THE APPLICATION OF THE UN CONVENTION ON THE ELIMINATION OF RACIAL DISCRIMINATION: CHALLENGES AHEAD

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SELECTED SOURCES
- General recommendation XXV on gender-related dimensions of racial discrimination, in UN doc. A/55/18.
- General recommendation XXVII on discrimination against Roma, in UN doc. A/55/18.
- General recommendation XXIX on descent-based discrimination, in UN doc. A/57/18.
- General recommendation XXX on discrimination against non-citizens, in UN doc. A/59/18.
- General recommendation XXXI on the prevention of racial discrimination in the administration and functioning of the criminal justice system, in UN doc. A/60/18.

SELECTED BIBLIOGRAPHY