommendations on the rights of same-sex couples in the context of **Australia**,⁴⁶³ **Honduras**, **Italy**, **Mauritius** and **Mongolia**.

The HR Committee expressed concern over laws in **Italy** that do not provide same-sex couples with the right to adopt children and do not afford full legal protection to children living in same-sex families. It also expressed concerns about the continued denial of access to in vitro fertilization. The HR Committee recommended the review of the relevant laws to make them non-discriminatory on the grounds of gender identity or sexual orientation.⁴⁶⁴

The HR Committee also recommended the equal legal recognition and protection of same-sex couples, removal of restrictions on them from entering into marriage or civil partnerships, and non-denial of other rights relating to their personal status in **Honduras**, **Mauritius** and **Mongolia**.⁴⁶⁵

5.9.4. Violence against LGBTI Persons

The HR Committee noted with concern the prevalence of violence against LGBTI Persons in **Bangladesh**, **Bosnia and Herzegovina**, **Cameroon**, **Honduras**, **Mauritius**, **Mongolia**, **Romania**, **Serbia**, **Swaziland** and **Turkmenistan**.

For example, in **Bosnia and Herzegovina**, the HR Committee noted that police officers do not investigate attacks against LGBT persons, especially during public assemblies.⁴⁶⁶ For **Bangladesh**, the HR Committee expressed concern over the invasive and humiliating medical examination required to prove an individual's transgender status.⁴⁶⁷ In the context of **Swaziland**, the HR Committee expressed concern over the murder of two individuals directly linked to their sexual orientation and the rape of a gay man in detention, despite the laws criminalizing same sex relations between men not being enforced in practice.⁴⁶⁸

The HR Committee recommended that States ensure effective identification, recording, investigation, prosecution and adequate punishment of acts of violence motivated by sexual orientation or gender identity of victims, and that they intensify efforts to combat stereotypes and prejudice against LGBTI persons, including by training law enforcement officials and providing the victims access to reparations.⁴⁶⁹ The HR Committee recommended that **Honduras** collect disaggregated data on assaults and murders among LGBTI persons.⁴⁷⁰

The CAT was concerned by reports of violence against LGBTI persons in **Cameroon** and noted that cases of violence, harassment, "corrective rape" and murder against LGBTI persons, and against the human rights defenders who report these violations, are not subject to thorough investigation. A similar pattern of threatening and intimidation was noted by the CAT in **Bosnia and Herzegovina**. The CEDAW recommended **Italy** to amend article 3 of the Constitution and Act No. 205/1993 to protect LGBTI persons from intersecting forms of discrimination or hate crimes. With respect to **Pakistan**, the CESCR recommended

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⁴⁶³ **Australia** has since then legalised same-sex marriage with effect from 9 December 2017, following a favourable public opinion survey.

⁴⁶⁴ Italy, § 10-11

⁴⁶⁵ Honduras, § 9; Mauritius, § 10; Mongolia, § 12

⁴⁶⁶ Bosnia & Herzegovina, § 25

⁴⁶⁷ Bangladesh, § 11 (e)

⁴⁶⁸ Swaziland, § 18

⁴⁶⁹ Bosnia & Herzegovina, § 25;

Cameroon, § 14; Mongolia, § 12;

Romania, § 16; Serbia, § 13; Swaziland,

§ 19; Turkmenistan, § 9

⁴⁷⁰ Honduras, § 41 (f)

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that the State party decriminalize same-sex relations between consenting adults and take the measures necessary to raise public awareness and combat discrimination based on sexual orientation and gender identity.⁴⁷¹

⁴⁷¹ CAT, Bosnia & Herzegovina, §36; CAT, Cameroon, §43; CEDAW, Italy, §18; CESCR, Pakistan, §21