

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

REPORT ON THE THIRTY-FOURTH AND THIRTY-FIFTH SESSIONS

(25 April-13 May 2005, 7-25 November 2005)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 2006

SUPPLEMENT No. 2



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Note

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

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ABBREVIATIONS

AIDS	acquired immunodeficiency syndrome
FAO	Food and Agriculture Organization of the United Nations
GDP	gross domestic product
GNP	gross national product
HIV	human immunodeficiency virus
ILO	International Labour Office International Labour Organization
IMF	International Monetary Fund
Roster	Roster of organizations that do not have general or special consultative status*
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFPA	United Nations Population Fund
UNHCR	Office of the United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
WHO	World Health Organization
WIPO	World Intellectual Property Organization
World Bank	International Bank for Reconstruction and Development
WTO	World Trade Organization

* In conformity with Economic and Social Council resolution 1996/31 of 25 July 1996, these are organizations "that the Council, or the Secretary-General, in consultation with the Council or its Committee on Non-Governmental Organizations, considers can make occasional and useful contributions to the work of the Council or its subsidiary bodies or other United Nations bodies within their competence ... This list may also include organizations in consultative status or a similar relationship with a specialized agency or a United Nations body. These organizations shall be available for consultation at the request of the Council or its subsidiary bodies. The fact that an organization is on the Roster shall not in itself be regarded as a qualification for general or special consultative status should an organization seek such status".

CHAPTER I

Organizational and other matters

A. States parties to the Covenant

1. As of 25 November 2005, the closing date of the thirty-fifth session of the Committee on Economic, Social and Cultural Rights, 151 States had ratified or acceded to the International Covenant on Economic, Social and Cultural Rights, which had been adopted by the General Assembly in resolution 2200 A (XXI) of 16 December 1966 and opened for signature and ratification in New York on 19 December 1966. The Covenant entered into force on 3 January 1976 in accordance with the provisions of its article 27. A list of States parties to the Covenant and the status of submission of their reports are contained in annex I to the present report.

B. Sessions and agenda

2. The Committee, at its twelfth session, requested the Economic and Social Council to authorize the holding of two annual sessions of the Committee, in May and November-December, each of three weeks' duration, in addition to a pre-sessional working group of five members to meet for five days immediately after each session to prepare the list of issues for consideration at the subsequent session. The Council, by its resolution 1995/39 of 25 July 1995, endorsed the recommendation of the Committee.

3. In 2005, the Committee held its thirty-fourth session from 25 April to 13 May, and its thirty-fifth session from 7 to 25 November. Both sessions were held at the United Nations Office at Geneva. The agenda for each session is shown in annex IV to the present report.

4. An account of the Committee's deliberations at its thirty-fourth and thirty-fifth sessions is contained in the relevant summary records (E/C.12/2005/SR.1-27 and E/C.12/2005/SR.30-58, respectively).

C. Membership and attendance

5. All members of the Committee attended the thirty-fourth session (see list of members, annex III to the present report). All members of the Committee attended the thirty-fifth session.

6. In a letter dated 24 January 2005, Ms. Chokila Iyer, a national of India and member of the Committee (whose term of office was due to expire on 31 December 2006) notified the Secretary-General through the Chairperson of the Committee of her decision to resign her membership of the Committee as from 25 January 2005.

7. The Economic and Social Council at the resumed organizational session held at United Nations Headquarters, New York, on 27 April 2005, elected Ms. Arundhati Ghose (India), member of the Committee on Economic, Social and Cultural Rights for a term ending 31 December 2006.

8. The following specialized agencies and United Nations organs were invited to be represented by observers at the thirty-fourth and thirty-fifth sessions: FAO, ILO, IMF, UNAIDS, UNCTAD, UNDP, UNEP, UNESCO, UNFPA, UNHCR, UNICEF, WHO, WIPO and the World Bank).

9. The following non-governmental organizations in consultative status with the Economic and Social Council were represented by observers:

At the thirty-fourth session:

General consultative status: Franciscans International, International Confederation of Free Trade Unions;

Special consultative status: American Association of Jurists, Center for Economic and Social Rights, Centre on Housing Rights and Evictions, Dui Hua Foundation, Habitat International Coalition, International Centre for Human Rights and Democratic Development (Rights and Democracy), International Commission of Jurists, International Federation of Human Rights Leagues, International Organization for the Development of Freedom of Education, Oxfam GB, World Organization Against Torture;

Roster: American Association for the Advancement of Science, FIAN-Foodfirst Information and Action Network.

At the thirty-fifth session:

General consultative status: Franciscans International;

Special consultative status: American Association of Jurists, Amnesty International, Center for Reproductive Rights, Centre on Housing Rights and Evictions, Corporation for the Development of Women La Morada, Habitat International Coalition, Interfaith International, International Association of Democratic Lawyers, International Commission of Jurists, International Federation of Human Rights Leagues, International Federation Terre des Hommes, International Organization for the Development of Freedom of Education, International Service for Human Rights, Lutheran World Federation, North-South XXI, Women's International League for Peace and Freedom, World Organization Against Torture;

Roster: American Association for the Advancement of Science, FIAN-Foodfirst Information and Action Network, World Association for the School as an Instrument of Peace.

10. The following other national and international non-governmental organizations were represented by observers at the thirty-fourth and thirty-fifth sessions: Asylkoordination Oesterreich (Austria), The Center for Free Access to Information (Bosnia and Herzegovina), Contextos Latinoamericanos para la Promoción de los Derechos Económicos, Sociales y Culturales (Switzerland), Equal Opportunities Commission of Hong Kong, Evangelische Entwicklungszusammenarbeit (Austria), Helsinki Committee for Human Rights in Bosnia and Herzegovina, Hong Kong Human Rights Commission (China), Hong Kong Human Rights Monitor (China), Human Rights in China, Jesuit Centre for Theological Reflection (Zambia), Ligue des Droits et Libertés de Québec (Canada), International Women's Rights Action Watch (United States of America), Society for Community Organization (China), Society Ključ - Centre for the Fight Against Trafficking in Human Beings (Slovenia), 3D-Trade-Human-Rights-Equitable Economy (Switzerland), Tibet Support Group (Netherlands), ProLife (Austria), Tamazgha (France), Women and Law in Southern Africa (Zambia), Justice for Widows and Orphans Project (Zambia) and a coalition of non-governmental organizations: ASTRA, Belgrade Centre for Human Rights, Child Rights Centre, and Group 484 (Serbia and Montenegro).

D. Pre-sessional working group

11. The Economic and Social Council, in its resolution 1988/4 of 24 May 1988, authorized the establishment of a pre-sessional working group composed of five members to be appointed by the Chairperson to meet for up to one week prior to each session. By decision 1990/252 of 25 May 1990, the Council authorized the meetings of the working group to be held one to three months prior to a session of the Committee.

12. The Chairperson of the Committee, in consultation with the members of the Bureau, designated the following individuals as members of the pre-sessional working group to meet:

Prior to the thirty-sixth session:

Mr. Jaime MARCHÁN ROMERO

Mr. Ariranga Govindasamy PILLAY

Mr. Andrzej RZEPLINSKI

Mr. Waleed M. SADI

Mr. Philippe TEXIER

Prior to the thirty-seventh session:

Ms. Rocío BARAHONA RIERA

Ms. Virginia BONOAN-DANDAN

Ms. Maria Virginia BRAS GOMES

Mr. Azzouz KERDOUN

Mr. Yuri KOLOSOV

13. The pre-sessional working group held its meetings at the United Nations Office at Geneva from 16 to 20 May and from 28 November to 2 December 2005. All members of the working group attended its meetings. The working group identified issues that might most usefully be discussed with the representatives of the reporting States and lists of such questions were transmitted to the permanent missions of the States concerned. The pre-sessional working group designated for the thirty-seventh session will hold its meetings from 22 to 26 May 2006.

E. Election of Officers of the Committee

14. In accordance with rule 14 of the Committee's rules of procedure, the Committee, at its third meeting of its thirty-fourth session on 26 April 2005, elected for a term of two years members of its Bureau as follows:

Chairperson: Ms. Virginia BONOAN-DANDAN

Vice-Chairpersons: Ms. Rocío BARAHONA RIERA
Mr. Azzouz KERDOUN
Mr. Eibe RIEDEL

Rapporteur: Mr. Yuri KOLOSOV

F. Organization of work

Thirty-fourth session

15. The Committee considered its organization of work at its 1st meeting on 25 April 2005. In connection with this item, the Committee had before it the following documents:

(a) Draft programme of work for the thirty-fourth session, prepared by the Secretary-General in consultation with the Chairperson of the Committee (E/C.12/2005/L.1);

(b) Reports of the Committee on the work of its previous sessions:* first (E/1987/28-E/C.12/1987/5), second (E/1988/14-E/C.12/1988/4), third (E/1989/22-E/C.12/1989/5), fourth (E/1990/23-E/C.12/1990/3 and Corr.1), fifth (E/1991/23-E/C.12/1990/8 and Corr.1), sixth (E/1992/23-E/C.12/1991/4 and Add.1), seventh (E/1993/22-E/C.12/1992/2), eighth and ninth (E/1994/23-E/C.12/1993/19), tenth and eleventh (E/1995/22-E/C.12/1994/20 and Corr.1), twelfth and thirteenth (E/1996/22-E/C.12/1995/18), fourteenth and fifteenth (E/1997/22- E/C.12/1996/6), sixteenth and seventeenth (E/1998/22-E/C.12/1997/10), eighteenth and nineteenth (E/1999/22-E/C.12/1998/26), twentieth and twenty-first (E/2000/22-E/C.12/1999/11 and Corr.1), twenty-second, twenty-third and twenty-fourth sessions (E/2001/22- E/C.12/2000/21), twenty-fifth, twenty-sixth and twenty-seventh sessions (E/2002/22- E/C.12/2001/17), twenty-eighth and twenty-ninth (E/2003/22-E/C.12/2002/13), thirtieth and thirty-first sessions (E/2004/22-E/C.12/2003/14) and thirty-second and thirty-third sessions (E/2005/22-E/C.12/2004/9).

* Published as *Official Records of the Economic and Social Council*.

16. In accordance with rule 8 of its rules of procedure, the Committee, at the same meeting, considered the draft programme of work for its thirty-fourth session and approved it, as amended during consideration.

Thirty-fifth session

17. The Committee considered its organization of work at its 30th meeting on 7 November 2005. In connection with this item, the Committee had before it the following documents:

(a) Draft programme of work for the thirty-fifth session, prepared by the Secretary-General in consultation with the Chairperson of the Committee (E/C.12/2005/L.2);

(b) Reports of the Committee on the work of its previous sessions (see paragraph 15 (b) above).

18. In accordance with rule 8 of its rules of procedure, the Committee, at the same meeting, considered the draft programme of work for its thirty-fifth session and approved it, as amended during consideration.

G. Next sessions

19. In accordance with the established schedule, the thirty-sixth and thirty-seventh sessions would take place from 1 to 19 May and from 13 November to 1 December 2006, respectively.

H. States parties' reports scheduled for consideration by the Committee at its upcoming sessions

20. In accordance with rule 61, paragraph 2, of the Committee's rules of procedure, the reports submitted by States parties under article 16 of the Covenant are scheduled for consideration in the order in which they have been received by the Secretary-General. The Committee, at its 30th meeting, on 7 November 2005, decided to consider the reports of the following States parties at its thirty-sixth session:

Initial reports

Monaco	E/1990/5/Add.64
Liechtenstein	E/1990/5/Add.66

Third periodic reports

Morocco	E/1994/104/Add.29
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Fourth periodic reports

Canada	E/C.12/4/Add.15
Mexico	E/C.12/4/Add.16

Fifth periodic reports

Canada	E/C.12/CAN/5
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21. In addition to the reports listed in the preceding paragraph, the Committee received as at 25 November 2005, closing date of the thirty-fifth session, the following reports which were tentatively scheduled for consideration at its upcoming sessions:

Thirty-seventh session (13 November-1 December 2006)

Albania	Initial report	E/1990/5/Add.67
Tajikistan	Initial report	E/1990/5/Add.68
The former Yugoslav Republic of Macedonia	Initial report	E/C.12/MKD/1
El Salvador	Second periodic report	E/1990/6/Add.39
The Netherlands	Third periodic report	E/1994/104/Add.30

CHAPTER II

Overview of the present working methods of the Committee

22. This chapter of the Committee's report aims at providing a concise and up-to-date overview and explanation of the ways in which the Committee carries out its various functions. It is designed to make the Committee's current practice more transparent and readily accessible so as to assist States parties and others interested in the implementation of the Covenant.

23. Since its first session, in 1987, the Committee has made a concerted effort to devise appropriate working methods that adequately reflect the nature of the tasks with which it has been entrusted. In the course of its 35 sessions it has sought to modify and develop these methods in the light of its experience. These methods will continue to evolve.

A. General reporting guidelines

24. The Committee attaches major importance to the need to structure the reporting process and the dialogue with each State party's representatives in such a way as to ensure that the issues of principal concern to it are dealt with in a methodical and informative manner. For this purpose, the Committee has adopted detailed reporting guidelines¹ with a view to assisting States in the reporting process and improving the effectiveness of the monitoring system as a whole. The Committee strongly urges all States parties to report to it in accordance with the guidelines to the greatest extent possible. The Committee keeps its guidelines under review and they are updated when appropriate.

B. Examination of States parties' reports

1. Work of the pre-sessional working group

25. A pre-sessional working group meets for five days prior to each of the Committee's sessions. It is composed of five members of the Committee nominated by the Chairperson, taking account of the desirability of a balanced geographical distribution and other relevant factors.

26. The principal purpose of the working group is to identify in advance the questions that will constitute the principal focus of the dialogue with the representatives of the reporting States. The aim is to improve the efficiency of the system and to ease the task of States' representatives by facilitating more focused preparations for the discussion.²

27. It is generally accepted that the complex nature and diverse range of many of the issues raised in connection with the implementation of the Covenant constitute a strong argument in

¹ *Official Records of the Economic and Social Council, 1991, Supplement No. 3 (E/1991/23-E/C.12/1990/8), annex IV.*

² *Ibid., 1998, Supplement No. 4 (E/1988/14-E/C.12/1988/4), chap. IV, para. 361.*

favour of providing States parties with the possibility of preparing in advance to answer some of the principal questions arising out of their reports. Such an arrangement also enhances the likelihood that the State party will be able to provide precise and detailed information.

28. With regard to its own working methods, the working group, in the interests of efficiency, allocates to each of its members initial responsibility for undertaking a detailed review of a specific number of reports and for putting before the working group a preliminary list of issues. The decision as to how the reports should be allocated for this purpose is based in part on the areas of expertise of the member concerned. Each draft by a country rapporteur is then revised and supplemented on the basis of observations by the other working group members and the final version of the list is adopted by the working group as a whole. This procedure applies equally to both initial and periodic reports.

29. In preparation for the pre-sessional working group, the Committee has asked the secretariat to place at the disposal of its members a country analysis as well as all pertinent documents containing information relevant to each of the reports to be examined. For this purpose, the Committee invites all concerned individuals, bodies and non-governmental organizations to submit relevant and appropriate documentation to the secretariat. It has also asked the secretariat to ensure that certain types of information are regularly placed in the country files.

30. The lists of issues drawn up by the working group are given directly to a representative of the States concerned, along with a copy of the Committee's most recent report and with a note stating the following:

“The list is not intended to be exhaustive and it should not be interpreted as limiting or in any other way prejudging the type and range of questions which members of the Committee might wish to ask. However, the Committee believes that the constructive dialogue which it wishes to have with the representatives of the State party is greatly facilitated by making the list available in advance of the Committee's session. In order to improve the dialogue that the Committee seeks, it strongly urges each State party to provide in writing its replies to the list of issues and to do so sufficiently in advance of the session at which its report will be considered to enable the replies to be translated and made available to all members of the Committee.”

31. In addition to the task of formulating the lists of issues, the pre-sessional working group is also entrusted with a variety of other tasks designed to facilitate the work of the Committee as a whole. These have included: discussing the most appropriate allocation of time for the consideration of each State report; considering the issue of how best to respond to supplementary reports containing additional information; examining draft general comments; considering how best to structure the day of general discussion; and other relevant matters.

2. Consideration of the reports

32. In accordance with the established practice of each of the United Nations human rights treaty monitoring bodies, representatives of the reporting States should be present at the meetings of the Committee when their reports are examined in order to ensure a constructive dialogue with the Committee. The following procedure is generally observed: the representative of the State party is invited to introduce the report by making brief introductory comments and

introducing any written replies to the list of issues drawn up by the pre-session working group. The Committee then considers the report by clusters of articles (usually 1-5, 6-9, 10-12, 13-15), taking particular account of the replies furnished in response to the list of issues. The Chairperson will normally invite questions or comments from Committee members in relation to each issue and then invite the State party representatives to reply immediately to questions that do not require further reflection or research. Any remaining questions are taken up at a subsequent meeting or, if necessary, may be the subject of additional information provided to the Committee in writing. Members of the Committee are free to pursue specific issues in the light of the replies thus provided, although the Committee has urged them not to (a) raise issues outside the scope of the Covenant; (b) repeat questions already posed or answered; (c) add unduly to an already long list on a particular issue; or (d) speak more than five minutes in any one intervention. Representatives of relevant specialized agencies and other international bodies may also be invited to contribute at any stage of the dialogue.

33. The final phase of the Committee's examination of the report consists of the drafting and adoption of its concluding observations. For this purpose, the Committee usually sets aside a brief period in closed session immediately after the conclusion of the dialogue to enable its members to express their preliminary views. The country rapporteur then prepares, with the assistance of the secretariat, a draft set of concluding observations for consideration by the Committee. The agreed structure of the concluding observations is as follows: introduction, positive aspects, factors and difficulties impeding the implementation of the Covenant, principal subjects of concern and suggestions and recommendations. At a later stage, the Committee then discusses the draft, again in private session, with a view to adopting it by consensus.

34. The concluding observations, once formally adopted, are generally made public on the final day of the session. As soon as they are made public at 6 p.m. on the closing day of the session, they are made available to all interested parties. They are forwarded as soon as possible to the State party concerned and included in the Committee's report. If it so wishes, the State party may address any of the Committee's concluding observations in the context of any additional information that it provides to the Committee.

35. In general, the Committee devotes three meetings (of three hours each) to its public examination of States parties' reports. In addition, it generally devotes between two and three hours towards the end of the session, in private, to its discussion of each set of concluding observations.

3. Comments by States parties on concluding observations

36. Once the Committee has adopted its concluding observations on the report of a State party, and if the latter submits any comments thereon to the Committee, these are made public, as submitted, as Committee documents and mentioned in the annual report. Comments from States parties are published for information purposes only.

4. Postponement of the consideration of reports

37. Last-minute requests by States to postpone the consideration of a report that has been scheduled for examination at a particular session are extremely disruptive for all concerned and

have in the past caused major problems for the Committee. Accordingly, the Committee's long-standing policy is not to grant such requests and to proceed with its consideration of all scheduled reports, even in the absence of a representative of the State party concerned.

C. Follow-up procedure in relation to the consideration of reports

38. At its twenty-first session,³ the Committee decided that:

(a) In all concluding observations, the Committee would request the State party to inform the Committee, in its next periodic report, about steps taken to implement the recommendations in the concluding observations;

(b) Where appropriate, the Committee may, in its concluding observations, make a specific request to a State party to provide more information or statistical data at a time prior to the date that the next periodic report is due to be submitted;

(c) Where appropriate, the Committee may, in its concluding observations, ask the State party to respond to any pressing specific issue identified in the concluding observations prior to the date that the next report is due to be submitted;

(d) Any information provided in accordance with (b) and (c) above would be considered by the next meeting of the Committee's pre-sessional working group;

(e) In general, the working group could recommend that the Committee take one of the following measures:

(i) That the Committee take note of such information;

(ii) That the Committee adopt specific additional concluding observations in response to that information;

(iii) That the matter be pursued through a request for further information; or

(iv) That the Chairperson of the Committee be authorized to inform the State party, in advance of the next session, that the Committee would take up the issue at its next session and that, for that purpose, the participation of a representative of the State party in the work of the Committee would be welcome;

(f) If the information requested in accordance with (b) and (c) above is not provided by the specified date, or is patently unsatisfactory, the Chairperson, in consultation with the members of the Bureau, could be authorized to follow up the matter with the State party.

39. In situations in which the Committee considers that it is unable to obtain the information it requires on the basis of the above-mentioned procedures, it may decide to adopt a different approach. In particular, the Committee may request that the State party concerned accept one or

³ On 1 December 1999 (53rd meeting).

two members of the Committee. The purposes of such an on-site visit would be: (a) to collect the information necessary for the Committee to continue its constructive dialogue with the State party and to enable it to carry out its functions in relation to the Covenant; and (b) to provide a more comprehensive basis upon which the Committee might exercise its functions in relation to articles 22 and 23 of the Covenant concerning technical assistance and advisory services. The Committee would state specifically the issue(s) with respect to which its representative(s) would seek to gather information from all available sources. The representative(s) would also have the task of considering whether the programme of advisory services administered by the Office of the United Nations High Commissioner for Human Rights could be of assistance in connection with the specific issue at hand.

40. At the conclusion of the visit, the representative(s) would report to the Committee. In the light of the report presented by its representative(s), the Committee would then formulate its own conclusions. Those conclusions would relate to the full range of functions carried out by the Committee, including those relating to technical assistance and advisory services, to be provided by the Office of the High Commissioner.

41. This procedure has already been applied in relation to two States parties and the Committee considers the experience to have been a very positive one in both instances. In a case where the State party concerned does not accept the proposed mission, the Committee will consider making whatever recommendations might be appropriate to the Economic and Social Council.

D. Procedure in response to non-submitted and considerably overdue reports

42. The Committee believes that a situation of persistent non-reporting by States parties undermines one of the foundations of the Covenant.

43. Accordingly, the Committee resolved at its sixth session to begin in due course to consider the situation concerning the implementation of the Covenant in respect of each State party whose reports are very significantly overdue. At its seventh session it resolved to begin scheduling consideration of such reports at its future sessions and to notify the States parties concerned. It began to apply this procedure at its ninth session.

44. The Committee has adopted the following procedure:

(a) To select States parties whose reports are very significantly overdue on the basis of the length of time involved;

(b) To notify such State party that the Committee intends to consider the situation with respect to that country at one of its succeeding sessions;

(c) To move, in the absence of any report, to consider the status of economic, social and cultural rights in the light of all available information;

(d) To authorize its Chairperson, in situations where the State party concerned indicates that a report will be provided to the Committee and upon a request from the State party, to defer consideration of the situation for one session.

E. Action by the Committee with regard to information on economic, social and cultural rights received from sources other than the States parties

1. Information provided in connection with the consideration by the Committee of a State party report

45. The Committee also takes into account the information provided to it by sources other than the State party in connection with its consideration of a State party's report. That information, being an integral part of the Committee's constructive dialogue with a State party, is made available by the secretariat to the State party concerned in advance of the Committee's consideration of the report of that State party (see paragraphs 54-56 below).

2. Information received following consideration by the Committee of a State party report and adoption of concluding observations

46. On various occasions in the past, the Committee has received information, mainly from non-governmental organizations, after consideration of the State party's report and adoption of concluding observations thereon. In fact this was follow-up information on the Committee's conclusions and recommendations. Not being in a position to consider and act upon such information without reopening its dialogue with a State party (except in cases specifically addressed in concluding observations), the Committee will consider and act upon the information received from sources other than a State party only in cases where such information has been specifically requested in its concluding observations.

47. The Committee considers that, following its consideration of the State party report and adoption of concluding observations, the primary responsibility for their implementation lies with the national Government, which is bound to report on measures taken in this respect to the Committee in its next periodic report. Therefore, the Committee recommends that information referred to in the preceding paragraph be submitted by authors directly to national competent authorities with a view to assisting them in implementing the Committee's concluding observations.

3. Information provided with respect to non-reporting States parties

48. The Committee has also been receiving information from international and national non-governmental organizations on the status of the implementation of economic, social and cultural rights by:

(a) States parties that have not submitted any report at all since ratification of the International Covenant on Economic, Social and Cultural Rights and its entry into force;

(b) States parties with long overdue periodic reports.

49. In both cases the States parties' failure to comply with their obligations under the Covenant, and in particular with their reporting obligations, had made it impossible for the

Committee to monitor effectively the implementation by those States of the economic, social and cultural rights set forth in the Covenant in accordance with the mandate conferred to the Committee by the Economic and Social Council.

50. At its thirtieth session in 2003, the Committee, in a spirit of open and constructive dialogue with States parties, decided that in both cases referred to above, it might take the following action on a case-by-case basis:

(a) The Committee might informally bring to the attention of the State party concerned the information received and urge the State party to submit its overdue report without further delay;

(b) The Committee might formally - through a letter from the Chairperson - bring to the attention of the State party concerned the information received and urge the State party to submit its overdue report without further delay. The Committee might formally request the State party to provide it with information addressing issues raised in non-governmental organizations' submissions and to submit its overdue report without further delay. That letter would also be made available to the non-governmental organizations concerned upon request.

F. Day of general discussion

51. At each session, the Committee devotes one day, usually the Monday of the third week, to a general discussion of a particular right or of a particular aspect of the Covenant. The purpose is threefold: such a general discussion assists the Committee in developing in greater depth its understanding of the relevant issues; it enables the Committee to encourage inputs into its work from all interested parties; and helps the Committee to lay the basis for a future general comment. The issues that have been the focus of discussions held to date by the Committee may be found in annex VII to the present report.

G. Other consultations

52. The Committee has sought to coordinate its work with that of other bodies to the greatest extent possible and to draw as widely as it can on available expertise in the fields of its competence. The Committee has also sought to draw on the expertise of the relevant specialized agencies and United Nations bodies, both in its work as a whole and, more particularly, in the context of its general discussions. It has also consistently invited individuals such as special rapporteurs of the Commission on Human Rights and of the Sub-Commission on the Promotion and Protection of Human Rights, chairpersons of Commission working groups and others to address it and engage in discussions.

53. In addition, the Committee has invited a variety of experts who have a particular interest in, and knowledge of, some of the issues under review to contribute to its discussions. These contributions have added to its understanding of some aspects of the questions arising under the Covenant.

