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FOUR OBLIGATIONS - EXERCISE 1 (1/1 point)

Consider the following cases, and decide whether they are instances of discrimination, and if so, under which category.

1. After his life partner deceased, X applied for a pension transfer. This was denied to him, however, on the grounds that the law did not permit the transfer of a pension to a person of the same sex (though the pension may be transferred to the person who shared married life with the deceased, this does not extend to persons of the same sex). X claims that this is discrimination on grounds of sexual orientation.

Help

- ☐ This is a violation of the rule of equality before the law;
- ☒ This is a violation of the rule of equal protection of the law; ✓
- ☐ This is a violation of the requirement that the law should prohibit any discrimination;
- ☐ This is a violation of the requirement that all persons should have equal and effective protection against discrimination; or,
- ☐ Though this may be a violation of the right to social security, it is unrelated to the prohibition of discrimination.

EXPLANATION

The summary corresponds to the case of *X v. Colombia*, presented to the Human Rights Committee (Communication n° 1361/2005), and on which the Committee expressed its final views of 30 March 2007. The Committee found that Article 26 ICCPR had been violated in this instance: it noted that, whereas it had found on previous occasions that 'differences in benefit entitlements between married couples and heterosexual unmarried couples were reasonable and objective, as the couples in question had the choice to marry or not', in this case 'it was not open to the author to enter into marriage with his same-sex permanent partner'. Indeed, 'the Act does not make a distinction between married and unmarried couples but between homosexual and heterosexual couples'. The Committee therefore found that 'the State party has put forward no argument that might demonstrate that such a distinction between same-sex partners, who are not entitled to pension benefits, and unmarried heterosexual partners, who are so entitled, is reasonable and objective. Nor has the State party adduced any evidence of the existence of factors that might justify making such a distinction. In this context, the Committee finds that the State party has violated article 26 of the Covenant by denying the author's right to his life partner's pension on the basis of his sexual orientation'.



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