H. Participation of non-governmental organizations in the work of the Committee

54. In order to ensure that the Committee is as well informed as possible, it provides opportunities for non-governmental organizations to submit relevant information to it.⁴ They may do this in writing at any time prior to the consideration of a given State party's report. The Committee's pre-session working group is also open to the submission of information in person or in writing from any non-governmental organization, provided that it relates to matters on the agenda of the working group. In addition, the Committee sets aside part of the first afternoon at each of its sessions to enable representatives of non-governmental organizations to provide oral information. Such information should: (a) focus specifically on the provisions of the International Covenant on Economic, Social and Cultural Rights; (b) be of direct relevance to matters under consideration by the Committee; (c) be credible; (d) not be abusive. The relevant meeting is open and provided with interpretation and press services, but is not covered by summary records.

55. The Committee has requested the secretariat to ensure that any written information formally submitted to it by non-governmental organizations in relation to the consideration of a specific State party report is made available as soon as possible to the representative of the State concerned. The Committee therefore assumes that if any of this information is referred to during the dialogue with the State party, the latter will already be aware of the information.

56. In an effort to secure the most effective and widest possible participation of non-governmental organizations in its activities, the Committee adopted, at its twenty-fourth session in 2000, a document that explains the modalities of their participation in the Committee's work and provides detailed guidelines for non-governmental organizations with a view to facilitating their cooperation with the Committee.⁴

I. General comments

57. In response to an invitation addressed to it by the Economic and Social Council, the Committee decided to begin, as from its third session, the preparation of general comments based on the various articles and provisions of the Covenant, in particular with a view to assisting the States parties in fulfilling their obligations under the Covenant. As of 25 November 2005, the Committee had adopted 18 general comments (see annex V to the present report).

58. By the end of its thirty-fifth session (25 November 2005), the Committee and the governmental expert sessional working group, which existed prior to the creation of the Committee, had examined 153 initial reports, 71 second periodic reports concerning rights covered by articles 6 to 9, 10 to 12 and 13 to 15 of the Covenant, and 134 comprehensive reports. This work covered a significant number of the States parties to the Covenant, which

⁴ *Official Records of the Economic and Social Council, 2001, Supplement No. 2 (E/2001/22-E/C.12/2000/21)*, annex V: "Non-governmental organization participation in the activities of the Committee on Economic, Social and Cultural Rights."

totalled 151 at the end of the thirty-fifth session. They represented all regions of the world, with different political, legal, socio-economic and cultural systems. The reports submitted to date have illustrated many of the problems that might arise in implementing the Covenant.

59 Through its general comments, the Committee endeavours to make the experience gained through the examination of States' reports available for the benefit of all States parties in order to assist and promote their further implementation of the Covenant; to draw the attention of the States parties to insufficiencies disclosed by a large number of reports; to suggest improvements in the reporting procedures; and to stimulate the activities of the States parties, international organizations and the specialized agencies concerned in achieving progressively and effectively the full realization of the rights recognized in the Covenant. Whenever necessary, the Committee may, in the light of the experience of States parties and of the conclusions drawn therefrom, revise and update its general comments.

60. At its twenty-first session, the Committee adopted the outline for drafting general comments on specific rights enshrined in the Covenant.⁵ The Committee agreed that the subject matter of a particular general comment would influence the overall structure of that comment and observed that the outline was not intended to be strictly adhered to. However, the outline provided useful signposts, a checklist of issues, to be considered in the process of drafting a general comment. In this respect, the outline would assist in ensuring consistency in the content, format and ambit of general comments to be adopted by the Committee. The Committee emphasized the importance of ensuring that general comments are reader-friendly, of reasonable length and readily understandable to a broad range of readers, primarily States parties to the Covenant. The outline will assist in ensuring consistency and clarity in the structure of the general comments, thus promoting their accessibility, and strengthening the authoritative interpretation of the Covenant provided by the Committee through its general comments.

J. Statements adopted by the Committee

61. With a view to assisting States parties to the Covenant, the Committee adopts statements to clarify and confirm its position with respect to major international developments and issues bearing upon the implementation of the Covenant. As of 25 November 2005, the Committee had adopted 15 statements (see annex VI to the present report).

⁵ *Official Records of the Economic and Social Council, Supplement No. 2 (E/2000/22-E/C.12/1999/11 and Corr.1), annex IX.*

CHAPTER III

Submission of reports by States parties under articles 16 and 17 of the Covenant

62. In accordance with rule 58 of its rules of procedure, the Committee, at its 30th meeting on 7 November 2005, considered the status of submission of reports under articles 16 and 17 of the Covenant.

63. In that connection, the Committee had before it the following documents:

(a) Note by the Secretary-General on the revised general guidelines regarding the form and contents of reports to be submitted by States parties (E/C.12/1991/1);

(b) Note by the Secretary-General on States parties to the Covenant and the status of submission of reports as at 1 January 2005 (E/C.12/2005/2);

(c) Note by the secretariat on follow-up to the consideration of reports under articles 16 and 17 of the Covenant (E/C.12/2003/3).

64. The Secretary-General informed the Committee that, in addition to the reports scheduled for consideration by the Committee at its thirty-fifth session (see paragraph 66 below), he had received, as at 25 November 2005, the reports submitted under articles 16 and 17 of the Covenant by the following States parties:

Initial reports of Monaco (E/1990/5/Add.64), Liechtenstein (E/1990/5/Add.66), Albania (E/1990/5/Add.67), Tajikistan (E/1990/5/Add.68), The former Yugoslav Republic of Macedonia (E/C.12/MKD/1) and Latvia (E/1990/5/Add.70); second periodic report of El Salvador (E/1990/6/Add.39); third periodic reports of Morocco (E/1994/104/Add.29), The Netherlands (E/1994/104/Add.30 and E/C.12/ANT/3) (the Netherlands Antilles) and Hungary (E/C.12/HUN/3); fourth periodic reports of Canada (E/C.12/4/Add.15) and Mexico (E/C.12/4/Add.16); and fifth periodic reports of Canada (E/C.12/CAN/5) and Finland (E/C.12/FIN/5).

65. At its thirty-second session the Committee decided to schedule for consideration in 2005 the status of implementation of the Covenant by San Marino, a non-reporting State. The Covenant entered into force for San Marino on 18 January 1986. By note verbale dated 17 October 2005, the State party requested the Committee to postpone its consideration of the status of implementation of the Covenant in San Marino until after the submission by the State party of its initial report to the Committee and assured the Committee that it would submit its initial report by 31 May 2006. At its thirty-fifth session, on 7 November 2005, the Committee decided to grant the State party's request.

CHAPTER IV

Consideration of reports submitted by States parties under articles 16 and 17 of the Covenant

66. At its thirty-fourth session, the Committee examined the following reports submitted by four States parties under articles 16 and 17 of the Covenant:

Initial reports

Zambia	E/1990/5/Add.60
China	E/1990/5/Add.59*
Serbia and Montenegro	E/1990/5/Add.61

Fourth periodic reports

Norway	E/C.12/4/Add.14
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67. At its thirty-fifth session, the Committee considered the following reports submitted by five States parties under articles 16 and 17 of the Covenant:

Initial reports

Slovenia	E/1990/5/Add.62
Uzbekistan	E/1990/5/Add.63
Bosnia and Herzegovina	E/1990/5/Add.65

Second periodic reports

Libyan Arab Jamahiriya	E/1990/6/Add.38
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Third periodic reports

Austria	E/1994/104/Add.28
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68. In accordance with rule 62 of the Committee's rules of procedure, representatives of all States submitting a report were invited to participate in Committee meetings at which their reports were considered. All States parties whose reports were considered by the Committee sent representatives to participate in the consideration of their respective reports. In accordance with a decision adopted by the Committee at its second session, the names and positions of the members of each State party's delegation are listed in annex XI to the present report.

69. At its eighth session, the Committee had decided to discontinue its practice of including in its annual report summaries of the consideration of country reports. In accordance with

* The initial report of China is composed of three parts. Part one covers the status of implementation of the Covenant in China. Parts two and three cover the status of implementation of the Covenant in the Hong Kong Special Administrative Region and in the Macao Special Administrative Region, respectively.

modified rule 57 of the Committee's rules of procedure, the annual report should contain, inter alia, the Committee's concluding observations relating to each State party's report. Accordingly, the following paragraphs, arranged on a country-by-country basis according to the sequence followed by the Committee in its consideration of the reports, contain the concluding observations adopted by the Committee with respect to the States parties' reports considered at its thirty-fourth and thirty-fifth sessions. In accordance with established Committee practice, members do not take part in either the drawing up or adoption of the concluding observations relating to their own country's report.

Thirty-fourth session

ZAMBIA

70. The Committee considered the initial report of Zambia on the implementation of the Covenant (E/1990/5/Add.60) at its 3rd to 5th meetings, held on 26 and 27 April 2005. At its 27th meeting, held on 13 May, it made public the following concluding observations.

A. Introduction

71. The Committee welcomes the submission of the State party's initial report, which was prepared in general conformity with the Committee's revised guidelines, as well as the written replies to its list of issues (E/C.12/Q/ZMB/1). However, the information provided was not sufficient to enable the Committee to adequately assess developments in the implementation status of most of the Covenant's provisions.

72. The Committee welcomes the frank nature of the dialogue with the delegation and some written replies to oral questions asked by the members. Nevertheless, it regrets that there were not enough members in the delegation who were experts in all economic, social and cultural rights and could provide more information to the Committee on the concrete measures taken by the State party to implement its obligations under the Covenant.

73. The Committee notes the delegation's commitment that more specific information on a variety of economic, social and cultural indicators will be given in the State party's next periodic report.

B. Positive aspects

74. The Committee notes the establishment of the Constitutional Review Commission in August 2003 which would enhance implementation of economic, social and cultural rights.

75. The Committee notes the adoption of the Employment of Young Persons and Children (Amendment) Act No. 10 in 2004.

76. The Committee welcomes the establishment in 2003 of the Zambia police service sex crimes unit to deal with cases of sexual violence, spouse battery and sexual abuse.

77. The Committee welcomes the existence of the Pilot Social Cash Transfer Scheme financed by international assistance to promote a safety net for poor households which are not able to engage in labour-based projects or programmes owing to extreme poverty.

78. The Committee notes with appreciation the State's policy of allowing pregnant girls to continue their education.

C. Factors and difficulties impeding the implementation of the Covenant

79. The Committee, while noting the persistence of customs and traditions harmful to women, children and older persons, is of the view that the State party has within its power the ability to immediately implement the rights in Part II of the Covenant as required, and to meet its minimum obligations for the progressive realization of the rights in Part III of the Covenant.

D. Principal subjects of concern

80. The Committee regrets that, although the State party has adopted a certain number of laws in the area of economic, social and cultural rights, the Covenant has not yet been fully incorporated in the domestic legal order.

81. The Committee notes with concern that the Permanent Human Rights Commission lacks adequate human and budgetary resources.

82. The Committee notes with regret that the lack of disaggregated data, on a comparable time frame, on the measures undertaken by the State party does not allow a clear assessment of the implementation of economic, social and cultural rights enshrined in the Covenant.

83. The Committee notes that the prevalence of customary law, that is, certain traditions, customs and cultural practices, leads to substantial discrimination against girls and women, in particular widows, thereby preventing them from fully exercising their rights under the Covenant.

84. The Committee is concerned that article 23 (4) of the current Constitution of the State party provides for exclusions and exceptions to the prohibition against discrimination, including with respect to adoption, marriage, divorce, burial, devolution of property on death, and other matters of personal law, and to the application of customary law.

85. While welcoming the efforts made by the State party to promote shared responsibilities between men and women and the fact that it regards equitable access to decision-making positions and processes as crucial to women's enjoyment of economic, social and cultural rights, the Committee remains concerned, however, about the persistent inadequate representation of women at all levels of decision-making bodies of the State party.

86. The Committee is concerned about the high level of unemployment and the absence of details concerning national and local employment programmes or other clear strategies to address this problem. It also notes that a large proportion of unemployed persons are forced to find employment in the informal sector.

87. The Committee is concerned that the current minimum wage is not sufficient to provide an adequate standard of living for workers and their families and that it is available to few workers, given the large proportion of the population working in the informal sector.

88. The Committee is also concerned about the restriction of the right to form trade unions, particularly the prohibition to form more than one trade union per industry.

89. The Committee is concerned about the limits on the right to strike and, in particular, the procedural requirements which make it difficult to effectively exercise the legal right to strike in the State party. The Committee is equally concerned about the broad definition of the concept of “essential services”, which goes beyond the ILO definition by including fire fighting, sewerage and certain mining operations.
90. The Committee regrets the lack of the exact percentage of GDP spent on social security. The Committee also takes note of the State party’s acknowledgement that the amount is minimal and that it has declined over the years. The Committee is further concerned that comprehensive social protection is not available to the vast majority of the population, in particular low-income workers, workers over 55 years of age and workers employed in the informal sector.
91. The Committee is concerned about the fact that privatized social security schemes in the State party have not been financially sustainable, thereby leaving its beneficiaries without adequate social protection.
92. The Committee is concerned about the large number of widows and orphans, a situation further exacerbated by the HIV/AIDS pandemic. It is also concerned about the harsh living conditions of widows and girl orphans due to, inter alia, harmful traditional practices such as “widow-cleansing”, early marriages and denial of inheritance.
93. The Committee is concerned about the large number of street children, especially in the capital, Lusaka, who are particularly exposed to physical and sexual abuse, prostitution and a high risk of HIV infection.
94. The Committee expresses its deep concern regarding the persistent and widespread problem of child labour, in particular children working in hazardous occupations such as small-scale mining operations and stone-crushing.
95. The Committee is deeply concerned that the extent of extreme poverty in the State party has negatively affected the enjoyment of economic, social and cultural rights as enshrined in the Covenant, especially by the most disadvantaged and marginalized groups, including girl children and those afflicted by HIV/AIDS.
96. The Committee is concerned that customary land, which represents over 80 per cent of all land, is traditionally inherited by the man’s family in accordance with rules of male primogeniture to the detriment of widows and in particular girl children.
97. The Committee is concerned about the living conditions of prisoners and detainees, especially with regard to access to health-care facilities, adequate food and safe drinking water.
98. The Committee is concerned about the inadequate coverage and quality of health care and the scant financial resources available to the health-care system. It is also concerned about the brain drain of health professionals due to poor working conditions in the health sector.
99. The Committee is alarmed about the devastating impact of the HIV/AIDS pandemic on the enjoyment of economic, social and cultural rights by the people of Zambia. The Committee is also concerned that people afflicted with HIV/AIDS seldom have adequate access to the necessary health-care services, including antiretroviral drugs, appropriate facilities and food.

100. The Committee is deeply concerned about the high incidence of child-headed households, a phenomenon that is linked to the HIV/AIDS pandemic and which negatively impacts on children's access to education.

101. While noting the activities undertaken by the State party such as the Programme for the Advancement of Girls' Education aimed at encouraging girls to stay in the school system, especially in the rural areas, the Committee remains concerned that traditional attitudes continue and that discrimination against girl children is prevalent in the State party.

E. Suggestions and recommendations

102. Reaffirming the principle of the interdependence and indivisibility of all human rights, and that all economic, social and cultural rights are justiciable, the Committee strongly recommends that the State party incorporate the International Covenant on Economic, Social and Cultural Rights into its domestic law. The Committee points out that, following ratification of an international instrument, the State party is under an obligation to comply with it and to give it full effect in its domestic legal order. In this respect, the Committee draws the attention of the State party to its general comment No. 9 (1998) on the domestic application of the Covenant.

103. The Committee recommends that the State party ensure that adequate human and financial resources are allocated to the Permanent Human Rights Commission, in line with the Paris Principles.⁶

104. The Committee recommends that the State party submit in its next periodic report data collected on an annual basis, disaggregated by sex, age and urban/rural areas, paying particular attention to the most disadvantaged and marginalized groups of society.

105. The Committee recommends that the obligations of Zambia under the Covenant be taken into account in all aspects of its negotiations with international financial institutions, such as IMF and the World Bank, so as to ensure that the rights enshrined in the Covenant are duly protected for all Zambians and in particular, for the most disadvantaged and marginalized groups of society. The Committee refers the State party to its statement to the WTO Third Ministerial Conference adopted by the Committee at its twenty-first session in 1999.⁷

106. The Committee welcomes the establishment of the Zambian Law Development Commission and recommends that it codify and review customary law so as to ensure that it is in full compliance with articles 2 (2) and 3 of the Covenant.

107. The Committee recommends that the State party facilitate the constitutional review process and, in particular, consider amending article 23 (4) of the current Constitution.

⁶ Principles relating to the status of national institutions for the promotion and protection of human rights (see General Assembly resolution 48/134 of 20 December 1993, annex).

⁷ *Official Records of the Economic and Social Council, 2000, Supplement No. 2, (E/2000/22–E/C.12/1999/11 and Corr.1), annex VII.*

108. The Committee strongly recommends that the State party adopt effective measures to ensure equality between men and women in all walks of life as provided for in articles 2 (2) and 3 of the Covenant, and to provide in its second periodic report detailed information on Government policies, programmes and measures adopted and progress made in the field of gender equality, including statistics on the representation of women at various levels of the Government and public administration.

109. The Committee urges the State party to undertake and implement employment action plans which could gradually reduce employment in the informal sector.

110. The Committee recommends that the State party take effective actions and measures to ensure that the minimum wage enables workers and their families to enjoy an adequate standard of living and that the minimum wage standard is effectively enforced. The Committee further recommends that the State party establish an effective system of indexation by regularly reviewing minimum wage levels in order to enable workers to attain an adequate standard of living for themselves and their families.

111. The Committee recommends that the State party take appropriate legislative measures to enable workers to form trade unions, ensure the effective exercise of the right to strike and limit the scope of its definition of “essential services”.

112. The Committee urges the State party to extend the protection under the National Pension Scheme Authority to cover low-income workers, workers over 55 years of age and workers employed in the informal sector, especially in rural areas.

113. The Committee recommends that the State party exercise a stronger monitoring function in relation to private social security schemes and funds so as to ensure that those schemes provide adequate social protection to their beneficiaries.

114. The Committee recommends that the State party take adequate measures to address the difficulties faced by widows and orphans, and in particular to eliminate harmful traditional practices.

115. The Committee reiterates the recommendation made by the Committee on the Rights of the Child at its thirty-third session in 2003 (CRC/C/132, chap. II, para. 220) and, in particular, that street children be provided with preventive and rehabilitative services for physical and sexual abuse, as well as adequate food, clothing, housing, health care and educational opportunities. In this regard, the Committee on Economic, Social and Cultural Rights requests the State party to provide in its next periodic report further information about the District Street Children Committees and the Zambia National Service’s street children rehabilitation programme.

116. The Committee strongly urges the State party to strengthen its legislative and other measures and to improve its monitoring mechanisms so as to address effectively the persistent problem of child labour, particularly in small-scale mining operations and stone-crushing.

117. The Committee recommends that the State party undertake all necessary measures to guarantee an adequate standard of living, including through the provision of social safety nets for the most disadvantaged and marginalized groups, in particular those women and children who

have been the hardest hit by structural adjustment programmes, privatization and debt servicing. In this context, the Committee recommends that the State party provide in its next periodic report detailed information and disaggregated statistical data on the impact of the measures undertaken to reduce the level of extreme poverty and to ensure an adequate standard of living for the disadvantaged and marginalized groups. The Committee also refers the State party to its statement on poverty and the International Covenant on Economic, Social and Cultural Rights.⁸

118. The Committee recommends that the State party continue to examine ways and means of supporting the Pilot Social Cash Transfer Scheme even after the present international assistance comes to an end. It also recommends that the project be used as a tool for the implementation of the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Security adopted by the hundred and twenty-seventh session of the FAO Council and transmitted to the Commission on Human Rights at its sixty-first session in connection with item 10 of the agenda (E/CN.4/2005/131, annex).

119. The Committee recommends that the State party ensure that the draft land policy with regard to the allocation of land to women does not contradict articles 3 and 11 of the Covenant.

120. The Committee urges the State party to strengthen its measures, including policies, programmes and specific legislation, aimed at improving the living conditions of prisoners and detainees.

121. The Committee requests the State party to allocate a higher percentage of its GDP to the health sector and to improve the working conditions of health professionals.

122. The Committee recommends that the State party intensify its efforts to check the spread of HIV/AIDS, inter alia, by strengthening the policy of both providing and encouraging the use of condoms. The Committee also recommends that the State party continue its efforts in prevention and health care by providing sexual and reproductive health services, particularly to women and young people. The Committee further requests the State party to provide detailed statistical data, disaggregated on a yearly basis, on the incidence of HIV/AIDS and on the measures taken to combat the pandemic, including public information programmes, in its next periodic report. The Committee, in line with its general comment No. 14 (2000) on the right to the highest attainable standard of health (art. 12 of the Covenant), recommends that the State party provide adequate health care for people suffering from HIV/AIDS, taking into account the particular needs of widows and orphans.

123. The Committee recommends that the State party strengthen the Ministry of Education Strategic Plan to ensure that its objective of providing nine years of free and compulsory basic education by 2015 is reached. The Committee urges the State party to set intermediate goals and concrete and measurable benchmarks in this regard.

⁸ *Official Records of the Economic and Social Council, 2002, Supplement No. 2, (E/2002/22-E/C.12/2001/17), annex VII.*

124. The Committee recommends that the State party take steps to provide assistance to child-headed households, including financial and other means of assistance to enable child heads of household to exercise their basic right to education.

125. The Committee recommends that the State party strengthen its efforts and continue to undertake educational campaigns for all sectors of society, including traditional rulers, parents and guardians, on the value of educating girl children.

126. The Committee requests the State party to provide in its next periodic report detailed information on the progress made in implementing the National Cultural Policy that had been adopted in October 2003.

127. The Committee looks forward to the implementation of the decisions to be taken at the end of the constitutional review process, which at present is in the final stage of circulating the report of the Constitutional Review Commission to the various stakeholders. In this regard, the Committee recommends that the State party submit in its next periodic report concrete information on the legislative changes brought about by the new Constitution with regard to the enjoyment of economic, social and cultural rights.

128. The Committee requests the State party to widely disseminate the present concluding observations among all levels of society and in particular, among State officials and the judiciary, and to inform the Committee in its next periodic report about all steps taken to implement them. It also encourages the State party to engage national human rights institutions, non-governmental organizations and other members of civil society in the process of discussion at the national level prior to the submission of its second periodic report.

129. Finally, the Committee requests the State party to submit its second periodic report by 30 June 2010.

CHINA (INCLUDING HONG KONG AND MACAO)

130. The Committee considered the initial report of China (including Hong Kong and Macao) on the implementation of the Covenant (E/1990/5/Add.59) at its 6th to 10th meetings, held on 27 to 29 April 2005. At its 27th meeting held on 13 May, it made public the following concluding observations.

A. Introduction

131. The Committee welcomes the timely submission of the State party's initial report, which was prepared in general conformity with the Committee's guidelines. The Committee also notes with appreciation the comprehensive written replies to its list of issues (E/C.12/Q/CHN/1).

132. The Committee welcomes the constructive dialogue with the State party's delegation, which included representatives of the Hong Kong Special Administrative Region and the Macao Special Administrative Region. The Committee appreciates that the delegation was composed of experts in the different areas covered by the Covenant.

Part one

CHINA

B. Positive aspects

133. The Committee welcomes the promulgation by the State Council Regulations on Labour Security Supervision and its amended Regulations on Collective Contracts and Regulations on Minimum Wages.
134. The Committee welcomes the increase of basic retirement benefits for retirees of State-owned enterprises throughout the country in 2004.
135. The Committee welcomes the establishment of a new social security system based on contributions from employers and employees and of a new pension system in which employers and employees contribute to a communal pension fund and to individual pension accounts.
136. The Committee welcomes the adoption of the China Rural Poverty Reduction and Development Programme (2001-2010).
137. The Committee welcomes the State Council's Directive No. 1/2004 to safeguard farmers' rights and interests and Directive No. 1/2005, waiving taxes on animal husbandry for all regions and agricultural tax for 592 counties listed as priority counties for poverty alleviation.
138. The Committee notes with appreciation the measures adopted by the State party for the prevention and treatment of HIV/AIDS, including the establishment of the State Council AIDS Working Committee as part of the Directive on Effectively Strengthening the Prevention and Treatment of AIDS.
139. The Committee welcomes the elaboration of the Framework for Education Development into 2020, a strategic plan for the reform and development of the education sector in the State party.

C. Factors and difficulties impeding the implementation of the Covenant

140. The Committee, while recognizing the sizeable population in the vast expanse of the State party's territory, notes that there are no significant factors and difficulties impeding its capacity to implement effectively the Covenant.

D. Principal subjects of concern

141. The Committee regrets that the State party's report was not disseminated prior to submission and therefore did not go through a public consultation process.
142. The Committee regrets that the lack of comparative statistical data in the field of economic, social and cultural rights within the State party has not allowed a clear evaluation of the degree of the actual implementation of many of the rights enshrined in the Covenant.
143. The Committee is concerned that non-citizens, including asylum-seekers, refugees and stateless persons, are excluded from the constitutional guarantees to the enjoyment of rights and

freedoms enshrined in the Covenant extended to all citizens in the State party. The Committee notes that some asylum-seekers are excluded by the refugee determination procedure of the State party, in particular those coming from the Democratic People's Republic of Korea, who are regarded by the State party as economic migrants and are thus compelled to return to their countries.

144. The Committee notes with deep concern the de facto discrimination against internal migrants in the fields of employment, social security, health services, housing and education that indirectly result from, inter alia, the restrictive national household registration system (*hukou*) which continues to be in place despite official announcements regarding reforms.

145. The Committee is concerned about the reported persistence of discrimination against persons with physical and mental disabilities, especially with regard to employment, social security, education and health.

146. The Committee notes with concern the persistence of gender inequalities in practice in the State party, particularly with regard to employment and participation in decision-making. The Committee regrets that it has not received sufficient information from the State party regarding affirmative action to promote gender equality and measures to prevent sexual harassment in the workplace.

147. The Committee is deeply concerned about the high rate of abortion of the girl foetus.

148. The Committee is concerned about the problem of the sale of women and girl children and of the abandonment of elderly women.

149. The Committee notes with concern the increasing rate of unemployment in the State party, particularly in rural areas.

150. The Committee is concerned about the large-scale redundancies made in recent years, which have disproportionately affected women.

151. The Committee is gravely concerned about the use of forced labour as a corrective measure, without charge, trial or review, under the "Re-education through Labour" (*laodong jiaoyang*) programme.

152. The Committee expresses its deep concern regarding children working in hazardous occupations such as mining, often in precarious conditions that fall short of labour safety standards. The Committee is also of the view that the "work-study" (*qingong jianxue*) programme for schoolchildren constitutes exploitative child labour, in contradiction of the provisions of articles 6 and 7 of the Covenant, and ILO Convention No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, ILO, to which China is a party.

153. The Committee is deeply concerned about the insufficient implementation of existing labour legislation in the State party that has resulted in overall poor working conditions, including excessive working hours, lack of sufficient rest breaks and hazardous working

conditions. The Committee notes with concern that the problem is especially acute for migrant workers. The Committee is also alarmed by the high incidence of serious occupational accidents in the State party, particularly in the mining sector.

154. The Committee is concerned that the low level of wages, particularly in rural areas and in the west of the country is insufficient to provide a decent standard of living for workers and their families. The Committee notes that the situation is aggravated by the persistent problem of wage arrears, especially in the construction sector.

155. The Committee regrets the State party's prohibition of the right to organize and join independent trade unions in the State party.

156. The Committee is concerned that many of the reforms in the formal welfare system have not been extended to the countryside, where the local authorities of poor regions have a limited capacity to generate the funds necessary to provide welfare and social services. The Committee notes with concern that the means-tested non-contributory social assistance extended to all urban areas starting in 1996 was similarly extended to some, but not all rural areas.

157. The Committee regrets that, in the absence of reliable data, it could not assess the nature and extent of the reportedly high incidence of domestic violence in the State party and the degree of enforcement of existing legislation for the protection of victims of domestic violence.

158. The Committee is also concerned at the lack of reliable information, including statistics, on the extent of the problem of sexual exploitation of women and children in the State party, including prostitution, sale and trafficking in persons.

159. The Committee is deeply concerned that despite the rapid economic development in recent years, poverty persists in the country, disproportionately affecting the rural population. The Committee is concerned that in spite of the efforts made by the State party to improve the economic and social conditions of rural populations, the disparity in income and in the enjoyment of an adequate standard of living continues to widen between the rich and the poor, in particular those in urban/rural areas, as well as those in coastal provinces/inland provinces. The Committee also regrets the absence of an official poverty line that would enable the State party to define the extent of poverty and to monitor and evaluate progress in alleviating poverty.

160. The Committee is concerned about the reports of forced evictions and insufficient measures to provide compensation or alternative housing to those who have been removed from their homes in the context of urban development projects as well as of rural development schemes such as the Three Gorges Project. The Committee is concerned about the number of forced evictions and demolitions that have occurred in anticipation of the 2008 Olympic Games to be hosted by the State party. The Committee further expresses concern about the lack of effective consultations and legal redress for persons affected by forced evictions and demolitions, including those of historic structures, buildings and homes in Lhasa, Tibet. The Committee also regrets that insufficient information was provided on the extent and causes of homelessness in the State party.

161. The Committee notes with concern that funds allocated to public health have diminished despite the overall increase of health-care expenditures over the past decade in the State party.

Furthermore, the Committee notes with concern that the health-care system that had in the past delivered basic health care to the majority of rural residents has been considerably reduced.

162. The Committee is concerned about the insufficient preventive care programmes that have resulted in the spread of infectious diseases, including sexually transmitted diseases and HIV/AIDS.

163. The Committee notes with concern the shortage of access to safe drinking water in highly industrialized areas.

164. The Committee is concerned about the significant number of persons, especially women, who suffer from mental illnesses and about the inadequacy of measures to ensure a decent life for persons suffering from mental illnesses. The Committee is also concerned that, in addition to suffering social stigmatization, persons with mental illnesses often spend a long time in psychiatric facilities, where they live in sub-standard conditions and receive sub-standard treatment and care. The Committee also notes that suicide among women is alarmingly high in the State party.

165. The Committee is deeply concerned about reports of forced abortions and forced sterilizations imposed on women, including those belonging to ethnic minority groups, by local officials in the context of the one-child policy, and about the high maternal mortality rate as a result of unsafe abortions.

166. The Committee is concerned about the continued irregularities in the State party's provision of universal access to free compulsory primary education, in particular with regard to rural communities, minority regions, disadvantaged families and internal migrant population. The Committee is also concerned about the high junior middle school drop-out rate in some rural areas.

167. The Committee notes with concern the reports regarding the discrimination of ethnic minorities in the State party, in particular in the field of employment, adequate standard of living, health, education and culture. In this regard, the Committee regrets the insufficient information provided by the State party regarding the enjoyment of economic, social and cultural rights enshrined in the Covenant by populations in the ethnic minority areas. The Committee notes with concern the reports from sources other than the State party relating to the right to the free exercise of religion as a right to take part in cultural life, and the use and teaching of minority languages, history and culture and the Xinjiang Uighur Autonomous Region and the Tibet Autonomous Region.

168. The Committee notes with deep concern the restrictions placed on access to information with regard to academic research, foreign and domestic publications and the Internet.

E. Suggestions and recommendations

169. The Committee requests the State party in its next periodic report to submit updated, annually collected comparative data disaggregated by sex, age and rural/urban regions in the fields of all the provisions in the Covenant, paying particular attention to disadvantaged and marginalized groups. The Committee also requests the State party in its next periodic report to

include annual comparative data, disaggregated by rural/urban regions, the percentage of GDP allotted for education, health and housing programmes, in particular in the ethnic minority regions.

170. The Committee recommends that the State party adopt a national human rights plan of action, and provide information in its next periodic report on how the plan promotes and protects economic, social and cultural rights in the State party. In this connection, the Committee recommends that the State party consider establishing a national commission for human rights on the basis of the Paris Principles.⁶

171. The Committee urges the State party to ensure that legal and judicial training takes full account of the justiciability of the rights contained in the Covenant and promotes the use of the Covenant as a source of law in domestic courts. The Committee draws the attention of the State party to general comment No. 9 (1998) on the domestic application of the Covenant and invites the State party to include information concerning case law on the application of the Covenant in its next periodic report.

172. The Committee requests the State party to provide in its next periodic report detailed information on the public consultation process in the preparation of the report, including a listing of all civic organizations or non-governmental organizations consulted. The Committee urges the State party to bear in mind that public consultation is a requirement in the reporting process, the objective of which is to inform the general public and to generate interest and debate on the steps the State party has undertaken in fulfilling its treaty obligations under the Covenant.

173. The Committee encourages the State party to submit in its next periodic report relevant updated and periodically collected statistical data disaggregated by sex, age and urban/rural region, paying particular attention to the disadvantaged and marginalized groups of society. Such comparative information will enable the Committee and the State party itself to monitor and evaluate the progressive implementation of the rights enshrined in the Covenant.

174. The Committee calls upon the State party to take the necessary steps to ensure that all persons under its jurisdiction enjoy economic, social and cultural rights enshrined in the Covenant without discrimination. In addition, the Committee urges the State party to ensure that its asylum procedures do not discriminate, in purpose or in effect, against asylum-seekers on the basis of race, colour or ethnic or national origin, as provided for under article 2, paragraph 2, of the Covenant. The Committee recommends that the State party consider adopting subsidiary forms of protection to guarantee the right to remain for persons who are not formally recognized as refugees but are seeking asylum and nevertheless require protection during that period, and granting UNHCR and humanitarian organizations access to them. The Committee requests the State party to provide, in its next periodic report, detailed information in this regard, including measurable progress achieved as well as difficulties encountered.

175. The Committee calls upon the State party to implement its decision to dismantle the *hukou* system of national household registration and to ensure that in any system that replaces it, internal migrants will be able to enjoy the same work, social security, housing, health and education benefits enjoyed by those in urban areas.

176. The Committee recommends that the State party adopt effective measures to ensure equal opportunities for persons with disabilities, especially in the fields of employment, social security,

education and health, to provide for more appropriate living conditions for persons with disabilities and to allocate adequate resources for improving the treatment of, and care for, persons with disabilities. The Committee requests the State party to provide detailed information in its second periodic report on the measures undertaken with regard to persons with physical and mental disabilities.

177. The Committee calls upon the State party to undertake effective measures to ensure the equal right of men and women to enjoy economic, social and cultural rights as provided for in article 3 of the Covenant, inter alia, by implementing the principle of equal pay for work of equal value, eliminating wage gaps between men and women and providing equal opportunities for both men and women.

178. The Committee strongly recommends that the State party undertake effective public education measures, including awareness-raising programmes designed to eliminate gender-based prejudices and traditional practices that are harmful to women and girls. The Committee requests the State party to provide, in its next periodic report, detailed information on the progress made on gender discrimination issues.

179. The Committee recommends that the State party reinforce its programmes designed to reduce unemployment and, in this regard, to target on a priority basis the most affected groups and regions. The Committee urges the State party to strengthen the enforcement of the existing protection for workers under its labour laws. The Committee requests the State party to provide information in its next periodic report on the measures taken to facilitate re-employment of women, including of those made redundant as a result of the ongoing economic restructuring of State-owned enterprises. The Committee recommends that the State party consider ratifying ILO Convention No. 2 (1919) concerning Unemployment.

180. The Committee recommends that the State party abolish the use of forced labour as a corrective measure, and amend or repeal the relevant provisions of its legislation to bring them into line with the provisions of article 6 of the Covenant. In this connection, the Committee recommends that the State party consider ratifying ILO Convention No. 29 (1930) concerning Forced or Compulsory Labour.

181. The Committee urges the State party, as a matter of priority, to strengthen its efforts to effectively enforce its legislation prohibiting unlawful employment of children. The Committee also urges the State party to make every effort, including the adoption of preventive measures, to ensure that those children who engage in labour do not work under conditions that are harmful to them. The Committee further encourages the State party to consider withdrawing the “work-study” (*qingong jianxue*) programme from its school curriculum.

182. The Committee urges the State party to take immediate steps to ensure effective and equal application of its current labour legislation for the protection of the rights of all workers, including migrant workers, to just and favourable conditions of work as enshrined in article 7 of the Covenant. The Committee further recommends that the State party ensure the right to decent work and to provide sufficient resources to the labour inspectorate to enable regular and independent inspections of safety and health conditions in all sectors and to ensure that employers who fail to observe safety regulations are duly sanctioned. In this connection, the Committee recommends that the State party consider ratifying ILO Convention No. 81 (1947) concerning Labour Inspection in Industry and Commerce.

183. The Committee urges the State party to continue to take necessary measures to ensure that the minimum wage enables workers and their families to enjoy an adequate standard of living and that the minimum wage standard is effectively enforced, particularly in rural areas and in western areas. The Committee further encourages the State party to establish a wage enforcement mechanism that periodically adjusts minimum wages to the cost of living, facilitate the redress of wage claims and take sanctions against employers who owe wages and overtime pay and impose fines and penalties on their workers.

184. The Committee urges the State party to amend the Trade Union Act to allow workers to form independent trade unions outside the structure of the All China Federation of Trade Unions. Further, the Committee strongly urges the State party to consider withdrawing its declaration on article 8, paragraph 1, of the Covenant.

185. The Committee recommends that the State party strengthen the redistributive mechanisms between regions and levels of government, so as to ensure that local authorities receive additional funds necessary for adequate provision of welfare and social services to their populations. The Committee urges the State party to extend non-contributory social assistance to the rural areas that are presently not covered, as a means to combat poverty among the rural populations.

186. The Committee requests that the State party provide detailed information in its next periodic report on the extent of domestic violence, in particular violence against women, and on legislative and other measures taken by it to address this phenomenon, including facilities and remedies provided for victims. The Committee urges the State party to provide training to law enforcement officials and judges regarding the serious and criminal nature of domestic violence, in particular violence against women.

187. The Committee urges the State party to adopt legislation that specifically criminalizes the trafficking of human beings and to establish mechanisms to effectively monitor its strict enforcement and provide protection and assistance to victims of sexual exploitation. The Committee requests the State party to provide in its next periodic report detailed information, including comparable statistical data, on the extent of the problem of sexual exploitation of women and children in the State party, including prostitution, sale and trafficking in persons.

188. The Committee strongly recommends that the State party take immediate measures, *inter alia*, by increasing allocations, for the protection of economic, social and cultural rights of persons living in disadvantaged areas, in particular with regard to adequate housing, food and water, and health services and sanitation. The Committee calls upon the State party to develop a mechanism to measure the poverty level and to monitor it closely, and refers the State party to the Committee's statement on poverty and the International Covenant on Economic, Social and Cultural Rights.⁸

189. In line with its general comment No. 14 (2000) on the right to the highest attainable standard of health (art. 12 of the Covenant), the Committee urges the State party to undertake effective measures to improve the delivery of health services in rural areas and ethnic minority regions, *inter alia*, by allocating adequate and increased resources. The Committee encourages the State party to take urgent measures to stop the spread of HIV/AIDS and other sexually transmitted diseases, including by means of sex education in schools and awareness-raising campaigns to eliminate discrimination against HIV-positive persons.

190. The Committee recommends that the State party take immediate measures to enforce laws and regulations prohibiting forced evictions and ensure that persons evicted from their homes be provided with adequate compensation or offered alternative accommodation, in accordance with the guidelines adopted by the Committee in its general comment No. 7 (1997) on the right to adequate housing (art. 11, para. 1 of the Covenant): forced evictions. The Committee also recommends that, prior to implementing development projects, the State party should hold open, effective and meaningful consultations with affected residents. In this connection, the Committee wishes to draw the State party's attention to its general comment No. 4 (1991) on the right to adequate housing (art. 11, para. 1, of the Covenant) and requests it to provide information in its next periodic report on progress achieved in this regard. The Committee further requests the State party to provide detailed information in its next periodic report on the number and nature of forced evictions and on the extent of homelessness in the State party, disaggregated by gender, age and urban/rural residence.

191. The Committee recommends that the State party undertake effective measures to guarantee access to safe drinking water to all persons under its jurisdiction.

192. The Committee requests the State party to include detailed information in its next periodic report on environmental policies formulated by the State party, in particular, policies to reduce atmospheric pollution, and to evaluate the impact of large infrastructure development projects on the environment.

193. The Committee recommends that the State party allocate adequate resources and undertake effective measures for the treatment of, and care for, persons with mental illnesses, and to ensure that appropriate standards are established and enforced in psychiatric facilities to prevent maltreatment and neglect of mentally ill patients. The Committee also recommends that the State party conduct a study regarding factors and causes of the high rate of suicide among women, and report back to the Committee on its findings in its next periodic report.

194. The Committee urges the State party to undertake effective measures to ensure that abortions are carried out voluntarily and under adequate medical and sanitary conditions and to ensure that the existing legislation governing the one-child policy does not violate the rights enshrined in article 10 of the Covenant. The Committee requests the State party to provide information in its next periodic report in this regard, including information on women belonging to ethnic minority groups.

195. In line with its general comments No. 11 (1999) on plans of action for primary education (art. 14 of the Covenant) and 13 (1999) on the right to education (art. 13 of the Covenant), the Committee calls upon the State party to take effective measures to ensure that all children, including migrant children and ethnic minority children, have access to free compulsory primary education. The Committee also calls upon the State party to undertake effective reforms in the current education financing policies so as to allocate sufficient funds to support the provision of free and compulsory nine-year education to all children on national, state and local levels; and to eliminate all school-related fees so as to make compulsory primary education truly free for all children. The Committee further urges the State party to increase public expenditure on education in general, and to take deliberate and targeted measures towards the progressive realization of the right to education for the disadvantaged and marginalized groups throughout the country.

196. The Committee calls upon the State party to provide in its next periodic report detailed information, including disaggregated comparative statistics, and to evaluate progress made and obstacles encountered in the implementation of all the provisions of the Covenant in the ethnic minority regions, including in the Xinjiang Uighur Autonomous Region and the Tibet Autonomous Region.

197. The Committee urges the State party to remove restrictions on freedom of information and expression in the State party, to enable all persons under its jurisdiction to take part in cultural life, enjoy the benefits of scientific progress and its applications and benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he or she is the author.

198. The Committee strongly recommends that the State party's obligations under the Covenant be taken into account in all aspects of its negotiations with the international financial institutions and other regional trade agreements in order to ensure that economic, social and cultural rights, particularly of the most disadvantaged and marginalized groups, are not undermined.

199. The Committee recommends that the State party continue to ensure that its international human rights obligations and the present recommendations are taken fully into account when entering into technical cooperation and other arrangements.

Part two

HONG KONG SPECIAL ADMINISTRATIVE REGION

F. Positive aspects

200. The Committee welcomes the information that the age of criminal responsibility has been raised.

201. The Committee notes with appreciation the establishment of the Commission on Poverty to devise future strategies to combat poverty.

202. The Committee welcomes the establishment of the Sexual Minorities Forum, a formal communication channel between the Hong Kong Special Administrative Region and people with different sexual orientations, and the planned establishment of a gender identity and sexual orientation unit within the Home Affairs Bureau.

203. The Committee welcomes the extensive efforts made by the Hong Kong Special Administrative Region, including awareness-building campaigns, to combat prejudice and discrimination against persons with physical and mental disabilities.

204. The Committee welcomes the enactment in 2002 of the Crimes Ordinance outlawing marital rape.

205. The Committee welcomes the enactment in 2003 of the Prevention of Child Pornography Ordinance.

G. Factors and difficulties impeding the implementation of the Covenant

206. The Committee notes the absence of any significant factors or difficulties preventing the effective implementation of the Covenant in the Hong Kong Special Administrative Region.

H. Principal subjects of concern

207. The Committee regrets that the Hong Kong Special Administrative Region has not implemented a number of the recommendations contained in its concluding observations adopted in 2001.⁹ The Committee wishes to reiterate in particular its concern at the following issues:

(a) The absence in current anti-discrimination legislation of provisions relating to discrimination on the basis of race, sexual orientation and age;

(b) The absence of a human rights institution with a broad mandate, while noting the position of the Hong Kong Special Administrative Region that the Equal Opportunities Commission has comparable functions;

(c) The lack of effective protection from discrimination and abuse, of foreign domestic helpers, affected by the “two-week rule”, upon expiration of their contract;

(d) The continuing spread of poverty and lack of effective access to social services, which affects disadvantaged and marginalized groups;

(e) The exclusion of many individuals, including women who are homemakers, persons with disabilities and older persons, from the Mandatory Provident Fund Scheme, due to their inability to make sufficient voluntary contributions;

(f) The hardship arising from the right of abode policies in relation to permanent residence and split families; and

(g) The persistence of inadequate housing in the form of cage-homes and bed-space apartments, despite measures taken by the Hong Kong Special Administrative Region to provide alternative housing to residents who choose to remain in such dwellings.

208. The Committee is concerned that the protection provided in the proposed racial discrimination law will not cover migrants from the Mainland despite the widespread de jure and de facto discrimination against them on the basis of their origin. The Committee is also concerned that according to the proposals made by the Hong Kong Home Affairs Bureau, the new law will not affect existing immigration legislation in the Hong Kong Special Administrative Region.

209. The Committee is concerned that the Hong Kong Special Administrative Region lacks a clear asylum policy and that the Convention relating to the Status of Refugees and the Protocol relating to the Status of Refugees, to which China is a party, are not extended to the Hong Kong

⁹ *Official Records of the Economic and Social Council, 2002, Supplement No. 2 (E/2002/22-E/C.12/2001/17)*, chap. IV, paras. 189 to 210.

Special Administrative Region. In particular, the Committee regrets the position of the Hong Kong Special Administrative Region that it does not foresee any necessity to have the Convention and the Protocol extended to its territorial jurisdiction.

210. The Committee is concerned that the wage disparity between men and women continues to be a problem despite the position of the Hong Kong Special Administrative Region that the Sex Discrimination Ordinance provides sufficient protection for women in the field of employment, in accordance with the principle of equal pay for work of equal value.

211. The Committee is concerned that the social security system in the Hong Kong Special Administrative Region does not include unemployment benefits.

212. The Committee expresses its concern about the particularly precarious situation of foreign domestic workers, a majority of whom are from South-East Asia, who are underpaid and are not entitled to social security.

213. The Committee is seriously concerned that under the existing social security system, and in particular under the Comprehensive Social Security Assistance, the levels of benefit are not sufficient to guarantee a decent standard of living and that many low-income persons, in particular older persons, are not covered by the scheme. The Committee is further concerned that new migrants are unable to apply for Comprehensive Social Security Assistance due to the seven-year residence requirement.

214. The Committee expresses concern about reports of the high incidence of trafficking in persons, especially women and children, in the Hong Kong Special Administrative Region, mainly for the purpose of sexual exploitation. The Committee regrets that it did not receive sufficient information regarding this problem and the measures taken in this respect by the Hong Kong Special Administrative Region.

215. The Committee notes with regret that the information provided on the extent of poverty and social exclusion in the Hong Kong Special Administrative Region was insufficient. The Committee is also concerned about reports of increasing poverty among older persons, especially since the Hong Kong Special Administrative Region is facing the problem of a rapidly ageing society.

216. The Committee, while noting the generally high level of enjoyment to health in the Hong Kong Special Administrative Region, remains concerned that spending on public hospitals has been on the decline, resulting in longer waiting lists for patients. The Committee is also concerned that under the current fee waiver system, low-income patients still do not receive the most appropriate medical care. The Committee further notes with regret that many of the expensive drugs required by chronically ill and mentally ill patients are not subsidized and are thus in practice denied to these patients.

217. The Committee remains concerned about the general public's low level of awareness in the Hong Kong Special Administrative Region of sexual and reproductive health issues. The Committee also regrets that no comprehensive sexual and reproductive health programme exists in the Hong Kong Special Administrative Region and that sexual and reproductive health education is not part of the school curriculum.

218. The Committee is concerned that the measures taken to facilitate enrolment in local schools of children of migrants from the Mainland and other foreign migrant workers who do not have the legal right to remain in the Hong Kong Special Administrative Region are insufficient.

I. Suggestions and recommendations

219. The Committee once again urges the Hong Kong Special Administrative Region to implement the Committee's relevant suggestions and recommendations contained in its concluding observations adopted in 2001,⁹ as well as in the current ones, and urges it to undertake whatever relevant concrete measures may be necessary towards their implementation.

220. The Committee strongly urges the Hong Kong Special Administrative Region to extend the protection afforded by the proposed racial discrimination law to internal migrants from the mainland, and to put a stop to the widespread discriminatory practices against them on the basis of their origin. The Committee further recommends that the relevant provisions of the existing immigration legislation governing entry into, period of stay, and departure from, the Hong Kong Special Administrative Region be amended to ensure full conformity and consistency with the new racial discrimination legislation.

221. The Committee recommends that the Hong Kong Special Administrative Region reconsider its position regarding the extension of the Convention relating to the Status of Refugees and the Protocol relating to the Status of Refugees to its territorial jurisdiction, and that it strengthen its cooperation with UNHCR, in particular in the formulation of a clear and coherent asylum policy based on the principle of non-discrimination.

222. The Committee requests that the Hong Kong Special Administrative Region provide, in its next periodic report, the results of the Equal Opportunities Commission Study on gender-based pay inequalities and the measures to follow up the findings of the study.

223. The Committee recommends that the Hong Kong Special Administrative Region consider extending its social security system to cover unemployed workers through the payment of an unemployment benefit based on contributions from employers and employees.

224. The Committee urges the State party to review the existing "two-week rule", with a view to eliminating discriminatory practices and abuse arising from it, and to improving the legal protection and benefits for foreign domestic workers so that they are in line with those afforded to local workers, particularly with regard to wages and retirement benefits. The Committee recommends that the Hong Kong Special Administrative Region enable domestic helpers to acquire pension rights through their inclusion in the Mandatory Provident Fund Scheme.

225. The Committee urges the Hong Kong Special Administrative Region to review the eligibility criteria for the Comprehensive Social Security Assistance so as to ensure that all those in need, including low-income persons and families, older persons and new migrants, are adequately covered by the scheme to enable them to enjoy a decent standard of living.

226. The Committee requests that the State party provide detailed information in its next periodic report on the problem of trafficking and commercial sexual exploitation of persons in the State party and on measures taken to tackle these problems effectively. The Committee urges the State party to ensure respect for the necessary procedural safeguards when deporting

victims of trafficking in persons, particularly when such victims are minors, and to provide them with the necessary medical, psychological and legal support. The Committee requests the Hong Kong Special Administrative Region to inform the Committee in its next periodic report of the outcome of the Women's Commission's study on domestic violence.

227. The Committee urges the Hong Kong Special Administrative Region to strengthen its efforts to combat poverty and social exclusion, in particular with regard to disadvantaged and marginalized groups and older persons. The Committee also recommends that the State party establish an official poverty line, which would enable the State party to define the extent of poverty and to monitor and evaluate progress in alleviating poverty. The Committee requests that the State party provide in its next periodic report disaggregated and comparative annually collected data on the number of people living in poverty, on the progress made in reducing the incidence of poverty and on the impact, if any, that the newly established Commission on Poverty has had on that issue in the Hong Kong Special Administrative Region.

228. The Committee urges the State party to continue its efforts to improve its health services, inter alia, through the allocation of adequate and increased resources. The Committee recommends that the Hong Kong Special Administrative Region consider revising the current list of subsidized drugs to meet the needs of the chronically and mentally ill. The Committee encourages the State party to submit in its next periodic report annually collected comparative data, disaggregated by sex, age and urban/rural residence, paying particular attention to disadvantaged and marginalized groups.

229. The Committee recommends that the Hong Kong Special Administrative Region develop a comprehensive sexual and reproductive health programme, including a public awareness-raising campaign on safe contraceptive methods. The Committee also calls upon the Hong Kong Special Administrative Region to introduce sexual and reproductive health education in the school curriculum.

230. The Committee urges the Hong Kong Special Administrative Region to amend its legislation to provide for the right to education of all school-age children in its jurisdiction, including children of migrants without the legal right to remain in the Hong Kong Special Administrative Region.

231. The Committee encourages the Hong Kong Special Administrative Region to ensure that human rights education is provided in schools at all levels and to raise awareness of human rights, in particular economic, social and cultural rights, among State officials and the judiciary.

Part Three

MACAO SPECIAL ADMINISTRATIVE REGION

J. Positive aspects

232. The Committee welcomes the assurance that the Covenant may be directly invoked before domestic courts in the Macao Special Administrative Region, and that there have been specific decisions of domestic courts in which reference has been made to the Covenant and its provisions.

233. The Committee welcomes the assurance provided by the Macao Special Administrative Region that the Office of the Ombudsman has the mandate to receive complaints on violations of economic, social and cultural rights.

234. The Committee commends the Macao Special Administrative Region for the establishment of a special unit within the Social Welfare Institute offering assistance to victims of domestic violence.

235. The Committee welcomes the planned enactment of legislation to protect the rights of children, specifically aimed at protecting their rights and interests.

K. Factors and difficulties impeding the implementation of the Covenant

236. The Committee notes the absence of any significant factors or difficulties preventing the effective implementation of the Covenant in the Macao Special Administrative Region.

L. Principal subjects of concern

237. The Committee expresses its concern that women continue to be in a disadvantaged position in society in the Macao Special Administrative Region, especially with regard to employment and equal pay for work of equal value and participation in decision-making.

238. The Committee is concerned about the differences in the criteria for entitlement to maternity leave for workers in the public and private sectors, and that the entitlement of male workers to five days of paternity leave is only applicable in the public sector.

239. The Committee is concerned that no legislation exists to criminalize sexual harassment in the workplace.

240. The Committee expresses its concern that persons with disabilities are not sufficiently integrated in the labour market.

241. The Committee is concerned about the increasing incidence of domestic violence in the Macao Special Administrative Region and the irregular protection given to victims of domestic violence under existing legislation.

242. The Committee notes with concern that trafficking in women and children for sexual exploitation is a serious problem in the Macao Special Administrative Region and that prosecution of traffickers generally has not been effective.

243. The Committee is seriously concerned that migrant workers, who account for a significant proportion of the working population of the Macao Special Administrative Region, are excluded from the social welfare system.

244. The Committee is concerned about the high incidence of consumption of illicit drugs in the Macao Special Administrative Region and the ineffective enforcement of the law prohibiting it.

245. While welcoming efforts made by the Macao Special Administrative Region to enable the integration of children of migrants in the school system, the Committee notes with regret that education provided to children of migrant workers is not free of charge.

246. The Committee notes the lack of sufficient information on efforts made by the Macao Special Administrative Region to involve non-governmental organizations in the preparation of the report.

M. Suggestions and recommendations

247. The Committee recommends that the Macao Special Administrative Region establish a State institution responsible for the promotion and protection of gender equality and engage in campaigns to raise awareness of gender equality, particularly in employment, and to report, in its next periodic report, on the results achieved in this regard.

248. The Committee recommends that the Macao Special Administrative Region take effective measures to increase public awareness, especially in the private sector, about the importance of maternity and paternity leaves that reconcile professional and family life for men and women. The Committee further recommends that the Macao Special Administrative Region take immediate measures to ensure the right of private-sector workers to maternity leave, without placing limitations on the number of births, and to ensure that male workers in the private sector are granted the right to five days of paternity leave, as in the public sector.

249. The Committee urges the Macao Special Administrative Region to consider enacting legislation to criminalize sexual harassment in the workplace.

250. The Committee recommends that the Macao Special Administrative Region take effective measures to promote the integration of people with disabilities into the labour market, including by providing incentives to employers and strengthening the system of job quotas for persons with disabilities.

251. The Committee calls upon the Macao Special Administrative Region to intensify its efforts to combat domestic violence. In particular, the Committee encourages the Macao Special Administrative Region to consider enacting specific legislation criminalizing domestic violence and affording effective protection to victims. The Committee also urges the Macao Special Administrative Region to take effective measures to provide training for law enforcement personnel and judges regarding the criminal nature of domestic violence. Moreover, the Committee urges the Macao Special Administrative Region to ensure the availability and accessibility of crisis centres where victims of domestic violence can find safe lodging and counselling.

252. The Committee recommends that the Macao Special Administrative Region make concerted efforts to combat the phenomenon of trafficking in persons. The Macao Special Administrative Region should also ensure that victims of trafficking have access to crisis centres where they can receive assistance. The Committee also recommends that the Macao Special Administrative Region provide in its next periodic report detailed information on the measures taken to combat trafficking and commercial sexual exploitation of women and children, as well as comparative statistical data indicating the extent of the problem.

253. The Committee recommends that the Macao Special Administrative Region take effective measures to ensure that all workers are entitled to adequate social security benefits, including migrant workers. The Committee requests the Macao Special Administrative Region to provide detailed information in its next periodic report on the extent of the coverage of its social security system, including protection for migrant workers and other disadvantaged and marginalized groups.

254. The Committee recommends that measures be continued and strengthened for the effective implementation of programmes to prevent illicit drug consumption, and that the Macao Special Administrative Region inform the Committee in its next periodic report of the progress achieved.

255. The Committee recommends that the Macao Special Administrative Region strengthen its efforts to provide free compulsory education to all school-age children, including children of migrant workers.

256. The Committee encourages the Macao Special Administrative Region to ensure that human rights education is provided in schools at all levels and to raise awareness about human rights, in particular economic, social and cultural rights, among State officials and the judiciary.

257. The Committee underlines the importance of the role of civil society in the full implementation of the Convention and recommends that the Macao Special Administrative Region consult non-governmental organizations and other members of civil society in Macao during the preparation of the next periodic report.

258. The Committee requests the State party to include, in its second periodic report on the implementation of the Covenant, all available information on any measures taken and progress made, particularly with regard to the suggestions and recommendations made by the Committee in the present concluding observations.

259. The Committee requests the State party to widely disseminate the present concluding observations among all levels of society, and in particular, members of the judiciary, law enforcement officials and non-governmental organizations. It also encourages the State party to engage non-governmental organizations and other members of civil society in the discussion process at the national level prior to the submission of the second periodic report.

260. The Committee requests the State party to submit its second periodic report by 30 June 2010.

SERBIA AND MONTENEGRO

261. The Committee considered the initial report of Serbia and Montenegro on the implementation of the Covenant (E/1990/5/Add.61) at its 11th to 13th meetings, held on 2 and 3 May 2005. At its 27th meeting held on 13 May, it made public the following concluding observations.

A. Introduction

262. The Committee welcomes the submission of the initial report of Serbia and Montenegro, which was prepared in general conformity with the Committee's guidelines, and the written replies to its list of issues (E/C.12/Q/SEMO/1).

263. The Committee welcomes the frank and constructive dialogue with the delegation of the State party, which included representatives from the Republic of Serbia, the Republic of Montenegro and the State Union of Serbia and Montenegro.

B. Positive aspects

264. The Committee notes with appreciation that, in accordance with article 16 of the Constitutional Charter (2003) of the State Union of Serbia and Montenegro, the Covenant takes precedence over the law of Serbia and Montenegro and that of the Republics, and that the Charter on Human and Minority Rights and Civil Liberties protects many economic, social and cultural rights, including special rights of members of national minorities.

265. The Committee welcomes the establishment of Ombudsperson institutions in the Republic of Montenegro and in the autonomous province of Vojvodina, as well as the current process of adopting a law on the Ombudsperson of Serbia.

266. The Committee notes with appreciation the considerable legislative and policy reforms which have been adopted in the State party, in particular in the Republic of Montenegro, with a view to achieving the enjoyment of economic, social and cultural rights by all, including by disadvantaged and marginalized persons.

267. The Committee notes with satisfaction that the State party supports the adoption of an optional protocol to the International Covenant on Economic, Social and Cultural Rights.

C. Factors and difficulties impeding the implementation of the Covenant

268. The Committee recalls that Serbia and Montenegro is undergoing a process of economic and institutional transition and that it is still suffering from the effects of territorial disintegration and armed conflicts throughout the 1990s which render the full implementation of the Covenant difficult.

269. The Committee takes note of the State party's explanation about its inability to report on measures adopted and progress made in achieving the observance of the rights recognized in the Covenant with regard to the province of Kosovo and Metohija, where civil authority is exercised by the United Nations Interim Administration Mission in Kosovo under Security Council resolution 1244 (1999) of 10 June 1999. The State party suggested that the Committee should invite the Mission to submit to the Committee a supplementary report on the implementation of the Covenant in Kosovo. The Committee, however, calls upon the State party to request the Secretary-General to provide it with information collected by the Mission, in accordance with paragraph 11 (j) of Security Council resolution 1244 (1999), on the enjoyment in Kosovo since 1999 of the rights recognized in the Covenant and, without prejudice to the legal status of Kosovo, on the basis of such information to supplement its initial report to the Committee. In

this regard, the Committee requests the State party, in cooperation with and with assistance from the Mission and local civil authorities in Kosovo, to submit the additional information with regard to the implementation of the Covenant in Kosovo by 30 June 2006.

D. Principal subjects of concern

270. The Committee regrets the absence of case law on the application of the Covenant by Serbian and Montenegrin courts.

271. The Committee is concerned that there is no systematic and comprehensive anti-discrimination legislation in Serbia and Montenegro at the level of the Republics or the State Union.

272. The Committee expresses its deep concern about reported incidents of inter-ethnic violence and racially motivated acts against ethnic minorities such as the Roma.

273. The Committee is deeply concerned that, despite the State party's efforts to improve the economic and social situation of Roma through the national action plans for the implementation of the Decade of Roma Inclusion (2005-2015) in both Republics, widespread discrimination against Roma persists with regard to employment, social security, housing, health care and education.

274. The Committee expresses its deep concern about the uncertain residence status of and the limited access by refugees, returnees from third countries and internally displaced persons, including internally displaced Roma, to personal identification documents, which are a requirement for numerous entitlements such as eligibility to work, to apply for unemployment and other social security benefits, or to register for school.

275. The Committee regrets the absence of a law on gender equality as well as the low representation of women in government offices and in the parliaments of both Republics and of the State Union.

276. The Committee is concerned about the high unemployment rate in Serbia and in Montenegro, especially among women, persons with disabilities, Roma and internally displaced persons.

277. The Committee is equally concerned that many persons, especially Roma, internally displaced persons and refugees, work in the informal economy or in the low-income sector without adequate working conditions and social security coverage.

278. The Committee notes with concern that only a small number of workers are unionized in the private sector and that the registration of trade unions is subject to strict requirements, including authorization by the Minister of the Interior, who has the power to dissolve trade unions.

279. The Committee is equally concerned about the broad definition of the concept of "essential services", including professions such as teachers and postal workers. The Committee is also concerned that the right to strike can only be exercised if strict conditions are met, and that participation in a strike can lead not only to the suspension of wages but also of social security rights.

280. The Committee is concerned about the very low unemployment benefit coverage in the State party.

281. The Committee notes that the recent Law on Pensions and Disability Insurance of the Republic of Serbia has introduced stricter requirements for eligibility for old-age and disability pensions in order to guarantee the financial sustainability of the pensions system, and expresses its concern that those who do not comply with these requirements will be left without adequate social assistance.

282. The Committee is concerned that a large number of Krajina Serbs and internally displaced persons from Kosovo above the retirement age have reportedly not received their pensions for years.

283. The Committee expresses its deep concern about the high incidence of domestic violence, often resulting from psychological distress caused by unemployment and traumatic disorders related to armed conflict.

284. The Committee is equally concerned about the high incidence of child abuse in the State party.

285. The Committee is deeply concerned about the high numbers of trafficked women and children for purposes of sexual exploitation and forced labour, as well as about reported incidents of police involvement.

286. The Committee notes with concern that many Roma children below the minimum working age of 15 years work in the informal economy without being covered by the special provisions of the Labour Code relating to the protection of minors.

287. The Committee notes with concern that 10.6 per cent of the Serbian population and 12.2 per cent of the Montenegrin population currently live below the poverty line and that another 25,000 people in Serbia would fall below the poverty line if it were increased slightly.

288. The Committee is concerned about the extent of poverty among older persons and about the fact that home care is still insufficiently developed.

289. The Committee notes with concern that poverty among Roma is four to five times higher than among the general population.

290. The Committee is gravely concerned about the poor conditions in which thousands of Roma families live in substandard informal settlements without access to basic services such as electricity, running water, sewage facilities, medical care and schools.

291. The Committee is deeply concerned that many refugees, internally displaced persons and Roma are being evicted from illegal collective centres and informal settlements which are being closed down without sufficient provision of adequate alternative housing.

292. The Committee is concerned about the lack of direct access to safe drinking water in 17.5 per cent of rural households in Serbia and about the poor quality of water in central Serbia.

293. The Committee is concerned about the limited access to primary health care in rural areas, especially for refugees and other vulnerable groups, and that 7 per cent of the Serbian population are not covered by compulsory health insurance.

294. The Committee deplores the high rates of tobacco consumption and of cardiovascular diseases in Serbia and Montenegro, in particular in the autonomous province of Vojvodina.

295. While acknowledging the State party's efforts to devise a strategy to address the HIV/AIDS pandemic, the Committee notes the absence of national benchmarks against which the State party's achievements in this or other areas of health could be assessed.

296. The Committee regrets the absence of information on mental health services in the State party's report, including provision of psychological rehabilitation to victims of physical and sexual violence and other traumatizing experiences related to armed conflict.

297. The Committee is deeply concerned that a high percentage of Roma children and children belonging to other minority groups, as well as refugee and internally displaced children, are not enrolled in school, drop out at an early stage, are being discriminated against at school, or are placed in schools for children with special needs.

E. Suggestions and recommendations

298. The Committee urges the State party to ensure that the provisions of the Covenant are given effect by its domestic courts and that legal and judicial training takes full account of the justiciable elements of all Covenant rights, as defined in the Committee's general comments, and promotes the use of the Covenant as a domestic source of law. The Committee draws the attention of the State party to general comment No. 9 (1998) on the domestic application of the Covenant and invites the State party to include information concerning case law on the application of the Covenant in its next periodic report.

299. The Committee calls on the State party to adopt specific anti-discrimination framework legislation and to increase awareness about international anti-discrimination standards among judges and other members of the legal profession. The State party should ensure wide participation of the civil society in the adoption of such legislation.

300. The Committee urges the State party to investigate such incidents, to bring perpetrators to justice and to take all necessary measures to raise awareness of the dimensions of ethnic discrimination and intolerance among local authorities and the general public.

301. The Committee recommends that the State party ensure adequate participation of Roma representatives in the implementation of the plans of action adopted or envisaged by both Republics with regard to non-discrimination, gender equality, employment, social protection, housing, health and education of Roma, and to allocate sufficient funds to these and other relevant programmes.

302. The Committee calls on the State party to assist refugees, returnees and internally displaced persons by facilitating the procedures necessary to obtain personal documents, including birth certificates, identity cards and work booklets, to enable them to enjoy their economic, social and cultural rights.

303. The Committee recommends that, in addition to the establishment of the Council on Gender Equality in Serbia and of the Office for Gender Equality in Montenegro, the State party expedite the adoption of a law on gender equality with a view to ensuring greater access for women to positions of responsibility in the Government and public employment sectors.

304. The Committee requests the State party to intensify its efforts to reduce the unemployment rate, including through the implementation of its National Employment Strategy 2005-2010, to promote employment of persons belonging to vulnerable groups through special measures, for example, special training, the removal of physical barriers limiting workplace access by persons with disabilities, and wage subsidies or other incentives for employers, and to report on the results of these measures in its next report.

305. The Committee recommends that the State party remove from its legislation any unjustified registration requirements and grounds for dissolving trade unions.

306. The Committee requests the State party to limit the scope of its definition of “essential services” and to ensure that the exercise of the right to strike does not lead to the suspension of social security rights.

307. The Committee recommends that the State party increase unemployment benefit coverage so as to ensure an adequate standard of living for unemployed workers and their families and to include in its next report detailed information on the extent of unemployment benefit coverage, disaggregated by age, gender, residence status and national or ethnic origin.

308. The Committee requests the State party to include in its next report detailed information on the number of persons who are not eligible for old-age or disability pensions under the Serbian Law on Pensions and Disability Insurance and under similar legislation in Montenegro, if any, disaggregated by gender, age and national or ethnic origin, as well as on the type and levels of social assistance received in lieu of such pensions.

309. The Committee requests the State party to pursue its bilateral negotiations with Croatia regarding the payment of pensions to Krajina Serbs residing in Serbia and Montenegro and to alleviate documentation requirements for the payment of pensions to internally displaced persons whose work booklets were destroyed during the hostilities in Kosovo.

310. The Committee urges the State party to take effective measures to combat domestic violence, to provide counselling to victims and perpetrators, including those suffering from traumatic disorders related to armed conflict, and to include updated statistical data on the number of reported cases, disaggregated by age, gender, employment status and national or ethnic origin of the victims and/or perpetrators, in its next report.

311. The Committee urges the State party to take effective measures to ensure the immediate protection and long-term rehabilitation of abused children and to include in its next report detailed information on these measures as well as on the number of reported cases of child abuse.

312. The Committee urges the State party, in addition to the recent legislative measures to combat trafficking in persons, to prosecute and punish perpetrators and corrupted law enforcement officials involved in trafficking, to provide medical, psychological and legal support to victims, to raise awareness about the dimension of the crime among law enforcement officials,

and to include updated statistical data on the number of victims, perpetrators, convictions and the type of sanctions imposed in its next report. The Committee also encourages the State party to proceed with the adoption of a national plan of action on trafficking in Serbia.

313. The Committee recommends that the State party ensure the protection of minors against economic and social exploitation and take all necessary measures to combat and punish employment of children below the age of 15.

314. The Committee recommends that the State party ensure the full integration of economic, social and cultural rights into its Poverty Reduction Strategy and allocate sufficient funds for the implementation of the Strategy. In this regard, the State party is referred to the Committee's statement on poverty and the International Covenant on Economic, Social and Cultural Rights.⁸

315. The Committee recommends that, in applying its Poverty Reduction Strategy, the State party take special measures to alleviate the extent of poverty among older persons and that priority be given to home care rather than institutionalization of older persons in need of care. The State party should allocate sufficient funds to that effect and strengthen the role of non-profit organizations in the provision of home care and other social services.

316. The Committee recommends that, in applying its Poverty Reduction Strategy and national plans of action for the implementation of the Decade of Roma Inclusion, 2005-2015, the State party take special measures to alleviate the extent of poverty among Roma.

317. The Committee urges the State party to ensure, by legalizing and improving the infrastructure of existing settlements or through social housing programmes, that Roma have access to adequate and affordable housing with legal security of tenure, safe drinking water, adequate sanitation, electricity and other essential services.

318. The Committee urges the State party to ensure that adequate alternative housing is provided whenever forced evictions take place, in line with the Committee's general comment No. 7 (1997) on the right to adequate housing (art. 11, para. 1, of the Covenant): forced evictions, and to include updated statistical data on an annual basis on the number of forced evictions, arrangements for alternative housing and the extent of homelessness in its next report.

319. The Committee recalls the State party's obligation to ensure access to safe drinking water within, or in the immediate vicinity of each household. It invites the State party to identify disaggregated indicators and appropriate national benchmarks in relation to the right to water, in line with the Committee's general comment No. 15 (2002) on the right to water (arts. 11 and 12 of the Covenant), and to include information on the process of identifying such indicators and benchmarks in its next report.

320. The Committee recommends that the State party ensure universal access to affordable primary health care, in particular by increasing the number of family doctors and community health centres, and allow all members of society, including refugees, internally displaced persons and Roma, to join the compulsory health insurance scheme.

321. The Committee recommends that the State party intensify its anti-smoking and healthy diet campaigns with a view to combating the causes of cardiovascular diseases.

322. The Committee invites the State party to identify disaggregated indicators and appropriate national benchmarks in relation to priority health concerns, including HIV/AIDS, in line with the Committee's general comment No. 14 (2000) on the right to the highest attainable standard of health (art. 12 of the Covenant), and to include information on the process of identifying such indicators and benchmarks in its next report.

323. The Committee requests the State party to ensure the provision of adequate counselling and other assistance to victims of physical and sexual violence and other traumatizing experiences related to armed conflict, in particular women and children, and to include information on these and other mental health services, as well as on the number of victims of such violence, in its next report.

324. The Committee urges the State party to take effective measures to promote school attendance by Roma children and children belonging to other minority groups, as well as refugee and internally displaced children, by increasing subsidies, scholarships and the number of teachers instructing in minority languages. It also urges the State party to eradicate ethnically discriminatory attitudes by taking effective measures in the fields of teaching, education, culture and information, in order to promote understanding, tolerance and mutual respect among all ethnic groups living on its territory.

325. The Committee recommends that the State party intensify its efforts to promote respect for the cultural values of ethnic communities in order to enhance mutual tolerance and understanding. The Committee requests the State party to include information in its next report about the measures taken to implement recommendations made by the national councils of the Roma and other minorities in Serbia and about similar measures in Montenegro.

326. The Committee requests the State party to disseminate the present concluding observations widely among all levels of society and to inform the Committee on all steps taken to implement them in its next periodic report. It also encourages the State party to engage non-governmental organizations and other members of civil society in the process of discussion at the national level prior to the submission of its next periodic report.

327. Finally, the Committee requests the State party to submit its second periodic report by 30 June 2010.

NORWAY

328. The Committee considered the fourth periodic report of Norway on the implementation of the Covenant (E/C.12/4/Add.14) at its 14th and 15th meetings, held on 3 and 4 May 2005. At its 27th meeting, held on 13 May, it made public the following concluding observations.

A. Introduction

329. The Committee welcomes the submission of the fourth periodic report of the State party and the comprehensive written replies to the list of issues (E/C.12/Q/NOR/2). The Committee also welcomes the frank and constructive dialogue with the delegation of experts of the State party.

B. Positive aspects

330. The Committee appreciates the State party's commitment to international cooperation as reflected in the volume of official development assistance, standing at 0.92 per cent of GNP. The Committee also welcomes the importance attached to human rights in the State party's Action Plan for Combating Poverty in the South towards 2015.

331. The Committee welcomes the adoption of the Human Rights Act of 21 May 1999, which incorporated the Covenant into domestic law, stipulating in section 3 that the Covenant takes precedence over any other legislative provisions that conflict with it.

332. The Committee welcomes the adoption of the Act of 3 June 2005 prohibiting ethnic, religious and other forms of discrimination.

333. The Committee welcomes policies and measures adopted to strengthen the protection of economic, social and cultural rights, including within the framework of the 2002 Plan of Action for Combating Poverty and the National Plan of Action to Combat Racism and Discrimination (2002-2006).

334. The Committee notes with appreciation the submission to Parliament, on 1 October 2004, of a new white paper on Norway as a multicultural society that includes people of various backgrounds, ethnicities, religions, cultures, languages and ways of life.

335. The Committee welcomes the Plan of Action to Combat Trafficking in Women and Children (2003-2005) and the introduction of a specific penal provision on trafficking in human beings, which entered into force in July 2003, as well as the State party's ratification in September 2003 of the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the Convention.

C. Factors and difficulties impeding the implementation of the Covenant

336. The Committee notes the absence of significant factors or difficulties impeding the effective implementation of the Covenant in the State party.

D. Principal subjects of concern

337. The Committee is concerned about cases of discrimination faced by persons of immigrant background, particularly in the areas of housing and work.

338. The Committee is concerned about problems faced by persons of immigrant background, in particular women, in accessing the labour market. The Committee notes in this regard the limited effect of the measures taken so far by the State party to increase immigrants' participation in the labour market.

339. The Committee notes with concern the persistent salary differences between men and women, despite the substantial measures taken to end discrimination against women in the workplace.

340. The Committee is concerned at the high incidence of accidents in the fishing and offshore petroleum industries.
341. The Committee expresses concern at the high number of children who are removed from their families and placed in institutions or foster homes in the State party.
342. The Committee is concerned that domestic violence is still a widespread problem in the State party and notes the lack of specific legislation on domestic violence.
343. The Committee is concerned that the subsistence requirement imposes an undue constraint on the ability of some foreigners, including those who have been granted a residence permit on humanitarian grounds, to be reunited with their closest family members.
344. The Committee is concerned that Norway is a destination for women trafficked for the purpose of sexual exploitation.
345. The Committee notes with concern the increasing number of evictions carried out in the State party, especially in Oslo, mainly as a consequence of unpaid rent. The Committee is also concerned that the disadvantaged and marginalized groups in society are particularly affected by the privatization of municipal social housing and rising housing prices. Despite the assistance provided through the Norwegian State Housing Bank, the Committee is particularly concerned that the number of social housing units for low-income individuals and families is far from adequate. It regrets in this regard the lack of information on the number of people living in illegal settlements and whether they are liable to forced eviction and the number of persons on waiting lists for municipal social housing.
346. The Committee notes with concern that an estimated 5,200 people are homeless in the State party. Furthermore, the Committee is concerned that rejected asylum-seekers who cannot be sent home to their countries of origin are not offered accommodation in reception centres after the deadline set for departure.
347. The Committee is concerned about information received that many asylum-seeking children who suffer from trauma and illness are not afforded adequate assistance.
348. The Committee is concerned about the high incidence of eating disorders among adolescents in the State party and about the high incidence of suicide among adolescent boys aged between 15 and 19.
349. The Committee is concerned about the restrictions placed on the access to education of asylum-seekers, as asylum-seeking children only have access to free primary and lower secondary education and asylum-seekers over the age of 18 are not offered courses in Norwegian.

E. Suggestions and recommendations

350. In the light of the 2001 Norwegian Supreme Court ruling in the *KLR* case, which states that international treaties that have been incorporated into national legislation can only be directly applied when it is possible to derive concrete rights and duties from their provisions, the Committee reaffirms the principle of the interdependence and indivisibility of all human rights and that all economic, social and cultural rights are justiciable. It urges the State party to ensure

that all the provisions of the Covenant are given effect by its domestic courts. In this regard, the Committee refers the State party to its general comment No. 9 (1998) on domestic application of the Covenant.

351. The Committee recommends that the State party pursue efforts to ensure the full independence of the Norwegian Centre for Human Rights as a national human rights institution in compliance with the Paris Principles.⁶

352. The Committee requests the State party to provide in its next periodic report disaggregated information on its official development assistance, indicating funds allocated to different sectors in the areas of economic, social and cultural rights. Information is also sought on measures taken by the State party to ensure compliance with Covenant obligations in its international development cooperation.

353. The Committee urges the State party to ensure that the Finnmark Bill, currently under consideration by Parliament, gives due regard to the rights of the Sami people to participate in the management and control of natural resources in Finnmark County. The Committee requests the State party to provide in its next periodic report updated information about the implementation of the proposed legislation and the extent to which the opinions of representatives of the Sami people have been taken into consideration.

354. The Committee recommends that the State party strengthen measures to combat discrimination against persons of immigrant background and ensure the effective monitoring of anti-discrimination legislation.

355. The Committee encourages the State party to continue and strengthen its measures to overcome the obstacles faced by persons of immigrant background, in particular women, in accessing the labour market.

356. The Committee encourages the State party to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

357. The Committee encourages the State party to continue and strengthen its efforts to ensure that women and men have equal access to the labour market and receive equal pay for work of equal value. In particular, the State party should take measures to encourage women to choose occupations and professions that are traditionally exercised by men and which are better remunerated.

358. The Committee encourages the State party to strengthen its efforts to ensure safe working conditions for workers in the fishing and offshore petroleum industries.

359. The Committee requests the State party to address the situation of children who are removed from their families and placed in institutions or foster homes and to take measures to identify and address the underlying causes. In this regard, the Committee recommends that the State party undertake periodic comprehensive reviews of children placed in institutions or foster homes and strengthen its efforts to provide parents with the necessary assistance and support to enable them to exercise their parental role and responsibilities in the upbringing and education of their children. The Committee requests the State party to provide in its next periodic report

disaggregated data on an annual basis on the number and ethnic origin of children placed in institutions or foster homes, the average period of placement, the reasons for such placement, and the measures taken to reunite children with their biological parents.

360. The Committee urges the State party to give priority to ensuring the availability of a sufficient number of places in kindergartens, particularly in densely populated urban areas.

361. The Committee urges the State party to continue and strengthen social, psychological and legal measures taken within the framework of the Action Plan to Combat Domestic Violence (2004-2007) and to consider adopting specific legislation on domestic violence. The Committee requests the State party to provide information on progress made in its next periodic report.

362. The Committee encourages the State party to consider easing restrictions on family reunification in order to ensure the widest possible protection of, and assistance to, the family.

363. The Committee urges the State party to continue and strengthen its efforts to address the problems of trafficking in persons and commercial sexual exploitation, and requests the State party to provide in its next periodic report detailed information on progress achieved and difficulties encountered in the implementation of the second national plan of action to combat trafficking in women, which is due to be adopted in June 2005.

364. The Committee urges the State party to ensure that evictions of tenants who cannot pay their rents and of squatters comply with the guidelines established by the Committee in its general comment No. 7 (1997) on the right to adequate housing (art. 11, para. 1, of the Covenant): forced evictions. Furthermore, the State party should take effective measures, in line with the Committee's general comment No. 4 (1991) on the right to adequate housing (art. 11, para. 1, of the Covenant), to provide housing units in sufficient numbers to cater for the needs of low-income families and disadvantaged and marginalized groups. The Committee requests the State party to provide in its next report disaggregated data on the number of persons on waiting lists for municipal social housing and information on progress made to improve the overall housing situation.

365. The Committee urges the State party to strengthen measures to deal with the problem of homelessness and to ensure that rejected asylum-seekers who cannot be sent home to their countries of origin are offered alternative accommodation.

366. The Committee encourages the State party to adopt effective measures to address the underlying causes of regional disparities in health indicators.

367. The Committee urges the State party to strengthen measures taken to ensure adequate health and psychiatric services for asylum-seeking children.

368. The Committee recommends that the State party continue and strengthen the measures taken to implement the coherent strategy developed in 2000 against eating disorders, and also ensure adequate follow-up to the National Plan for Suicide Prevention.

369. The Committee recommends that the State party ensure that every decision to detain a person with a mental disorder for compulsory psychiatric treatment be reviewed promptly by an independent judicial body.

370. The Committee encourages the State party to ensure that asylum-seekers are not restricted in their access to education while their claim for asylum is being processed.

371. The Committee requests the State party to disseminate its concluding observations widely among all levels of society, including State officials and the judiciary, and to inform the Committee about steps taken to implement them in its next periodic report. It also encourages the State party to continue to consult with non-governmental organizations and other members of civil society in the preparation of its fifth periodic report.

372. The Committee requests the State party to submit its fifth periodic report by 30 June 2010.

Thirty-fifth session

SLOVENIA

373. The Committee considered the initial report of Slovenia on the implementation of the Covenant (E/1990/5/Add.62) at its 32nd to 34th meetings, held on 8 and 9 November 2005. At its 58th meeting held on 25 November, it made public the following concluding observations.

A. Introduction

374. The Committee welcomes the submission by the State party of its initial report, which was prepared in accordance with the Committee's guidelines. It notes with satisfaction the thoroughness of the written replies to the list of issues (E/C.12/Q/SVN/1).

375. The Committee welcomes the constructive dialogue with the high-level delegation from the State party, which included experts in the various fields covered by the Covenant.

B. Positive aspects

376. The Committee notes with satisfaction the State party's efforts to fulfil its obligations under the Covenant and the protection generally afforded to economic, social and cultural rights in Slovenia.

377. The Committee notes with satisfaction that the Covenant has been incorporated into domestic law and can be invoked in the country's courts.

378. The Committee is pleased that the institution of the Human Rights Ombudsman is functioning well and that the Ombudsman is competent to submit complaints relating to human rights to the Constitutional Court.

379. The Committee welcomes the amendment to article 43 of the Constitution banning discrimination between men and women, the entry into force in 2002 of the Act on Equal Opportunities for Women and Men and the establishment of the Office for Equal Opportunities.

380. The Committee observes with satisfaction that there are few restrictions on the right to join a trade union and the right to strike in either the private or the public sector in Slovenia, and that members of the armed forces and the police also enjoy these rights.

381. The Committee welcomes the State party's ratification of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

C. Factors and difficulties impeding the implementation of the Covenant

382. The Committee has found no significant factors or difficulties likely to prevent the State party from effectively implementing the Covenant.

D. Principal subjects of concern

383. The Committee is concerned about discrimination against the Roma, as well as about the distinction made in practice between indigenous and non-indigenous Roma. The Committee is also concerned that the latter do not enjoy protection of their cultural rights, such as the right to education in their mother tongue, unlike members of other minorities who enjoy this right under bilateral international agreements.

384. The Committee is concerned that, despite the various measures taken to improve the status of women, the latter continue to be at a disadvantage in society, particularly with regard to access to employment, equal pay for equal work, the size of their retirement pension and their involvement in decision-making, and the limited number of women in high-level public positions.

385. The Committee remains concerned about the large number of unemployed young persons, members of minorities and persons with disabilities.

386. The Committee is concerned that sexual harassment in the workplace is not classified as a specific offence and for this reason victims may not be adequately protected.

387. The Committee notes with concern the employment insecurity facing individuals hired on short-term employment contracts, a phenomenon that is becoming increasingly widespread.

388. The Committee is concerned that nationals of the former Yugoslavia have been "erased" as their names were removed from the population registers in 1992. As a result, they have lost their Slovene nationality and their right to reside in the State party. The Committee observes that this situation entails violations of these persons' economic and social rights, including the rights to work, social security, health care and education. Moreover, the Committee regrets the lack of information on the situation with regard to the enjoyment by those individuals of the rights set out in the Covenant.

389. The Committee notes with concern that trafficking in women and children is a serious problem in the State party, which is a country of origin, transit and destination for the trafficking of women and children. The Committee regrets the lack of specific legislation to combat this phenomenon, as well as the low number of enforcement measures.

390. The Committee is concerned that the State party provides no specific legal mechanisms to deal with domestic violence, particularly violence against women, and consequently victims of such violence may not be adequately protected by current legislation.

391. The Committee is concerned about the persistence of significant regional disparities in the State party that affect the equal enjoyment by all of economic, social and cultural rights such as employment, welfare benefits and social services.

392. The Committee notes that the State party has not ratified a number of ILO conventions bearing on rights enshrined in the Covenant, including Convention No. 118 (1962) concerning Equality of Treatment of Nationals and Non-Nationals in Social Security and Convention No. 174 (1993) concerning the Prevention of Major Industrial Accidents.

E. Suggestions and recommendations

393. The Committee would like to see in the next report of the State party reference to some of the cases referred to the Constitutional Court by the Human Rights Ombudsman.

394. The Committee recommends that the State party consider adopting a national action plan in the field of human rights, in accordance with paragraph 71 of the 1993 Vienna Declaration and Programme of Action.¹⁰ It requests the State party to report to it, in its next periodic report, on the status of initiatives relating to the protection of economic, social and cultural rights and to provide information with data to enable it to assess the progress made by the State party in this regard. Furthermore, the Committee strongly recommends that the State party provide more support and resources to the Human Rights Ombudsman's office.

395. The Committee recommends that in its next report the State party should provide some of the case law of the Courts relating to the implementation of the Covenant.

396. The Committee urges the State party to take measures to combat discrimination between indigenous and non-indigenous Roma and to guarantee access without distinction to Roma children in school. The State party is called upon to take measures to guarantee that education is provided also in the mother tongue of minorities.

397. The Committee invites the State party to step up its measures to promote equality between men and women, as required by article 2, paragraph 2, and article 3 of the Covenant, including by application of the principle of equal pay for equal work and by ensuring that women are involved in decision-making. The Committee requests the State party to provide, in its next periodic report, detailed information on progress in the area of gender equality.

398. The Committee urges the State party to adopt effective measures aimed at overcoming regional disparities in its programmes for the labour market development and employment as well as promoting equal access to welfare benefits and social services in different regions. It invites the State party to provide in its second periodic report detailed data on the effect of the measures taken.

¹⁰ Adopted at the World Conference on Human Rights held in Vienna from 14 to 25 June 1993 (A/CONF.157/24 (Part 1), chap. III).

399. The Committee recommends that the State party ratify the ILO Conventions bearing on rights enshrined in the Covenant, such as Conventions No. 118 (1962) and No. 174 (1993).
400. The Committee recommends that the State party continue to consolidate programmes to reduce unemployment among the most disadvantaged and marginalized groups, particularly young people, members of minorities and persons with disabilities.
401. The Committee urges the State party to undertake measures to combat sexual harassment in the workplace including by adopting specific legislation rendering it a criminal offence in order to combat this practice and better protect victims.
402. The Committee encourages the State party to strengthen the measures designed to reduce the percentage of workers hired on short-term contracts and to encourage employers to offer their employees permanent contracts.
403. The State party is requested to include in its second periodic report information and data on occupational accidents, particularly in hazardous sectors such as the mining and nuclear sectors.
404. The Committee urges the State party to take the necessary legislative and other measures to remedy the situation of nationals of the States of former Yugoslavia who have been “erased”, since their names were removed from the population registers in 1992. While noting that bilateral agreements were concluded in this regard, the Committee strongly recommends that the State party restore the status of permanent resident to all the individuals concerned, in accordance with the relevant decisions of the Constitutional Court. These measures should allow these individuals to reclaim their rights and regain access to health services, social security, education and employment. The Committee requests the State party in its next periodic report to inform it of progress made in this area.
405. The Committee calls on the State party to take effective measures to combat trafficking in persons, particularly trafficking in women and children, including by ensuring that those responsible for such trafficking are prosecuted. The Committee recommends that the State party set up services to help the victims of trafficking and take steps to make law-enforcers and the general public more aware of the seriousness of the problem and to make them aware of the victims’ needs. The Committee also recommends that the State party facilitate the participation of non-governmental organizations in the working group dealing with this issue. In addition, the Committee recommends that the State party ratify the Council of Europe Convention on Action against Trafficking in Human Beings, which was adopted in 2005. It also requests the State party to provide information in its next periodic report on progress in this regard.
406. The Committee encourages the State party to consider adopting specific legislation rendering domestic violence a criminal offence and to consider providing training for judges, similarly to the training currently offered to police officers, in order to raise awareness of the criminal nature of domestic violence.

407. The Committee recommends that the State party extend the network of integrated health and social care services, including home help, for older persons with physical and mental disabilities. The Committee requests the State party to provide detailed information in its next periodic report on the implementation of the overall strategy for older persons which is presently under consideration.

408. The Committee requests the State party to ensure that these concluding observations are widely disseminated throughout society, particularly among government officials and the judicial authorities, and to provide information in its next periodic report of all measures taken to implement the recommendations contained in these concluding observations. It also encourages the State party to involve non-governmental organizations and other members of civil society in the discussions at the national level before submitting its next periodic report.

409. The Committee requests the State party to submit its second periodic report by 30 June 2010.

AUSTRIA

410. The Committee considered the third periodic report of Austria on the implementation of the Covenant (E/1994/104/Add.28) at its 35th to 37th meetings, held on 9 and 10 November 2005. At its 58th meeting held on 25 November, it made public the following concluding observations.

A. Introduction

411. The Committee welcomes the submission of the third periodic report of Austria, which was prepared in general conformity with the Committee's guidelines, and the written replies to its list of issues (E/C.12/Q/AUT/1).

412. The Committee welcomes the constructive dialogue with the delegation of experts from the State party.

B. Positive aspects

413. The Committee welcomes the publication, in February 2005, by the Austrian Federal Ministry of Finance, of strategic guidelines for Austrian engagement with international financial institutions, highlighting the need for coherence between the human rights approach and the policies of international financial institutions.

414. The Committee notes with satisfaction that half of the ministers of the federal Government are women, who are in charge of key ministries such as Foreign Affairs; Interior; Justice; Social Security, Generations and Consumer Protection; Education, Science and Culture; and Health and Women.

415. The Committee welcomes the comprehensive programmes that the State party adopted to combat domestic violence, human trafficking in, and sexual exploitation of, women and children.

C. Factors and difficulties impeding the implementation of the Covenant

416. The Committee notes the absence of any significant factors or difficulties preventing the effective implementation of the Covenant in Austria.

D. Principal subjects of concern

417. The Committee notes with concern that the Covenant is not directly applicable in the State party and that the rights recognized in the Covenant cannot directly be invoked by individuals in courts, as reflected by the absence of court decisions containing references to the Covenant.

418. The Committee expresses its deep concern about the persistence of racist and xenophobic attitudes among some population sectors.

419. The Committee notes with concern that, despite the recent amendment of the Federal Equal Treatment Act extending its scope of application to all working environments, women are disproportionately represented in poorly paid part-time jobs and often receive lower pay than men for equal work.

420. The Committee is concerned about the fact that the wages fixed in certain collective agreements reportedly fall far below, and sometimes do not even reach, 50 per cent of the average net wage in the labour market.

421. The Committee notes with concern that foreign workers cannot stand for election to work councils unless they are nationals of a member State of the European Union or of the European Economic Area.

422. The Committee is concerned about the lack of childcare facilities for children under the age of 3 years and of effective measures to facilitate the re-entry of women into the labour market following parental leave.

423. The Committee is deeply concerned that 13 per cent of the population and 18 per cent of the families with many children are exposed to poverty and that, if the State party were not to pay social benefits, the extent of poverty among the population would be even more alarming.

424. The Committee is concerned about reports that social assistance benefits provided to asylum-seekers are often considerably lower than those received by citizens of the State party.

425. The Committee deplores the high rates of tobacco and alcohol consumption, as well as the abuse of illicit drugs such as cannabis, especially among minors.

426. The Committee is concerned about the introduction of university tuition fees in 2001 and the related decrease in the number of first-year university students.

427. The Committee notes with concern the low representation of women in university teaching posts.

E. Suggestions and recommendations

428. The Committee recommends that the State party consider the adoption of a comprehensive national human rights action plan and the establishment of a national human rights institution, in accordance with the Paris Principles,⁶ with a view to promoting, inter alia, the role of civil society in protecting economic, social and cultural rights.

429. The Committee urges the State party to ensure that the provisions of the Covenant are given effect by its domestic courts, that legal and judicial training take full account of the justiciability of all Covenant rights, as defined in the Committee's general comments, and that it promotes the use of the Covenant as a domestic source of law. The Committee draws the attention of the State party to general comment No. 9 (1998) on the domestic application of the Covenant and invites the State party to include, in its fourth periodic report, information on case-law concerning the rights recognized in the Covenant.

430. The Committee calls on the State party to continue and intensify its efforts to promote tolerance and respect for cultural diversity, through school education, training of police officers and other State employees, and awareness-raising campaigns aimed at the general public.

431. The Committee recommends that the State party adopt measures to enforce the principle of equal pay for equal work, enact legislation to strengthen the protection of persons working under atypical employment contracts, and intensify its efforts regarding qualification programmes for women working in low-paid jobs and unemployed women.

432. While noting the principle of neutrality of the State in the collective bargaining process, the Committee urges the State party to ensure that any wages negotiated in collective agreements must secure workers and employees a decent living for themselves and their families, in accordance with article 7 (a) (ii) of the Covenant.

433. The Committee recommends that the State party consider amending its legislation to ensure that foreign workers who are not nationals of a member State of the European Union or of the European Economic Area have the right to stand for election to work councils.

434. The Committee requests the State party to provide detailed information in its next periodic report on the implementation of the Pension Harmonization Act (entry into force, 2005) which uses a person's entire employment history as a basis for calculating old-age pension benefits. The Committee further requests the State party to provide it with comparative statistical data on the levels of old-age pensions, disaggregated by sex, number of children, income groups and other relevant criteria, so as to enable an impact assessment of the Act on the pension benefits of women and of members of disadvantaged and marginalized groups who are frequently exposed to interruptions of their working life.

435. The Committee urges the State party to adopt effective measures to reconcile professional and family life for women and men by increasing the capacity of childcare facilities for children under the age of 3 years, promoting training measures to facilitate the re-entry of women into the labour market following parental leave and providing incentives for the use of parental leave by fathers.

436. The Committee recommends to the State party, that in its efforts to combat poverty, it strengthen its support for families with many children and to consider introducing a minimum guaranteed income for everyone without a sufficient source of income.

437. The Committee urges the State party to ensure that adequate alternative housing is provided in all of its provinces whenever forced evictions take place, in line with paragraph 16 of the Committee's general comment No. 7 (1997) on the right to adequate housing (art. 11, para. 1, of the Covenant): forced evictions, and to include updated statistical data on an annual basis on the number of forced evictions, arrangements for alternative housing and the extent of homelessness in its next report.

438. The Committee calls on the State party to ensure that adequate social support is provided to asylum-seekers throughout their asylum proceedings.

439. The Committee recommends that the State party educate young people about the risks of drug abuse and of tobacco and alcohol consumption, to intensify its campaigns against such abuse and excessive consumption, as well as its information campaigns for children, parents, teachers and the general public, and to ensure that adequate counselling services are available to all persons affected by drug, tobacco or alcohol addiction.

440. The Committee urges the State party to ensure by all appropriate means, in particular through a comprehensive system of adequate study grants, that applicants from low-income families have the same access to higher education as applicants from higher-income families.

441. The Committee recommends that the State party take initiatives in providing more opportunities for women, with a view to encouraging them to undertake academic careers.

442. The Committee encourages the State party to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

443. The Committee requests the State party to disseminate the present concluding observations widely among all levels of society and to inform the Committee on all steps taken to implement the recommendations contained therein in its next periodic report. It also encourages the State party to engage non-governmental organizations and other members of civil society in the process of discussion at the national level prior to the submission of its next periodic report.

444. Finally, the Committee requests the State party to submit its fourth periodic report by 30 June 2010.

UZBEKISTAN

445. The Committee considered the initial report of Uzbekistan on the implementation of the Covenant (E/1990/5/Add.63) at its 38th to 40th meetings, held on 11 and 14 November 2005. At its 58th meeting, held on 25 November, it made public the following concluding observations.

A. Introduction

446. The Committee welcomes the submission of the initial report of the State party, which was prepared in general conformity with the Committee's guidelines. The Committee notes with appreciation the written replies to its list of issues (E/C.12/Q/UZB/1).

447. The Committee welcomes the constructive dialogue with the delegation of the State party, but it regrets the absence of experts in some of the areas covered by the Covenant.

B. Positive aspects

448. The Committee welcomes the creation of the Parliamentary Ombudsman and of the National Human Rights Centre of Uzbekistan with competencies on economic, social and cultural rights.

449. The Committee welcomes the measures taken by the State party to promote equality between men and women, including the establishment of the Women's Committee of Uzbekistan and the setting of a minimum quota of 30 per cent for women candidates for Parliament elections.

450. The Committee welcomes the full and disaggregated information on the vaccination programmes carried out in the State party.

451. The Committee welcomes the adoption of the National Personnel Training Programme to improve the quality of education and the use of interactive methods of instruction in the learning process.

452. The Committee welcomes the information that public education in the State party is free and compulsory until the completion of secondary education and that it is conducted in seven languages.

C. Factors and difficulties impeding the implementation of the Covenant

453. The Committee recognizes that the effects of the Aral Sea environmental disaster in the State party have posed obstacles to the enjoyment of economic, social and cultural rights by the population in the State party.

D. Principal subjects of concern

454. The Committee notes with regret that no information was provided on specific decisions of domestic courts where reference has been made to the provisions of the Covenant.

455. The Committee is concerned about the reported lack of independence of the judiciary in the State party.

456. The Committee notes with regret that the statistical data provided by the State party do not always allow for a clear evaluation of the progressive implementation of the economic, social and cultural rights enshrined in the Covenant.

457. The Committee is concerned that the State party has not adhered to the Convention relating to the Status of Refugees and the Protocol relating to the Status of Refugees. The Committee is also concerned about the absence of a specific law for the protection of refugees, which may negatively affect the enjoyment of their economic, social and cultural rights.
458. The Committee is concerned that the compulsory residence permit system (*propiska*) limits access to a range of human rights, including economic, social and cultural rights, for individuals who wish to move to another district where they are not registered.
459. The Committee is concerned about the revival of traditional stereotypes in relation to the role of women in society and the reappearance of phenomena such as polygamy and forced marriages. It is also concerned about persistent gender inequalities in the State party, particularly in the fields of vocational training, employment and low representation of women in public life and managerial posts, both in the public and private sectors.
460. The Committee is concerned that a large part of the working-age population is employed in the informal sector.
461. The Committee is concerned about the lack of gainful employment opportunities for low-skill rural inhabitants.
462. The Committee is concerned about the wage gap between women and men. The Committee regrets that no information was provided by the State party on the extent of the problem.
463. The Committee is concerned about the fact that the current minimum wage is insufficient to provide an adequate standard of living for workers and their families. The Committee is further concerned that the minimum wage is not always enforced in practice.
464. The Committee is concerned about the persistent reports on the situation of school-age children obliged to participate in the cotton harvest every year who, for that reason, do not attend school during this period.
465. The Committee is concerned about reports on the lack of independence among the trade unions in the State party. The Committee is also concerned that the State party's laws do not provide for the right to strike as a method of settlement of collective disputes.
466. The Committee is concerned that the low level of pensions and unemployment benefits do not provide for an adequate standard of living.
467. The Committee is concerned that social assistance is insufficiently targeted in the State party, given the considerable number of individuals and families living in poverty and the conditions of access to social assistance by particularly vulnerable groups (single mothers, disabled persons, and refugees). In this regard, the Committee takes note of the increasing powers of *Makhallas* (traditional neighbourhood associations) in providing social assistance.
468. The Committee is concerned about the persistence of domestic violence in the State party. The Committee is also concerned about the lack of specific legislation on domestic violence.

469. The Committee is concerned that trafficking in persons is increasing in the State party, that it has now become both a country of origin and destination, as well as a transit point for trafficking in persons. The Committee notes with regret that there is no legislation in the State party that criminalizes trafficking in persons. The Committee is also concerned about the lack of reliable information, including statistics, on the extent of the problem.

470. The Committee notes with regret the lack of information about forced evictions and the number of homeless persons in the State party. However, the Committee is aware of the persistent reports that evicted persons generally do not obtain adequate compensation for lost housing or alternative accommodation.

471. The Committee is deeply concerned that 28 per cent of the population - some 6.7 million people - two thirds of whom live in rural areas, are living below the poverty line and are unable to meet their basic food needs.

472. The Committee is concerned about the degree of environmental degradation in the country, which has an extremely negative impact on the health of the whole population, in particular women and children.

473. The Committee is concerned that the transition from a free to a prepaid health system and the introduction of private insurance-based medical care in the State party may impact negatively on low-income groups and the rural population.

474. The Committee is concerned that the annual per capita spending on public health has been in decline despite the rise in GDP.

475. The Committee is concerned about the high incidence of malnutrition in the State party, in particular in Karakalpakstan.

476. The Committee is concerned about persistent reports that, in addition to being a country of transit, the State party is increasingly becoming a country of destination and consumption of illegal drugs, and that illicit preparation, storage and sale of narcotics have been on the rise since 1991.

477. The Committee is concerned that the incidence of HIV/AIDS in the State party is on the rise.

478. The Committee is concerned about the absence of adequate health care and the poor hygienic conditions in prisons that lead to frequent tuberculosis infections of detainees.

479. The Committee is concerned about the frequent use of confinement in psychiatric institutions in the State party, as a means of treatment of mental health problems, without review bodies, including courts, systematically reassessing confinement.

E. Suggestions and recommendations

480. The Committee draws the attention of the State party to its general comment No. 9 (1998) on the domestic application of the Covenant and invites the State party to include information concerning case law on the application of the Covenant in its next periodic report.

481. The Committee stresses the importance of an independent judiciary for the enjoyment of all human rights, including economic, social and cultural rights. The Committee strongly urges the State party to take all necessary measures to ensure the independence and integrity of the judiciary and the availability of effective remedies in cases of violation.

482. The Committee recommends that the State party consider establishing a national institution for the promotion and protection of human rights in accordance with the Paris Principles.⁶

483. The Committee strongly recommends that the State party consider the possibility of becoming a party to the Convention relating to the Status of Refugees and the Protocol relating to the Status of Refugees, given the large number of refugees and their families living in the State party.

484. The Committee encourages the State party to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

485. The Committee encourages the State party to take all measures necessary to ensure that all persons under its jurisdiction enjoy the economic, social and cultural rights enshrined in the Covenant without discrimination. The Committee further calls upon the State party to ensure that the compulsory residence permit system (*propiska*) does not infringe upon the enjoyment of economic, social and cultural rights.

486. The Committee recommends that the State party adopt specific anti-discrimination legislation and increase awareness about international anti-discrimination standards among judges and other members of the legal profession.

487. The Committee calls upon the State party to adopt a gender equality law and to take all effective measures, including through the use of media and education, to overcome the traditional stereotypes regarding the status of women in the public and private spheres and to ensure in practice equality between men and women in all walks of life, as provided for in article 2, paragraph 2, and article 3 of the Covenant. In this regard, the Committee draws the attention of the State party to its general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights (art. 3 of the Covenant). The Committee also encourages the State party to provide the Women's Committee of Uzbekistan with adequate human and financial resources to carry out its mandate effectively.

488. The Committee requests the State party to provide in its next periodic report detailed information, including statistical data disaggregated by age, gender and ethnic group, on strides made in gender equality.

489. The Committee recommends that the State party take all necessary measures to reduce employment in the informal sector by adopting a national employment plan and strengthening programmes to reduce unemployment, targeting on a priority basis the most affected groups, including through the creation and stimulation of small and medium-sized enterprises, and the establishment of an obligatory quota for employment of disabled persons. The Committee requests the State party to provide detailed information in its next periodic report on progress made in the field of employment stimulation.

490. The Committee recommends that the State party consider ratifying ILO Convention No. 2 (1919) concerning Unemployment.

491. The Committee encourages the State party to adopt effective measures to stimulate rural development, *inter alia*, through the ongoing agrarian reform, as well as by encouraging local employment initiatives and ecotourism, and ensuring special training and retraining measures.

492. The Committee encourages the State party to ensure that women and men enjoy equal access to all paid positions and requests the State party to submit comparative statistical data on this issue in its next periodic report in order to allow for an evaluation of progress of the measures undertaken.

493. The Committee encourages the State party to ensure that the minimum wage enables workers and their families to enjoy an adequate standard of living and that the minimum wage standard is thoroughly enforced. The Committee further encourages the State party to establish an effective system of indexation and regular adjustment of the minimum wage to the cost of living.

494. The State party is urged to take all necessary measures to ensure the protection of minors against economic and social exploitation and to enable them to fully enjoy their right to education and an adequate standard of living. The Committee strongly recommends that the State party consider ratifying ILO Convention No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

495. The Committee recommends that the State party provide labour inspections with adequate human and financial resources to enable them to effectively combat abuses of workers' rights.

496. The Committee encourages the State party to take measures to enable the development of independent trade unions that are better able to defend their members' interests. In this regard, the Committee strongly encourages the State party to adopt national legislation on a procedure for settling collective labour disputes concerning the introduction of new, or the alteration of the existing, working conditions, as mentioned in paragraph 176 of the report by the State party.

497. The Committee recommends that the State party strengthen the role of pensions as a safety net for pensioners living alone and for those who have no other source of income by increasing minimum State social insurance pension amounts. The Committee also recommends that the State party increase personal coverage of unemployment benefits. The State party is also encouraged to undertake periodic review of the amounts of both pensions and unemployment benefits to bring them in line with the cost of living.

498. The Committee calls upon the State party to ensure that targeted social assistance depending on family income is guaranteed to all disadvantaged and marginalized persons and families, and that such assistance does not fall below the subsistence level. It also requests the State party to ensure that those responsible for social assistance payments comply with criteria of equal treatment and transparency.

499. The Committee encourages the State party to adopt specific legislation on domestic violence and to consider domestic violence a criminal offence. The Committee further

encourages the State party to promote information campaigns in order to increase public awareness and to take all necessary measures to protect victims of domestic violence, including through sensitization of law-enforcement officials and the judiciary to the rights and needs of victims, and the establishment of counselling services and temporary shelters.

500. The Committee urges the State party to criminalize trafficking in persons, and to continue to take other measures to combat this phenomenon, including through sensitization of law-enforcement officials and the judiciary to the rights and needs of victims, and the provision of medical, psychological and legal support for victims. The Committee further requests the State party to provide, in its next periodic report, statistics disaggregated by age, gender, and ethnic group, on trafficking in persons.

501. The Committee urges the State party to take effective measures to provide all evicted persons with adequate compensation for lost housing or with alternative accommodation, in accordance with the guidelines adopted by the Committee and its general comment No. 7 (1997) on the right to adequate housing (art. 11, para. 1, of the Covenant): forced evictions. The Committee also recommends that the State party take the necessary measures to guarantee the right to adequate housing to all persons residing under its jurisdiction and to address the problem of the lack of adequate social housing units in the most expedient manner possible. In this connection, the Committee draws the State party's attention to its general comment No. 4 (1991) on the right to adequate housing (art. 11, para. 1, of the Covenant). The Committee further requests the State party to provide, in its next periodic report, detailed information on the number and nature of forced evictions and on the extent of homelessness in the State party. The Committee also requests the State party to provide, in its next periodic report, disaggregated data on persons on waiting lists for municipal social housing and information on progress made to improve the housing situation.

502. The Committee urges the State party to integrate economic, social and cultural rights into its poverty reduction strategy and to allocate sufficient funds for its implementation. In this regard, the Committee draws the State party's attention to its statement on poverty and the International Covenant on Economic, Social and Cultural Rights,⁸ and to continue to seek international technical assistance, as provided for in article 2, paragraph 1, and article 23 of the Covenant. In this connection, the Committee calls upon the State party to ensure that its international human rights obligations are taken fully into account when it enters into technical cooperation and other arrangements with international organizations.

503. The Committee urges the State party to continue its efforts to find a regional solution to the Aral Sea disaster, including through international technical cooperation, in line with the provisions of article 2, paragraph 1, of the Covenant, and to take all necessary measures to ensure that the affected population is given full possibility to enjoy economic, social and cultural rights under the Covenant, and in particular the right to health.

504. The Committee recommends that the State party take all necessary measures to ensure universal access to affordable primary health care and to provide the recently established village health-care centres with adequate equipment and human resources.

505. The Committee urges the State party to continue its efforts to improve its health services, including through the allocation of increased resources and measures to address the significant rural and urban disparities in health-care provision. The Committee requests the State party to

include, in its second periodic report, information and comparative statistical data on how the recently adopted health laws and policies have been implemented and on the progress made, in particular, in rural areas.

506. The Committee urges the State party to take all necessary measures to ensure access to essential food which is sufficient, nutritionally adequate and safe for everyone living in the State party, in particular in Karakalpakstan.

507. The Committee urges the State party to take effective measures to combat the inflow and consumption of illicit drugs and to provide adequate treatment and rehabilitation for drug users.

508. The Committee recommends that the State party take urgent measures to prevent and to combat the spread of HIV/AIDS. In this relation, the Committee draws the attention of the State party to its general comment No. 14 (2000) on the right to the highest attainable standards of health (art. 12 of the Covenant).

509. The Committee calls upon the State party to take measures to improve the hygienic conditions in prisons and to ensure that the right to health of all detainees in the State party is respected, in accordance with article 12 of the Covenant.

510. The Committee encourages the State party to provide alternative forms of mental health treatment, in particular, outpatient treatment. In cases where confinement in a psychiatric institution is the only alternative, the Committee calls upon the State party to ensure full respect for human rights of those interned, through a periodic review process on a case-by-case basis, and effective judicial control of psychiatric confinement.

511. The Committee encourages the State party to strengthen its efforts to provide education in the seven languages referred to in its report, including through the provision of a sufficient number of schools that use those languages, and the development of adequate learning materials and the qualification of teachers in such schools.

512. The Committee requests the State party to disseminate widely the present concluding observations among all levels of society and, in particular, among State officials and the judiciary. It also encourages the State party to consult with non-governmental organizations and other members of civil society in the preparation of its second periodic report.

513. The Committee notes the statement of the delegation that a plan of action will be adopted as a follow-up to the present concluding observations. In this regard, the State party is encouraged to provide detailed information on the implementation of that plan and on its practical effects on the enjoyment of economic, social and cultural rights in the State party, in particular by disadvantaged and marginalized groups.

514. The Committee requests the State party to include in its second periodic report on the implementation of the Covenant all available information on any measures taken and progress made, particularly with regard to the suggestions and recommendations made by the Committee in the present concluding observations.

515. The Committee requests the State party to submit its second periodic report by 30 June 2010.

BOSNIA AND HERZEGOVINA

516. The Committee considered the initial report of Bosnia and Herzegovina on the implementation of the Covenant (E/1990/5/Add.65) at its 41st to 43rd meetings, held on 14 and 15 November 2005. At its 58th meeting held on 25 November, it made public the following concluding observations.

A. Introduction

517. The Committee welcomes the submission of the initial report of Bosnia and Herzegovina, which was prepared in general conformity with the Committee's guidelines, as well as the written replies to its list of issues (E/C.12/Q/BIH/1). In particular, it welcomes the frank manner in which both documents address the problems encountered by the State party in implementing the rights recognized in the Covenant and the participation of non-governmental organizations in the preparation of the report.

518. The Committee also welcomes the open and constructive dialogue with the delegation of the State party.

B. Positive aspects

519. The Committee notes with appreciation the adoption by the State party, in 2003, of the Law on the Protection of National Minorities, which recognizes all 17 national minorities that exist in Bosnia and Herzegovina, and of the Law on Gender Equality containing, inter alia, a comprehensive definition of gender-related violence and establishing the Agency for Gender Equality in Bosnia and Herzegovina.

520. The Committee notes with satisfaction that cases concerning the return of property lost during the armed conflict to original owners have largely been resolved by the competent courts of the State party, as well as the former Human Rights Chamber for Bosnia and Herzegovina.

521. The Committee notes with appreciation that priority is given to preventive health strategies at the entity and cantonal levels, for example, through the training and the promotion of an active role of family doctors providing primary health protection and advising patients on health risks.

C. Factors and difficulties impeding the implementation of the Covenant

522. The Committee recalls that the State party is still suffering from the effects of the armed conflict of 1992-1995, which hampers the State party's ability to implement the economic, social and cultural rights recognized in the Covenant.

523. The Committee notes that the constitutional framework for Bosnia and Herzegovina imposed by the General Framework Agreement for Peace in Bosnia and Herzegovina (Dayton Agreement) (A/50/790-S/1995/999), which divides the State party into two Entities (the decentralized Federation of Bosnia and Herzegovina consisting of 10 cantons and the centralized Republika Srpska) as well as 1 district (the District of Brčko), confers limited responsibility and authority to the Government at the State level, in particular in the field of economic, social and cultural rights. Further, the aforementioned constitutional framework creates a complex administrative structure, which often results in the lack of harmonization and

implementation of laws and policies relating to the equal enjoyment of economic, social and cultural rights by the populations of the two Entities, the cantons of the Federation and the municipalities of the same or different entities.

524. The Committee also takes note of the continued existence of landmines and other explosive remnants of war in the State party's territory, which in many cases prevents the safe return of returnees to their homes and farmlands.

D. Principal subjects of concern

525. The Committee expresses its concern about the lack of independence of the Office of the Federation Ombudsman of Bosnia and Herzegovina, which is headed by political appointees representing the three constituent peoples of the State party and which does not have a common human rights approach for the State party.

526. The Committee regrets the absence of case law on the application of the Covenant by the courts of the State party.

527. The Committee expresses its deep concern that returnees, in particular those belonging to ethnic minorities, are often denied access to social protection, health care, school education for their children and other economic, social and cultural rights, thereby impeding their sustainable return to their communities.

528. The Committee notes with concern that the implementation of the Law on Gender Equality is impeded by the fact that most laws have not been harmonized with it and that the Agency for Gender Equality established by that law lacks the necessary financial and human resources to discharge its mandate.

529. The Committee is deeply concerned about the high unemployment rate, in particular among youth, women, especially female heads of households, and disadvantaged and marginalized groups such as persons with disabilities, the Roma people and members of other ethnic minorities. The Committee is also concerned that more than one third of the workforce is employed in the informal sector in the State party.

530. The Committee notes with deep concern that, following privatization, employers frequently failed to respect their contractual obligations towards their employees, namely by arbitrarily dismissing employees or by failing to pay their salaries or social security contributions on time. In this connection, the Committee also expresses its concern that labour inspection units in the State party are not sufficiently staffed or resourced to effectively combat abuses of workers' rights.

531. The Committee expresses its concern that persons working in the informal sector have their registration with the employment bureaux suspended for a period of 12 months.

532. The Committee is deeply concerned about the lack of funding and of qualified personnel at the social welfare centres which are responsible for the social protection of, inter alia, children without parental care, female heads of households, persons with disabilities and victims of trafficking in persons, especially women and children.

533. The Committee notes with deep concern the extent of the discrepancy between the significant budget allocations for financing the pensions of military war victims and the comparatively low resources allocated to social protection, as reflected by the fact that, under the Law on Amendments to the Law on the Bases of Social Protection, Civil Victims of War and Protection of Families with Children of the Federation of Bosnia and Herzegovina (2004), civilian war victims will receive only 20 per cent of the pension benefits received by military victims of war.

534. The Committee is gravely concerned about the absence of a coherent strategy to support victims of sexual violence suffered during the armed conflict of 1992-1995 and that Entity laws pertaining to civilian war victims are gender-insensitive and provide inadequate social protection for victims of sexual violence.

535. The Committee is concerned that the absence of an inter-Entity agreement on pension rights and the failure of the entities to implement the existing inter-Entity agreement on health insurance prevent many returnees moving from one Entity to the other from enjoying access to pension benefits and health care.

536. The Committee notes with concern that, despite the inclusion of specific provisions on the crime of domestic violence in the State Law on Gender Equality and in the Criminal Codes of the Republika Srpska, of the Federation of Bosnia and Herzegovina and of the Brčko District, the different laws of the Entities have not been harmonized with the Law on Gender Equality. The Committee is also concerned that cases of domestic violence are rarely reported to and often not sufficiently investigated by the police, and that health-care services are inadequate to support women who are victims of domestic violence and fail to offer any type of treatment programmes.

537. The Committee is concerned that, despite the progress made by the State party in combating trafficking in persons, for example, the appointment of a State coordinator and of a State group for combating trafficking in human beings and illegal migration or the recent adoption by the Council of Ministers of a State action plan (2005-2007), an operational plan and an action plan for the prevention of trafficking in children, there continues to be a lack of qualified medical and psychological personnel with sufficient knowledge about the needs of trafficking victims. The Committee is also concerned about the absence of reliable data on the number of trafficked persons.

538. The Committee is deeply concerned about the extent of poverty in the State party, especially in rural areas and among the following individuals and groups: internally displaced persons, minority returnees, families headed by single parents, victims of sexual violence suffered during the armed conflict, children without parental care, older persons, pensioners, persons with disabilities, the Roma people and members of other ethnic minorities, whose specific needs are not sufficiently addressed in the Mid-Term Development Strategy for 2004-2007.

539. The Committee is concerned about the absence at the State level of a housing law and of a national housing strategy to address the housing needs of the population. The Committee is also concerned about the lack of social housing units, especially for the low-income and disadvantaged and marginalized groups.

540. The Committee notes with deep concern that many of the informal settlements in which the Roma people lived prior to the armed conflict have been destroyed without adequate alternative accommodation or compensation being provided to them, and that many Romani cannot lay claim to their settlements because of the lack of security of tenure relating to their property. The Committee is also deeply concerned about the high number of pre-armed-conflict tenants who have been evicted from their homes without being provided with adequate alternative accommodation or compensation.

541. The Committee deplores the high number of victims, mostly children, of anti-personnel mines since the end of the armed conflict.

542. The Committee is concerned about the lack of access to adequate drinking water in some parts of the Republika Srpska, the poor quality of water affecting many households and the insufficient monitoring of water quality.

543. The Committee is deeply concerned about the practice of “two schools under one roof”, whereby common premises are either divided or being used at different times to teach separate curricula to children belonging to different ethnic groups, and about the trend in some locations to build separate schools for the respective ethnic groups.

544. The Committee expresses its grave concern about the fact that 80 per cent of Romani children do not attend school.

E. Suggestions and recommendations

545. The Committee recommends that the State party ensure the independence and impartiality of the Office of the Federation Ombudsman of Bosnia and Herzegovina and adopt a common human rights approach.

546. The Committee urges the State party to ensure the justiciability of the Covenant rights in domestic courts and draws its attention to general comment No. 9 (1998) on the domestic application of the Covenant. It invites the State party to include information concerning case law on the application of the Covenant in its second periodic report.

547. The Committee calls on the State party to intensify its efforts to ensure the sustainable return of returnees to their home communities by ensuring their equal enjoyment of the Covenant rights, especially in the fields of social protection, health care and education.

548. The Committee requests the State party to include updated statistical data, disaggregated by age, ethnic group, social and other relevant status, on the representation of women in the public and private employment sectors, as well as on the salaries received by women as compared to those received by men for equal work.

549. The Committee recommends that the State party amend existing legislation in order to adequately reflect and implement the Law on Gender Equality and that it increase the resources of the Agency for Gender Equality to enable it to monitor and combat gender discrimination effectively in the field of economic, social and cultural rights.

550. The Committee urges the State party to increase its efforts to combat unemployment through special targeted programmes, including programmes aimed at reducing unemployment among youth, women, especially female heads of households, as well as unemployment among disadvantaged and marginalized groups.

551. The Committee recommends that the State party take effective measures to ensure that employers respect their contractual obligations towards their employees, namely by refraining from arbitrarily dismissing them or by paying their salaries or social security contributions on time. The Committee further recommends that the State party ensure that labour inspection units are adequately staffed and resourced in order to enable them to effectively combat abuses of workers' rights.

552. The Committee recommends that the State party take measures to repeal the sanction imposed on persons working in the informal sector, that is, the suspension of their registration with the employment bureaux for a period of 12 months.

553. The Committee urges the State party to ensure that adequate funds from the overall resources of the Entities, cantons and municipalities be allocated to the social welfare centres and that the number of social workers, psychologists and other qualified personnel of these centres be increased in order to better respond to the specific needs of children without parental care, female heads of households, persons with disabilities and victims of trafficking in persons, especially women and children.

554. The Committee urges the State party to ensure a more equitable allocation of existing funds to social protection, in particular of civilian war victims, with a view to reducing the discrepancy between, inter alia, the budgets for civilian and military war victims.

555. The Committee encourages the State party to promote the adoption of the bill amending the 2004 Law on Amendments to the Law on the Bases of Social Protection, Civil Victims of War and Protection of Families with Children, which is currently under consideration by the parliament of the Federation of Bosnia and Herzegovina. It provides for the transfer of the budget for the social protection of civilian war victims and persons with disabilities not related to armed conflict from the cantons to the Federation, in order to eliminate inequalities resulting from the diverging availability of funds in the cantons. It also requests the State party to ensure that the authorities of the Federation of Bosnia and Herzegovina extend this budgetary transfer to other categories of social protection beneficiaries.

556. The Committee recommends that the State party ensure that people having suffered sexual violence during the armed conflict of 1992-1995 obtain the status of civilian war victims, to devise and implement a coherent strategy at State level to protect the economic, social and cultural rights of victims of sexual violence and their family members, and to ensure the participation of victims of sexual violence in any decision-making processes affecting them.

557. The Committee requests the State party to promote the adoption of an inter-Entity agreement on pension rights and to ensure the implementation of the inter-Entity agreement on health insurance with a view to guaranteeing access to pension benefits and health care by returnees who move from one Entity to the other.

558. The Committee urges the State party to ensure the harmonization of the criminal law provisions of the Entities and of the Brčko District on the crime of domestic violence with the Law on Gender Equality, as well as their application by judges, prosecutors and the police. The Committee also recommends that the State party take measures to make law enforcement officials and the general public aware of the causes and criminal nature of acts of domestic violence and of the specific needs of such victims.

559. The Committee recommends that the State party train the medical and psychological staff of the social welfare centres in the specific needs of victims of trafficking and that it intensify its efforts to set up an effective mechanism for the collection of anti-trafficking data. It requests the State party to include updated information in its next periodic report on the number of cases involving charges against traffickers, on the number of police officers involved in trafficking and on the sentences handed down.

560. The Committee urges the State party, in addressing the problem of poverty, to ensure, on a priority basis, that adequate social assistance be provided to individuals and groups living below the poverty line, that the impact of any laws and policies on the economic, social and cultural rights of such individuals and groups be assessed on the basis of regularly updated data disaggregated by gender, age, ethnic background, social status and other relevant criteria and that effective monitoring mechanisms be adopted and implemented to that effect. In this regard, the Committee refers the State party to the Committee's statement on poverty and the International Covenant on Economic, Social and Cultural Rights.⁸

561. The Committee recommends that the State party adopt at the State level a housing law and a national housing strategy to address the population's housing needs. The Committee also recommends that the State party allocate sufficient resources for the provision of social housing, especially for low-income and disadvantaged and marginalized groups.

562. The Committee urges the State party to ensure the right of the Roma people to repossess their pre-armed-conflict property, to guarantee security of tenure to inhabitants of Romani settlements and to ensure that adequate alternative housing or compensation is provided to the Roma people and to pre-armed-conflict tenants who have been evicted from their settlements and homes, in line with the Committee's general comment No. 7 (1997) on the right to adequate housing (art. 11, para. 1, of the Covenant): forced evictions.

563. The Committee calls on the State party to continue its efforts and to seek further international assistance for the clearing of anti-personnel mines in all parts of its territory.

564. The Committee recalls the State party's obligation to ensure access to safe drinking water within, or in the immediate vicinity, of each household. It invites the State party to identify disaggregated indicators and appropriate national benchmarks in relation to the right to water, in line with the Committee's general comment No. 15 (2002) on the right to water (arts. 11 and 12 of the Covenant), and to include information on the process of identifying such indicators and benchmarks in its next report.

565. The Committee urges the State party to ensure that the practice of "two schools under one roof", as well as the construction of separate schools for children belonging to different ethnic

groups, be discontinued. The Committee recommends that the State party merge and teach one curriculum to all classes, irrespective of ethnic origins, and requests it to provide information on any steps taken in that regard in its next periodic report.

566. The Committee urges the State party to promote equal access by Romani children to primary, secondary and tertiary education, for example, through the grant of scholarships and the reimbursement of expenses for schoolbooks and of travel expenses to attend school, and to closely monitor school attendance by Romani children.

567. The Committee requests the State party to disseminate the present concluding observations widely among all levels of society and to inform the Committee on all steps taken to implement the recommendations contained therein in its next periodic report. It also encourages the State party to engage non-governmental organizations and other members of civil society in the process of discussion at the national level prior to the submission of its next periodic report.

568. Finally, the Committee requests the State party to submit its second periodic report by 30 June 2010.

LIBYAN ARAB JAMAHIRIYA

569. The Committee considered the second periodic report of the Libyan Arab Jamahiriya on the implementation of the Covenant (E/1990/6/Add.38) at its 44th to 46th meetings, held on 16 and 17 November 2005. At its 58th meeting held on 25 November, it made public the following concluding observations.

A. Introduction

570. The Committee welcomes the submission of the second periodic report of the State party. It regrets, however, that the report, the written replies to the list of issues (E/C.12/Q/LBY/1) and the oral answers provided by the State party's delegation did not contain sufficient and precise information on fundamental issues relating to the Covenant. Many of the questions asked by the Committee remained unanswered.

B. Positive aspects

571. The Committee welcomes the State party's accession to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

572. The Committee notes with satisfaction that the State party hosted an ILO technical assistance mission in July 2005 aimed at fostering the fulfilment of its obligations under several ILO social security conventions.

573. The Committee notes with satisfaction the delegation's statement that women may now travel abroad freely.

574. The Committee notes with satisfaction that the State party has the highest literacy and educational enrolment rates in North Africa, and welcomes the high rates of female students in schooling.

C. Factors and difficulties impeding the implementation of the Covenant

575. The Committee notes the absence of any significant factors or difficulties impeding the effective implementation of the Covenant in the State party.

D. Principal subjects of concern

576. The Committee is concerned that its concluding observations adopted in 1997,¹¹ relating to the State party's initial report, have not been taken into consideration by the State party.

577. The Committee regrets that the State party was unable to provide case law relating to the implementation of the Covenant, despite the fact that international treaties ratified by the State party become legally binding and take precedence over domestic law.

578. The Committee notes with concern that the State party has not yet established an independent national human rights institution in accordance with the Paris Principles.⁶

579. The Committee notes with concern that independent non-governmental organizations dealing with issues relevant under the Covenant do not operate freely in the State party.

580. The Committee is concerned about the absence of legislative measures to prohibit racial discrimination, and regrets that the State party did not provide sufficient information on measures adopted to guarantee that migrant workers are treated on a non-discriminatory basis, namely in the fields of employment, housing, health services and education. It notes with concern numerous reports about the existence of racial prejudices against Black Africans, which on some occasions has led to acts of violence against them.

581. The Committee is concerned that the State party does not have a law on asylum-seekers and refugees, and that in the absence of a legal protection framework, the effective guarantee of refugees and asylum-seekers' rights, in particular their economic, social and cultural rights, are seriously undermined.

582. The Committee regrets that no specific information was provided on traditional attitudes affecting the enjoyment by women of their economic, social and cultural rights.

583. The Committee regrets that it did not receive sufficient information in relation to the level of unemployment in the State party, the level of minimum wage and the determination procedure of such minimum wage, and on procedures designed to assist unemployed persons, including citizens and migrant workers, in finding employment.

584. The Committee regrets that it did not receive clear information about the legislation applicable to the right of everyone to form and join trade unions and other rights spelled out in article 8 of the Covenant, in particular the right to strike. It notes with concern that the

¹¹ *Official Records of the Economic and Social Council, 1998, Supplement No. 2 (E/1998/22-E/C.12/1997/10)*, chap. IV, paras. 170 to 193.

Government must approve all collective agreements to ensure that they are in line with the nation's economic interests, that there is no freedom for trade unions in the State party and that labour disputes must be referred to a compulsory arbitration procedure.

585. The Committee regrets that insufficient information was provided by the State party on poverty, the housing situation of the population, including migrant workers, homelessness and forced evictions.

586. The Committee notes with concern that 28 per cent of the population do not have sustainable access to an improved water source. It is also concerned that improvements achieved in the North of the country in terms of access to safe water have not yet been made available to the Amazigh population, in particular in the regions of Nafusah and Zuwarah.

587. The Committee is deeply concerned about reports that HIV/AIDS has increased since 2000, and that an estimated 90 per cent of recent adult infections are the result of injection drug use.

588. The Committee regrets that the State party did not provide sufficient information on measures adopted to introduce human rights education in schools curricula, at primary and secondary levels, and to disseminate the text of the Covenant to the public at large.

589. The Committee is concerned about reports that freedom of access to the Internet is severely restricted in the State party.

590. The Committee is concerned that the Amazigh population is not recognized as a minority in the State party and that the Amazigh language does not have any legal recognition and status, despite information that the Amazigh population amounts to a large percentage of the population.

591. The Committee is concerned that the teaching of the Amazigh language in school is prohibited, as well as the use of this language in public, including in the media and in the relationship with the administration. Amazigh cultural associations and institutions are furthermore reported to not be allowed to operate freely in the country.

592. The Committee expresses deep concern about domestic law prohibiting the use of languages other than Arabic in many fields, or the registration of non-Arabic names for newborn children.

E. Suggestions and recommendations

593. The Committee urges the State party to give full consideration to its previous concluding observations.

594. The Committee invites the State party to include information concerning case law on the application of the Covenant in its next report. The Committee recommends that the State party strengthen its efforts to improve training programmes on human rights and on the Covenant, in particular for the judiciary, and other actors responsible for the implementation of the Covenant.

595. The Committee recommends that the State party consider establishing an independent national human rights institution, in accordance with the Paris Principles,⁶ with a mandate covering all human rights, including economic, social and cultural rights.

596. The Committee strongly recommends that the State party ensure that independent non-governmental organizations for the promotion of human rights, including the rights recognized under the Covenant, freely operate in the State party, in conformity with the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.¹²

597. The Committee recommends that the State party adopt legislative and other measures to prohibit racial discrimination, especially against Black Africans. The Committee requests the State party in its next report to submit updated comparative annual data disaggregated by sex, nationality, national and ethnic origin and rural/urban regions in the fields of all the provisions in the Covenant, paying particular attention to the disadvantaged and marginalized individuals and groups.

598. The Committee encourages the State party to consider ratifying the Convention relating to the Status of Refugees and the Protocol relating to the Status of Refugees. The Committee also recommends that the State party adopt a law establishing national asylum procedures and protecting the economic, social and cultural rights of refugees and asylum-seekers.

599. The Committee recommends that the State party provide the Committee with detailed information on traditional attitudes affecting the enjoyment of economic, social and cultural rights by women, and on steps adopted to overcome these obstacles. In this regard, the attention of the State party is drawn to the Committee's general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights (art. 3 of the Covenant), and the obligation of States parties to take steps aimed directly towards the elimination of prejudices, customary and all other practices that perpetuate the notion of inferiority or superiority of either of the sexes, and stereotyped roles for men and women. The Committee strongly recommends that the State party undertake a thorough study on the extent of domestic violence in the country, and that it provide information on this issue in its next report.

600. The Committee recommends that the State party provide, in its next report, detailed information, disaggregated by sex, age, nationality, national and ethnic origin, about the level of unemployment in the country. The State party should also provide information on the level of minimum wage and the determination procedure of such minimum wage, and on procedures designed to assist unemployed persons in finding employment and to provide more opportunities for employment, with regard to citizens and migrant workers.

601. The Committee recommends that the State party clarify the status of its laws in matters relating to the right of everyone to form and join trade unions and other rights spelled out in article 8 of the Covenant, and ensure that they fully comply with that article. The State party is requested to provide the Committee in the next report with detailed information on this issue, including the text of relevant laws.

¹² General Assembly resolution 53/144 of 9 December 1998, annex.

602. The Committee recommends that the State party provide detailed information in its next report on the extent of poverty in the State party, the housing situation of the population, including migrant workers, and on forced evictions.

603. The Committee recommends, in line with general comment No. 15 (2002) on the right to water (arts. 11 and 12 of the Covenant), that the State party increase its efforts to ensure the right of everyone to sufficient, safe, acceptable and physically accessible and affordable water for personal and domestic uses, without discrimination. The Committee recommends that the State party take steps to implement the right of the Amazigh population to access safe water in the regions of Nafusah and Zuwarah, and to provide an update to the Committee on this issue in its next report.

604. The Committee, in line with its general comment No. 14 (2000) on the right to the highest attainable standard of health (art. 12 of the Covenant), encourages the State party to take urgent measures to stop the spread of HIV/AIDS, including through sex education in schools and awareness-raising campaigns. The State party should provide detailed information about its policy in relation to HIV-free certificates.

605. The Committee recommends that the State party provide detailed statistical data in its next report on the implementation of the right to education for all, disaggregated by sex, nationality, national and ethnic origin, as well as urban/rural areas.

606. The State party should adopt concrete measures to ensure that human rights education is included in educational curricula at all levels of education, and that human rights information is disseminated effectively amongst the population.

607. The Committee urges the State party to respect and protect freedom of information and expression in the State party, including on the Internet, to enable all persons under its jurisdiction to take part in cultural life and enjoy the benefits of scientific progress and its applications.

608. The State party should provide the Committee with detailed information about the ethnic, linguistic and religious composition of the population. The Committee recommends that the State party recognize the existence of the Amazigh minority, and envisage granting legal status to the Amazigh language, with a view to ensuring the implementation of the rights recognized under article 15 of the Covenant.

609. Amazigh associations and institutions should be authorized to operate freely. The Committee further recommends, given the reported considerable number of persons belonging to the Amazigh community, that the State party consider adopting measures ensuring that Amazigh persons have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue, that their access to media be facilitated and that they be granted the right to use their language in their relationship with the administration.

610. The Committee strongly recommends that the State party abolish Law No. 24 of 1991 as well as the Names Correction Committee. The State Party should ensure the full respect of every person to use his or her own language, in private and in public, orally and in writing, freely and without interference or any form of discrimination. It should, in particular, recognize the right of every person to use his or her surname and first names in his or her own language.

611. The Committee recommends that the State party create favourable conditions to enable all groups, including minorities and ethnic groups, to express and develop their culture, language, traditions and customs. The State party should also take measures in the field of education and information in order to encourage knowledge of the history, traditions, language and culture of the various groups, including the Amazigh community, existing within its territory.

612. The Committee requests the State party to include in its third periodic report detailed information on any measures taken and progress made, particularly with regard to the suggestions and recommendations made by the Committee in the present concluding observations.

613. The Committee requests the State party to widely disseminate the present concluding observations among all levels of society, and in particular, members of the judiciary and law enforcement officials. It also encourages the State party to engage non-governmental organizations and other members of civil society in the process of discussions at the national level prior to the submission of the next report.

614. The Committee requests the State party to submit its third periodic report by 30 June 2007.

CHAPTER V

Substantive issues arising in the implementation of the International Covenant on Economic, Social and Cultural Rights

Cooperation with specialized agencies: third meeting of the Joint Expert Group UNESCO (Committee on Conventions and Recommendations)/Economic and Social Council (Committee on Economic, Social and Cultural Rights) on the Monitoring of the Right to Education

615. The Joint Expert Group UNESCO (Committee on Conventions and Recommendations)/Economic and Social Council (Committee on Economic, Social and Cultural Rights) on the Monitoring of the Right to Education (Joint Expert Group)¹³ held its third meeting at UNESCO Headquarters on 2 May 2005.

616. Welcoming the members of the Joint Expert Group on behalf of the Director-General of UNESCO, Mr. Qian Tang, Director, Executive Office of the Assistant Director-General for Education, complimented the Joint Expert Group for its valuable work. In his opening address, Mr. Davidson Hepburn, Chairperson, Committee on Conventions and Recommendations, apprised the Joint Expert Group of developments related to making its working methods more effective. He also underlined the importance attached to the Joint Expert Group in the discussions of the hundred and seventy-first session of the Executive Board. Ms. Virginia Bonoan-Dandan, Chairperson of the Committee on Economic, Social and Cultural Rights, in her opening remarks, considered the right to education as being imperative for education for all.

617. The meeting was presided over by Mr. Eibe Riedel, Vice-Chairperson of the Committee on Economic, Social and Cultural Rights, and focused on the foundation of the right to education in national legal systems. It was stated that the constitutional provisions, legal and administrative practices, as well as judicial pronouncements in the field of education, have tremendous effect on the implementation of the right to education, and education programmes should be embedded in legal systems. The legal aspects of analysing data are an important dimension of the foundation of the right to education in national legal systems, and of evaluating progressive measures towards its realization. While requesting reports from States on the implementation of the right to education, it is not a question of asking them for figures, but of information on instances of how the principles of non-discrimination and equality of educational opportunity, as incorporated in the constitution and in laws, are applied and what discrimination in fact means.

¹³ The Joint Expert Group, established by decision 5.4 adopted by UNESCO's Executive Board at its hundred and sixty-second session in October 2001, is composed of four members: Ms. Virginia Bonoan-Dandan, and Mr. Eibe Riedel, Chairperson and Vice-Chairperson, respectively, of the Committee on Economic, Social and Cultural Rights, representing the Committee; and Mr. Cornelis Pigot and Mr. Klaus Hübner, members of the Committee on Conventions and Recommendations, and representing it.

618. The experts suggested that:

(a) It should be a priority to look into the provisions on the right to education in constitutions and laws; and then to their implementation, and benchmarks to measure implementation;

(b) Analytical studies should be performed and knowledge of the constitutional and legislative bases of the right to education disseminated; practical aspects of measures taken by States to make the law effective are crucial.

619. The discussions on the foundations of the right to education covered issues in universalizing primary education and ensuring that it was free, in line with the objective set at the World Education Forum in 2000 and the Millennium Development Goal to achieve universal primary education. There is a huge stake in Asia in the field of primary education. Moreover, in many African countries, there has been regression in access to the right to free universal primary education. This is where the Joint Expert Group could make a difference. In this context, the importance of general comment No. 11 (1999) on plans of action for primary education (art. 14 of the Covenant) drafted by the Committee on Economic, Social and Cultural Rights was underlined.

620. The experts underlined the need for:

(a) Interpreting legal obligations to coincide with other recommendations in the field of education for a critical review of education-for-all programmes in national legal systems, while analysing data and measures for making universal primary education a *de jure* and *de facto* priority; with a role for the UNESCO Institute for Statistics, within the framework of its mandate;

(b) Putting an end to the process of weakening the right to education and restoring and defending this right as provided for in the International Covenant on Economic, Social and Cultural Rights (arts. 13 and 14) and the Convention against Discrimination in Education adopted by UNESCO;

(c) Emphasizing the importance of standards that have to be met in primary and basic education, with practical examples from countries in which laws reflect the principle of education for all.

621. The concluding observations which the Committee on Economic, Social and Cultural Rights adopts at the end of the examination of the report of a State party should identify the assistance that UNESCO may provide. UNESCO would then report back to the Committee on the assistance provided. The Joint Expert Group should specify necessary steps as to how, in practical terms, such assistance can be provided to States as a follow-up to concluding observations. The Joint Expert Group was informed that the UNESCO secretariat has initiated work for preparing country profiles on the right to education.

622. The question of periodicity in reporting (six years for the Committee on Conventions and Recommendations; State reporting to the Committee on Economic, Social and Cultural Rights generally every five years) was discussed. In this context, Mr. Abdulqawi Yusuf, Director of the Office of International Standards and Legal Affairs of UNESCO, informed the Joint Expert

Group that the Committee on Conventions and Recommendations has now decided to elaborate specific procedures for the monitoring of the implementation of conventions and recommendations.¹⁴ These specific procedures will cover questions related to reporting cycles and periodicity of consultations with Member States, the preparation of reports and follow-up measures. Input on the specific procedures may be solicited from the Joint Expert Group.

623. The Joint Expert Group recommended:

(a) To give greater consideration to the role of and contribution by the National Commissions for UNESCO in the implementation of the right to education, including the organization of training programmes;

(b) To explore the possibility of obtaining from the National Commissions the data and information on the foundation of the right to education in national legal systems on a regular basis;

(c) To seek their active participation as regards national level action for follow-up to the concluding observations adopted by the Committee on Economic, Social and Cultural Rights as well as decisions adopted by the Executive Board of UNESCO.

624. It was suggested that the indicators for compiling information by the National Commissions for UNESCO could be derived, inter alia, from the Committee's general comments.

625. The Joint Expert Group considered Commission on Human Rights resolution 2005/21 of 15 April 2005¹⁵ and stressed the importance and relevance of the mandate of the Special Rapporteur on the right to education.

626. Finally, the Joint Expert Group discussed questions related to the enforcement and the justiciability of the right to education and deemed it necessary to address these questions as a priority concern. It recommended that this should be the theme for its next meeting, to be organized in Geneva, for which the experts outlined the conceptual framework. This would be very relevant in the context of the elaboration of an optional protocol to the International Covenant on Economic, Social and Cultural Rights. The following meeting of the Joint Expert Group, to be organized at UNESCO headquarters, would focus on universal primary education. In addition, questions related to indicators and benchmarks should be discussed in forthcoming meetings.

¹⁴ UNESCO's General Conference at its 32nd session in October 2003 adopted resolution 32 C/77 revising the Rules of Procedures Concerning Recommendations to Member States and International Conventions - article IV, paragraph 4 of the Constitution of UNESCO. Section VI of the Rules of Procedures as amended is entitled "Procedures for Promoting Member States' Acceptance and Application of Conventions and Recommendations adopted by the General Conference" (decision 171 EX/27).

¹⁵ In this resolution, the Commission recognizes the importance of the Joint Expert Group's work and welcomes the second meeting of the Group on the monitoring of the right to education, held in May 2004, to continue discussions on how collaboration between UNESCO and the Economic and Social Council in monitoring and promoting the right to education could be further strengthened, and encourages continued collaboration between these two bodies.

CHAPTER VI

Decisions adopted and matters discussed by the Committee at its thirty-fourth and thirty-fifth sessions

A. General comments

627. At its 21st meeting, held on 10 May 2005 (thirty-fourth session), the Committee, under agenda item 5 (Substantive issues arising in the implementation of the International Covenant on Economic, Social and Cultural Rights), considered and adopted general comment No. 16 (2005) on the equal right of men and women to the enjoyment of economic, social and cultural rights (art. 3 of the Covenant) (see annex VIII to the present report). Committee members expressed their appreciation to the non-governmental organizations and members of civil society who contributed to the drafting of the general comment, and in particular, to International Women's Rights Action Watch and its Director, Ms. Marsha Freeman (Humphrey Institute of Public Affairs, University of Minnesota, United States of America).

628. At its 50th and 51st meetings, held on 21 November 2005 (thirty-fifth session), the Committee, under agenda item 3 (Substantive issues arising in the implementation of the International Covenant on Economic, Social and Cultural Rights), continued its consideration of, and adopted, general comment No. 17 (2005) on the right of everyone to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author (art. 15, para. 1 (c), of the Covenant) (see annex IX to the present report). Committee members expressed their gratitude to United Nations agencies, non-governmental organizations and intellectual property experts within and outside the United Nations system who contributed to the drafting of the general comment.

629. At its 51st, 52nd and 56th meetings, held on 21, 22 and 24 November 2005, the Committee, also under agenda item 3, continued its consideration of, and adopted, general comment No. 18 (2005) on the right to work (art. 6 of the Covenant) (annex X to the present report). Committee members thanked ILO and other United Nations specialized agencies, as well as non-governmental organizations and members of civil society, for their input into the general comment.

B. Reporting under the Covenant

630. At its thirty-fifth session, the Committee considered that the list of States parties to the Covenant (see annex I to the present report), while containing information on the status of submission of reports, does not clearly show which States parties' reports are considerably overdue. The Committee therefore decided henceforth to include a list in its annual reports to the Economic and Social Council indicating all States parties whose initial or periodic reports are overdue by more than 10 years. This list is intended to serve, inter alia, as a reminder for States parties to comply with their reporting obligations under articles 16 and 17 of the Covenant in order to avoid being scheduled for consideration in the absence of a report from the State party concerned, in accordance with the procedure outlined in paragraph 44 above. A list of the States parties whose initial or periodic reports have been overdue for more than 10 years is contained in annex II to the present report.

C. Workshop on follow-up action to the Committee's concluding observations

631. The Committee, at its thirty-fourth session, took note of the explanation provided by the Office of the United Nations High Commissioner for Human Rights in respect of the difficulties encountered to implement its decision concerning the holding of a workshop on follow-up action to the Committee's concluding observations for the States parties to the Covenant from the Asian region.¹⁶ The Committee reiterated its view that action taken at the national level on the concluding observations that it addresses to States parties at the end of its consideration of their reports is of vital importance for the effective promotion and protection of human rights set forth in international human rights treaties, and in particular, in the International Covenant on Economic, Social and Cultural Rights.

632. Accordingly, the Committee decided to invite the Office of the High Commissioner for Human Rights to consider the possibility of organizing, in 2006, a workshop on follow-up action to its concluding observations for States parties to the Covenant from the Eastern European region, whose reports have recently been considered by the Committee. Azerbaijan, Georgia, Kyrgyzstan, Moldova, the Russian Federation, Tajikistan, Ukraine and Uzbekistan could be invited to participate in this workshop, which could be held in Moscow.

D. Meeting with States parties to the Covenant

633. At its 22nd meeting, on 10 May 2005, the Committee, under agenda item 5, Substantive issues arising in the implementation of the International Covenant on Economic, Social and Cultural Rights, held its meeting with States parties to the Covenant, which was attended by 49 States parties. The meeting focused on the proposed optional protocol to the Covenant. The Committee's methods of work were also discussed.

634. A number of State representatives took the floor to express their support for a communications procedure under an optional protocol to the Covenant. The representative of Egypt noted that an optional protocol should reflect the specific nature of the International Covenant on Economic, Social and Cultural Rights and should not be a mere replica of the International Covenant on Civil and Political Rights communications procedure.

635. State representatives sought the Committee's advice on a number of issues, which are being discussed by the open-ended Working Group of the Commission on Human Rights with a view to considering options regarding the elaboration of an optional protocol to the International Covenant on Economic, Social and Cultural Rights such as the number of articles and provisions to be covered; the possibility of considering communications concerning international assistance and cooperation (art. 2, para. 1) and the right to self-determination (art. 1); the discretion of States parties with regard to the allocation of resources for the implementation of the Covenant; and the financial implications and feasibility of an optional protocol.

¹⁶ *Official Records of the Economic and Social Council, 2004, Supplement No. 2 (E/2004/22-E/C.12/2003/14)*, chap. VI, para. 614.

636. In their responses, Committee members stressed that a communications procedure would be the best way of ensuring a more effective implementation of the Covenant. Committee members noted that the Committee's position on most of the matters raised by States is reflected in the report submitted to the Commission in 1997 containing the Committee's proposal for a draft optional protocol.¹⁷ As stated by the Chairperson, the Committee was united and unanimous in its support for the proposals made in the report.

637. A number of State representatives encouraged the Committee to take a greater part in the work of the working group. While welcoming this invitation, Committee members said that it was now up to States to decide on the best way forward. It was, however, hoped that the above-mentioned draft optional protocol would provide the starting point for the working group's deliberations.

638. Committee members said that they looked forward to the paper on elements for an optional protocol, which is being prepared by the Chairperson-Rapporteur for the next working group session. Further discussions could be held by the Committee in the light of the paper on elements and the progress made in the working group.

639. The Chairperson drew attention to the Committee's decisions aimed at enhancing its methods of work, including the appointment of Committee rapporteurs for follow-up on concluding observations and for liaison with United Nations specialized agencies and programmes.

E. Cooperation with specialized agencies

UNESCO

640. The UNESCO (Committee on Conventions and Recommendations)/Economic and Social Council (Committee on Economic, Social and Cultural Rights) Joint Expert Group on the Monitoring of the Right to Education held its third meeting on 2 May 2005 at UNESCO headquarters. The Joint Expert Group requested, inter alia, that UNESCO national commissions compile data that could be used by the Committee on Economic, Social and Cultural Rights in its consideration of States parties' reports. The Committee also had a fruitful discussion with UNESCO representatives on strengthening cooperation between UNESCO and the Committee with a view to promoting and protecting the right to education (see chapter V above).

ILO

641. At its thirty-fifth session, on 22 November 2005, the Committee held an informal meeting with members of the ILO Committee of Experts on the Application of Conventions and Recommendations. This was the third meeting between the two Committees (the first and second meetings were held in November 2003 and November 2004, respectively) with the aim of strengthening cooperation between the two treaty monitoring bodies. The discussion focused on the elaboration of a general comment on the right to social security, including social insurance (art. 9 of the International Covenant on Economic, Social and Cultural Rights).

¹⁷ *Official Records of the Economic and Social Council, 1997, Supplement No. 2, (E/1997/22-E/C.12/1996/6), annex IV, sect. IV.*

F. Harmonization of guidelines for reporting under the United Nations human rights treaties and treaty body reform

642. At its thirty-fourth session, pursuant to the recommendation of the Third Inter-Committee Meeting of Human Rights Treaty Bodies (A/59/254, annex, sect. VI, point of agreement IV) that was endorsed by the sixteenth Meeting of Chairpersons of these bodies, the Committee held a discussion on “the draft proposed guidelines and other matters relating to the harmonization of [the committees’] reporting guidelines”. Members met on 17 May 2005 with Mr. Kamel Filali, designated rapporteur of the meetings, to follow up with the recommendation for all treaty bodies to discuss the outcome of the meetings and report back to the Inter-Committee Meeting and the Meeting of Chairpersons.

643. During its thirty-fifth session, on 17 November 2005, the Committee met with the High Commissioner for Human Rights to discuss her proposal to consolidate the work of the existing human rights treaty monitoring bodies and to create a unified standing treaty body (see A/59/2005/Add.3, annex, chap. III, para. 99). Committee members expressed the view that there was a need for more detailed information on the issue in order for them to make a meaningful contribution to the process.

644. Committee members, rather than adopting a common position, expressed their individual views on the proposed treaty body reform. Among the issues raised were:

(a) The risk of losing the specific expertise and perspective of the existing treaty bodies acquired through years of experience in monitoring States parties’ compliance with their obligations under the different human rights treaties;

(b) The need to take into account the views on the reform process of all stakeholders, including States parties, regional groups, treaty body experts, non-governmental organizations and other members of civil society;

(c) The need to clarify the content and form of reports that States parties would submit to the unified treaty body;

(d) The risk of duplication of monitoring procedures during the transitional period between the entry into force of the unified monitoring procedure and its acceptance by all States parties to the respective human rights treaties;

(e) The role that the unified treaty body would have for the entry into force of an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;

(f) The membership, composition and working methods of a unified treaty body, and the necessary qualifications and terms of mandate of its members.

645. In addition, Committee members referred to a number of proposals to enhance the effectiveness of the treaty body system:

(a) The creation of two chambers within a unified treaty body, one dealing with issues arising under the International Covenant on Civil and Political Rights and under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the other, with issues arising under the International Covenant on Economic, Social and

Cultural Rights, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;

(b) The division of work between two chambers of a unified treaty body, one dealing with States parties' reports and the other, examining individual communications;

(c) To persevere with the current improvement of working methods, such as the harmonization of the treaty body reporting guidelines;

(d) The creation of a strong follow-up mechanism to the recommendations addressed to States parties at the end of the examination of their reports;

(e) To enhance the implementation of recommendations adopted by the annual meetings of chairpersons and inter-committee meetings.

646. The High Commissioner stressed her full commitment to enhancing the effectiveness of the treaty body system, including in terms of accessibility and visibility, and to ensure that any reform should aim specifically at enhancing the protection of rights holders at the national level.

CHAPTER VII

Adoption of the report

647. At its 58th meeting, held on 25 November 2005, the Committee considered its draft report to the Economic and Social Council on the work of its thirty-fourth and thirty-fifth sessions (E/C.12/2005/CRP.1). The Committee adopted the report as amended during the discussions.

ANNEXES

ANNEX I

States parties to the Covenant and status of submission of reports (as of 25 November 2005)

A. Initial and second periodic reports

State party	Date of entry into force	Initial reports			Second periodic reports		
		Articles 6-9	Articles 10-12	Articles 13-15	Articles 6-9	Articles 10-12	Articles 13-15
<i>(Summary records of consideration of reports)</i>							
1. Afghanistan	24 April 1983	E/1990/5/Add.8 (E/C.12/1991/SR.2, 4-6 and 8)			Overdue		
2. Albania	4 January 1992	E/1990/5/Add.67 (Received on 5 January 2005 - pending consideration)					
3. Algeria	12 December 1989	E/1990/5/Add.22 (E/C.12/1995/SR.46 and 47)			E/1990/6/Add.26 (E/C.12/2001/SR.65 and 66)		
4. Angola	10 April 1992	Overdue					
5. Argentina	8 November 1986	E/1990/5/Add.18 (E/C.12/1994/SR.30-32)		E/1988/5/Add.4 and Add.8 (E/C.12/1990/ SR.18-20)	E/1990/6/Add.16 (E/C.12/1999/SR.33-36)		
6. Armenia	13 December 1993	E/1990/5/Add.36 (E/C.12/1999/SR.38-40)			Overdue		
7. Australia	10 March 1976	E/1978/8/Add.15 (E/1980/WG.1/ SR.12 and 13)	E/1980/6/Add.22 (E/1981/WG.1/ SR.18)	E/1982/3/Add.9 (E/1982/WG.1/ SR.13 and 14)	E/1984/7/Add.22 (E/1985/WG.1/ SR.17, 18 and 21)	E/1986/4/Add.7 (E/1986/WG.1/ SR.10, 11, 13 and 14)	E/1990/7/Add.13 (E/C.12/1993/ SR.13, 15 and 20)
8. Austria	10 December 1978	E/1984/6/Add.17 (E/C.12/1988/ SR.3 and 4)	E/1980/6/Add.19 (E/1981/WG.1/ SR.8)	E/1982/3/Add.37 (E/C.12/1988/ SR.3)	E/1990/6/Add.5 (E/C.12/1994/ SR.39-41)	E/1986/4/Add.8 and Corr.1 (E/1986/WG.1/ SR.4 and 7)	E/1990/6/Add.5 (E/C.12/1994/ SR.39-41)
9. Azerbaijan	13 November 1992	E/1990/5/Add.30 (E/C.12/1997/SR.39-41)			E/1990/6/Add.37 (E/C.12/2004/SR.41-43)		
10. Bangladesh	5 January 1999	Overdue					
11. Barbados	3 January 1976	E/1978/8/Add.33 (E/1982/WG.1/ SR.3)	E/1980/6/Add.27 (E/1982/WG.1/ SR.6 and 7)	E/1982/3/Add.24 (E/1983/WG.1/ SR.14 and 15)	Overdue		

Annex I (continued)

State party	Date of entry into force	Initial reports			Second periodic reports		
		Articles 6-9	Articles 10-12	Articles 13-15	Articles 6-9	Articles 10-12	Articles 13-15
		<i>(Summary records of consideration of reports)</i>					
12. Belarus	3 January 1976	E/1978/8/Add.19 (E/1980/WG.1/ SR.16)	E/1980/6/Add.18 (E/1981/WG.1/ SR.16)	E/1982/3/Add.3 (E/1982/WG.1/ SR.9 and 10)	E/1984/7/Add.8 (E/1984/WG.1/ SR.13-15)	E/1986/4/Add.19 (E/C.12/1988/ SR.10-12)	E/1990/7/Add.5 (E/C.12/1992/ SR.2, 3 and 12)
13. Belgium	21 July 1983	E/1990/5/Add.15 (E/C.12/1994/SR.15-17)			E/1990/6/Add.18 (E/C.12/2000/SR.64-66)		
14. Benin	12 June 1992	E/1990/5/Add.48 (E/C.12/2002/SR.8-10)			Due on 30 June 2007		
15. Bolivia	12 November 1982	E/1990/5/Add.44 (E/C.12/2001/SR.15-17)			Overdue (Was due on 30 June 2005)		
16. Bosnia and Herzegovina	6 March 1993	E/1990/5/Add.65 (E/C.12/2005/SR.41-43)			Due on 30 June 2010		
17. Brazil	24 April 1992	E/1990/5/Add.53 (E/C.12/2003/SR.8-10)			Due on 30 June 2006		
18. Bulgaria	3 January 1976	E/1978/8/Add.24 (E/1980/WG.1/ SR.12)	E/1980/6/Add.29 (E/1982/WG.1/ SR.8)	E/1982/3/Add.23 (E/1983/WG.1/ SR.11-13)	E/1984/7/Add.18 (E/1985/WG.1/ SR.9 and 11)	E/1986/4/Add.20 (E/C.12/1988/ SR.17-19)	
19. Burkina Faso	4 April 1999	Overdue					
20. Burundi	9 August 1990	Overdue					
21. Cambodia	26 August 1992	Overdue					
22. Cameroon	27 September 1984	E/1990/5/Add.35 (E/C.12/1999/ SR.41-43)	E/1986/3/Add.8 (E/C.12/1989/ SR.6 and 7)	E/1990/5/Add.35 (E/C.12/1999/ SR.41-43)	Overdue		
23. Canada	19 August 1976	E/1978/8/Add.32 (E/1982/WG.1/ SR.1 and 2)	E/1980/6/Add.32 (E/1984/WG.1/ SR.4 and 6)	E/1982/3/Add.34 (E/1986/WG.1/ SR.13, 15 and 16)	E/1984/7/Add.28 (E/C.12/1989/ SR.8 and 11)	E/1990/6/Add.3 (E/C.12/1993/SR.6 and 7)	
24. Cape Verde	6 November 1993	Overdue					
25. Central African Republic	8 August 1981	Overdue					
26. Chad	9 September 1995	Overdue					
27. Chile	3 January 1976	E/1978/8/Add.10 and 28 (E/1980/WG.1/ SR.8 and 9)	E/1980/6/Add.4 (E/1981/WG.1/ SR.7)	E/1982/3/Add.40 (E/C.12/1988/ SR.12, 13 and 16)	E/1984/7/Add.1 (E/1984/WG.1/ SR.11 and 12)	E/1986/4/Add.18 (E/C.12/1988/ SR.12, 13 and 16)	Overdue
28. China	27 June 2001	E/1990/5/Add.59* (E/C.12/2005/SR.6-10)			Due on 30 June 2010		

Annex I (continued)

State party	Date of entry into force	Initial reports			Second periodic reports		
		Articles 6-9	Articles 10-12	Articles 13-15	Articles 6-9	Articles 10-12	Articles 13-15
<i>(Summary records of consideration of reports)</i>							
29. Colombia	3 January 1976	E/1978/8/Add.17 (E/1980/WG.1/ SR.15)	E/1986/3/Add.3 (E/1986/WG.1/ SR.6 and 9)	E/1982/3/Add.36 (E/1986/WG.1/ SR.15, 21 and 22)	E/1984/7/Add.21/ Rev.1 (E/1986/WG.1/ SR.22 and 25)	E/1986/4/Add.25 (E/C.12/1990/ SR.12-14 and 17)	E/1990/7/Add.4 (E/C.12/1991/ SR.17, 18 and 25)
30. Congo	5 January 1984	Overdue (Without report: E/C.12/2000/SR.16 and 17)			Overdue		
31. Costa Rica	3 January 1976	E/1990/5/Add.3 (E/C.12/1990/SR.38, 40, 41 and 43)			Overdue		
32. Côte d'Ivoire	26 June 1992	Overdue			Overdue		
33. Croatia	8 October 1991	E/1990/5/Add.46 (E/C.12/2001/SR.69-71)			Due on 30 June 2006		
34. Cyprus	3 January 1976	E/1978/8/Add.21 (E/1980/WG.1/ SR.17)	E/1980/6/Add.3 (E/1981/WG.1/ SR.6)	E/1982/3/Add.19 (E/1983/WG.1/ SR.7 and 8)	E/1984/7/Add.13 (E/1984/WG.1/ SR.18 and 22)	E/1986/4/Add.2 and 26 (E/C.12/1990/ SR.2, 3 and 5)	
35. Czech Republic	1 January 1993	E/1990/5/Add.47 (E/C.12/2002/SR.3-5)			Due on 30 June 2007		
36. Democratic People's Republic of Korea	14 December 1981	E/1984/6/Add.7 (E/C.12/1987/ SR.21 and 22)	E/1986/3/Add.5 (E/C.12/1987/ SR.21 and 22)	E/1988/5/Add.6 (E/C.12/1991/ SR.6, 8 and 10)	E/1990/6/Add.35 (E/C.12/2003/SR.44-46)		
37. Democratic Republic of the Congo	1 February 1977	E/1984/6/Add.18	E/1986/3/Add.7	E/1982/3/Add.41	Overdue (E/C.12/1988/SR.16-19)		
38. Denmark	3 January 1976	E/1978/8/Add.13 (E/1980/WG.1/ SR.10)	E/1980/6/Add.15 (E/1981/WG.1/ SR.12)	E/1982/3/Add.20 (E/1983/WG.1/ SR.8 and 9)	E/1984/7/Add.11 (E/1984/WG.1/ SR.17 and 21)	E/1986/4/Add.16 (E/C.12/1988/ SR.8 and 9)	
39. Djibouti	5 February 2003	Overdue (Was due on 30 June 2005)			Overdue		
40. Dominica	17 September 1993	Overdue			Overdue		
41. Dominican Republic	4 April 1978	E/1990/5/Add.4 (E/C.12/1990/SR.43-45 and 47)			E/1990/6/Add.7 (E/C.12/1996/SR.29 and 30) (E/C.12/1997/SR.29-31)		
42. Ecuador	3 January 1976	E/1978/8/Add.1 (E/1980/WG.1/ SR.4 and 5)	E/1986/3/Add.14 (E/C.12/1990/SR.37-39 and 42)	E/1988/5/Add.7	E/1984/7/Add.12 (E/1984/WG.1/ SR.20 and 22)	E/1990/6/Add.36 (E/C.12/2004/SR.15-17)	
43. Egypt	14 April 1982	E/1990/5/Add.38 (E/C.12/2000/SR.12 and 13)			Overdue		
44. El Salvador	29 February 1980	E/1990/5/Add.25 (E/C.12/1996/SR.15, 16 and 18)			E/1990/6/Add.39 (Pending consideration)		

Annex I (continued)

State party	Date of entry into force	Initial reports			Second periodic reports		
		Articles 6-9	Articles 10-12	Articles 13-15	Articles 6-9	Articles 10-12	Articles 13-15
<i>(Summary records of consideration of reports)</i>							
45. Equatorial Guinea	25 December 1987	Overdue					
46. Eritrea	17 July 2001	Overdue					
47. Estonia	21 January 1992	E/1990/5/Add.51 (E/C.12/2002/SR.41-43)			Due on 30 June 2007		
48. Ethiopia	11 September 1993	Overdue					
49. Finland	3 January 1976	E/1978/8/Add.14 (E/1980/WG.1/ SR.6)	E/1980/6/Add.11 (E/1981/WG.1/ SR.10)	E/1982/3/Add.28 (E/1984/WG.1/ SR.7 and 8)	E/1984/7/Add.14 (E/1984/WG.1/ SR.17 and 18)	E/1986/4/Add.4 (E/1986/WG.1/ SR.8, 9 and 11)	E/1990/7/Add.1 (E/C.12/1991/ SR.11, 12 and 16)
50. France	4 February 1981	E/1984/6/Add.11 (E/1986/WG.1/ SR.18, 19 and 21)	E/1986/3/Add.10 (E/C.12/1989/ SR.12 and 13)	E/1982/3/Add.30 and Corr. 1 (E/1985/WG.1/ SR.5 and 7)	E/1990/6/Add.27 (E/C.12/2001/SR.67 and 68)		
51. Gabon	21 April 1983	Overdue					
52. Gambia	29 March 1979	Overdue					
53. Georgia	3 August 1994	E/1990/5/Add.37 (E/C.12/2000/SR.3-5)			E/1990/6/Add.31 (E/C.12/2002/SR.35 and 36)		
54. Germany	3 January 1976	E/1978/8/Add.8 and Corr.1 (E/1980/WG.1/ SR.8) E/1978/8/Add.11 (E/1980/WG.1/ SR.10)	E/1980/6/Add.6 (E/1981/WG.1/ SR.8) E/1980/6/Add.10 (E/1981/WG.1/ SR.10)	E/1982/3/Add.15 and Corr. 1 (E/1983/WG.1/ SR.5 and 6) E/1982/3/Add.14 (E/1982/WG.1/ SR.17 and 18)	E/1984/7/Add.3 and 23 (E/1985/WG.1/ SR.12 and 16) E/1984/7/Add.24 and Corr. 1 (E/1986/WG.1/ SR.22-23 and 25)	E/1986/4/Add.11 (E/C.12/1987/ SR.11, 12 and 14) E/1986/4/Add.10 (E/C.12/1987/ SR.19 and 20)	E/1990/7/Add.12 (E/C.12/1993/ SR.35 and 36)
55. Ghana	7 December 2000	Overdue					
56. Greece	16 August 1985	E/1990/5/Add.56 (E/C.12/2004/SR.6-8)			Due on 30 June 2009		
57. Grenada	6 December 1991	Overdue					
58. Guatemala	19 August 1988	E/1990/5/Add.24 (E/C.12/1996/SR.11-14)			E/1990/Add.34/Rev.1 (E/C.12/2003/SR.38 and 39)		
59. Guinea	24 April 1978	Overdue					
60. Guinea-Bissau	2 October 1992	Overdue					

Annex I (continued)

State party	Date of entry into force	Initial reports			Second periodic reports		
		Articles 6-9	Articles 10-12	Articles 13-15	Articles 6-9	Articles 10-12	Articles 13-15
<i>(Summary records of consideration of reports)</i>							
61. Guyana	15 May 1977	E/1990/5/Add.27 (Pending consideration)		E/1982/3/Add.5, 29 and 32 (E/1984/WG.1/ SR.20 and 22 and E/1985/WG.1/ SR.6)			
62. Honduras	17 May 1981	E/1990/5/Add.40 (E/C.12/2001/SR.5-8)			Due on 30 June 2006		
63. Hungary	3 January 1976	E/1978/8/Add.7 (E/1980/WG.1/ SR.7)	E/1980/6/Add.37 (E/1986/WG.1/ SR.6-7 and 9)	E/1982/3/Add.10 (E/1982/WG.1/ SR.14)	E/1984/7/Add.15 (E/1984/WG.1/ SR.19 and 21)	E/1986/4/Add.1 (E/1986/WG.1/ SR.6-7 and 9)	E/1990/7/Add.10 (E/C.12/1992/ SR.9, 12 and 21)
64. Iceland	22 November 1979	E/1990/5/Add.6 (E/C.12/1993/SR.29-31) and Add.14 and Corr.1			E/1990/6/Add.15 (E/C.12/1999/SR.3-5)		
65. India	10 July 1979	E/1984/6/Add.13 (E/1986/WG.1/ SR.20 and 24)	E/1980/6/Add.34 (E/1984/WG.1/ SR.6 and 8)	E/1988/5/Add.5 (E/C.12/1990/ SR.16, 17 and 19)	Overdue		
66. Iran (Islamic Republic of)	3 January 1976	E/1990/5/Add.9 (E/C.12/1993/SR.7-9 and 20)		E/1982/3/Add.43 (E/C.12/1990/ SR.42, 43 and 45)	Overdue		
67. Iraq	3 January 1976	E/1984/6/Add.3 and 8 (E/1985/WG.1/ SR.8 and 11)	E/1980/6/Add.14 (E/1981/WG.1/ SR.12)	E/1982/3/Add.26 (E/1985/WG.1/ SR.3 and 4)		E/1986/4/Add.3 (E/1986/WG.1/ SR.8 and 11)	E/1990/7/Add.15 (E/C.12/1994/ SR.11 and 14)
68. Ireland	8 March 1990	E/1990/5/Add.34 (E/C.12/1999/SR.14-16)			E/1990/6/Add.29 (E/C.12/2002/SR.6 and 7)		
69. Israel	3 January 1992	E/1990/5/Add.39 (E/C.12/1998/SR.31-33)			E/1990/6/Add.32 (E/C.12/2003/SR.17 -19)		
70. Italy	15 December 1978	E/1978/8/Add.34 (E/1982/WG.1/ SR.3 and 4)	E/1980/6/Add.31 and 36 (E/1984/WG.1/ SR.3 and 5)		E/1990/6/Add.2 (E/C.12/1992/SR.13, 14 and 21)		
71. Jamaica	3 January 1976	E/1978/8/Add.27 (E/1980/WG.1/ SR.20)	E/1986/3/Add.12 (E/C.12/1990/ SR.10-12 and 15)	E/1988/5/Add.3 (E/C.12/1990/ SR.10-12 and 15)	E/1984/7/Add.30 (E/C.12/1990/ SR.10-12 and 15)	E/1990/6/Add.28 (E/C.12/2001/SR.73)	
72. Japan	21 September 1979	E/1984/6/Add.6 and Corr.1 (E/1984/WG.1/ SR.9 and 10)	E/1986/3/Add.4 and Corr.1 (E/1986/WG.1/ SR.20, 21 and 23)	E/1982/3/Add.7 (E/1982/WG.1/ SR.12 and 13)	E/1990/6/Add.21 and Corr.1 (E/C.12/2001/SR.42 and 43)		

Annex I (continued)

State party	Date of entry into force	Initial reports			Second periodic reports		
		Articles 6-9	Articles 10-12	Articles 13-15	Articles 6-9	Articles 10-12	Articles 13-15
<i>(Summary records of consideration of reports)</i>							
73. Jordan	3 January 1976	E/1984/6/Add.15 (E/C.12/1987/ SR.6-8)	E/1986/3/Add.6 (E/C.12/1987/ SR.8)	E/1982/3/Add.38/ Rev.1 (E/C.12/1990/ SR.30-32)	E/1990/6/Add.17 (E/C.12/2000/SR.30-33)		
74. Kenya**	3 January 1976	Overdue			Overdue		
75. Kuwait	31 August 1996	E/1990/5/Add.57 (E/C.12/2004/SR.9-11)			Due on 30 June 2009		
76. Kyrgyzstan	7 January 1995	E/1990/5/Add.42 (E/C.12/2000/SR.42-44)			Overdue (Was due on 30 June 2005)		
77. Latvia	14 July 1992	E/1990/5/Add.70 (Received on 12 August 2005 - pending consideration)					
78. Lebanon	3 January 1976	E/1990/5/Add.16 (E/C.12/1993/SR.14, 16 and 21)			Overdue		
79. Liberia	22 December 2004	Due on 30 June 2006					
80. Lesotho	9 December 1992	Overdue					
81. Libyan Arab Jamahiriya	3 January 1976	E/1990/5/Add.26 (E/C.12/1997/SR.20 and 21)		E/1982/3/Add.6 and 25 (E/1983/WG.1/ SR.16 and 17)	E/1990/6/Add.38 (E/C.12/2005/SR.44-46)		
82. Liechtenstein	10 March 1999	E/1990/5/Add.66 (Pending consideration)					
83. Lithuania	20 February 1992	E/1990/5/Add.55 (E/C.12/2004/SR.3-5)			Due on 30 June 2009		
84. Luxembourg	18 November 1983	E/1990/5/Add.1 (E/C.12/1990/SR.33-36)			E/1990/6/Add.9 (E/C.12/1997/SR.48 and 49)		
85. Madagascar	3 January 1976	E/1978/8/Add.29 (E/1981/WG.1/ SR.2)	E/1980/6/Add.39 (E/1986/WG.1/ SR.2, 3 and 5)	Overdue	E/1984/7/Add.19 (E/1985/WG.1/ SR.14 and 18)	Overdue	
86. Malawi	22 March 1994	Overdue					
87. Mali	3 January 1976	Overdue					
88. Malta	13 December 1990	E/1990/5/Add.58 (E/C.12/2004/SR.32 and 33)			Due on 30 June 2009		
89. Mauritius	3 January 1976	E/1990/5/Add.21 (E/C.12/1995/SR.40, 41 and 43)			Overdue		
90. Mauritania	17 February 2005	Due on 30 June 2007					
91. Mexico	23 June 1981	E/1984/6/Add.2 and 10 (E/1986/WG.1/ SR.24, 26 and 28)	E/1986/3/Add.13 (E/C.12/1990/ SR.6, 7 and 9)	E/1982/3/Add.8 (E/1982/WG.1/ SR.14 and 15)	E/1990/6/Add.4 (E/C.12/1993/SR.32-35)		
92. Monaco	28 November 1997	E/1990/5/Add.64 (Pending consideration)					

Annex I (continued)

State party	Date of entry into force	Initial reports			Second periodic reports		
		Articles 6-9	Articles 10-12	Articles 13-15	Articles 6-9	Articles 10-12	Articles 13-15
		<i>(Summary records of consideration of reports)</i>					
93. Mongolia	3 January 1976	E/1978/8/Add.6 (E/1980/WG.1/ SR.7)	E/1980/6/Add.7 (E/1981/WG.1/ SR.8 and 9)	E/1982/3/Add.11 (E/1982/WG.1/ SR.15 and 16)	E/1984/7/Add.6 (E/1984/WG.1/ SR.16 and 18)	E/1986/4/Add.9 (E/C.12/1988/ SR.5 and 7)	
94. Morocco	3 August 1979	E/1990/5/Add.13 (E/C.12/1994/SR.8-10)			E/1990/6/Add.20 (E/C.12/2000/SR.70-72)		
95. Namibia	28 February 1995	Overdue					
96. Nepal	14 August 1991	E/1990/5/Add.45 (E/C.12/2001/SR.44-46)			Due on 30 June 2006		
97. Netherlands	11 March 1979	E/1984/6/Add.14 and 20 (E/C.12/1987/ SR.5 and 6) (E/C.12/1989/ SR.14 and 15)	E/1980/6/Add.33 (E/1984/WG.1/ SR.4-6 and 8)	E/1982/3/Add.35 and 44 (E/1986/WG.1/ SR.14 and 18) (E/C.12/1989/ SR.14 and 15)	E/1990/6/Add.11- 13 (E/C.12/1998/ SR.13-17)	E/1986/4/Add.24 (E/C.12/1989/ SR.14 and 15)	E/1990/6/Add.11-13 (E/C.12/1998/ SR.13-17)
98. New Zealand	28 March 1979	E/1990/5/Add.5, Add.11 and 12 (E/C.12/1993/SR.24-26)			E/1990/6/Add.33 (E/C.12/2003/SR.11 and 12)		
99. Nicaragua	12 June 1980	E/1984/6/Add.9 (E/1986/WG.1/ SR.16, 17 and 19)	E/1986/3/Add.15 and 16 (E/C.12/1993/ SR.27 and 28)	E/1982/3/Add.31 and Corr.1 (E/1985/WG.1/ SR.15)	Overdue		
100. Niger	7 June 1986	Overdue					
101. Nigeria	29 October 1993	E/1990/5/Add.31 (E/C.12/1998/SR.6-8)			Overdue		
102. Norway	3 January 1976	E/1978/8/Add.12 (E/1980/WG.1/ SR.5)	E/1980/6/Add.5 (E/1981/WG.1/ SR.14)	E/1982/3/Add.12 (E/1982/WG.1/ SR.16)	E/1984/7/Add.16 (E/1984/WG.1/ SR.19 and 22)	E/1986/4/Add.21 (E/C.12/1988/ SR.14 and 15)	E/1990/7/Add.7 (E/C.12/1992/ SR.4, 5 and 12)
103. Panama	8 June 1977	E/1984/6/Add.19 (E/C.12/1991/ SR.3, 5 and 8)	E/1980/6/Add.20 and 23 (E/1982/WG.1/ SR.5)	E/1988/5/Add.9 (E/C.12/1991/ SR.3, 5 and 8)	E/1990/6/Add.24 (E/C.12/2001/ SR.36)	E/1986/4/Add.22 (E/C.12/1991/ SR.3, 5 and 8)	E/1990/6/Add.24 (E/C.12/2001/ SR.36)
104. Paraguay	10 September 1992	E/1990/5/Add.23 (E/C.12/1996/SR.1, 2 and 4)			Overdue		
105. Peru	28 July 1978	E/1984/6/Add.5 (E/1984/WG.1/ SR.11 and 18)	E/1990/5/Add.29 (E/C.12/1997/SR.14-17)		Overdue		
106. Philippines	3 January 1976	E/1978/8/Add.4 (E/1980/WG.1/ SR.11)	E/1986/3/Add.17 (E/C.12/1995/ SR.11, 12 and 14)	E/1988/5/Add.2 (E/C.12/1990/ SR.8, 9 and 11)	E/1984/7/Add.4 (E/1984/WG.1/ SR.15 and 20)	Overdue	

Annex I (continued)

State party	Date of entry into force	Initial reports			Second periodic reports		
		Articles 6-9	Articles 10-12	Articles 13-15	Articles 6-9	Articles 10-12	Articles 13-15
<i>(Summary records of consideration of reports)</i>							
107. Poland	18 June 1977	E/1978/8/Add.23 (E/1980/WG.1/ SR.18 and 19)	E/1980/6/Add.12 (E/1981/WG.1/ SR.11)	E/1982/3/Add.21 (E/1983/WG.1/ SR.9 and 10)	E/1984/7/Add.26 and 27 (E/1986/WG.1/ SR.25-27)	E/1986/4/Add.12 (E/C.12/1989/ SR.5 and 6)	E/1990/7/Add.9 (E/C.12/1992/ SR.6, 7 and 15)
108. Portugal	31 October 1978		E/1980/6/Add.35/ Rev.1 (E/1985/WG.1/ SR.2 and 4)	E/1982/3/Add.27/ Rev.1 (E/1985/WG.1/ SR.6 and 9)	E/1990/6/Add.6 (E/C.12/1995/SR.7, 8 and 10) E/1990/6/Add.8 (Macau) (E/C.12/1996/SR.31-33)		
109. Republic of Korea	10 July 1990	E/1990/5/Add.19 (E/C.12/1995/SR.3, 4 and 6)			E/1990/6/Add.23 (E/C.12/2001/SR.12-14)		
110. Republic of Moldova	26 March 1993	E/1990/5/Add.52 (E/C.12/2003/SR.32-34)			Due on 30 June 2008		
111. Romania	3 January 1976	E/1978/8/Add.20 (E/1980/WG.1/ SR.16 and 17)	E/1980/6/Add.1 (E/1981/WG.1/ SR.5)	E/1982/3/Add.13 (E/1982/WG.1/ SR.17 and 18)	E/1984/7/Add.17 (E/1985/WG.1/ SR.10 and 13)	E/1986/4/Add.17 (E/C.12/1988/ SR.6)	E/1990/7/Add.14 (E/C.12/1994/ SR.5, 7 and 13)
112. Russian Federation	3 January 1976	E/1978/8/Add.16 (E/1980/WG.1/ SR.14)	E/1980/6/Add.17 (E/1981/WG.1/ SR.14 and 15)	E/1982/3/Add.1 (E/1982/WG.1/ SR.11 and 12)	E/1984/7/Add.7 (E/1984/WG.1/ SR.9 and 10)	E/1986/4/Add.14 (E/C.12/1987/ SR.16-18)	E/1990/7/Add.8 (Withdrawn)
113. Rwanda	3 January 1976	E/1984/6/Add.4 (E/1984/WG.1/ SR.10 and 12)	E/1986/3/Add.1 (E/1986/WG.1/ SR.16 and 19)	E/1982/3/Add.42 (E/C.12/1989/ SR.10-12)	E/1984/7/Add.29 (E/C.12/1989/ SR.10-12)	Overdue	
114. Saint Vincent and the Grenadines	9 February 1982	Overdue					
115. San Marino	18 January 1986	Due on 31 May 2006					
116. Senegal	13 May 1978	E/1984/6/Add.22 (E/C.12/1993/ SR.37 and 38)	E/1980/6/Add.13/ Rev.1 (E/1981/WG.1/ SR.11)	E/1982/3/Add.17 (E/1983/WG.1/ SR.14-16)	E/1990/6/Add.25 (E/C.12/2001/SR.32 and 33)		
117. Serbia and Montenegro	12 March 2001	E/1990/5/Add.61 (Pending consideration)	E/C.12/2005/SR.5, 11-13		Due 30 June 2010		
118. Seychelles	5 August 1982	Overdue					
119. Sierra Leone	23 November 1996	Overdue					

Annex I (continued)

State party	Date of entry into force	Initial reports			Second periodic reports		
		Articles 6-9	Articles 10-12	Articles 13-15	Articles 6-9	Articles 10-12	Articles 13-15
		<i>(Summary records of consideration of reports)</i>					
120. Slovakia	28 May 1993	E/1990/5/Add.49 (E/C.12/2002/SR.30-32)			Due on 30 June 2007		
121. Slovenia	6 July 1992	E/1990/5/Add.62 (E/C.12/2005/SR.32-34 - pending consideration)			Due on 30 June 2010		
122. Solomon Islands	17 March 1982	Overdue (Without report: E/C.12/1999/SR.9) E/1990/5/Add.50 (E/C.12/2002/SR.38 and 39)			Due on 30 June 2005		
123. Somalia	24 April 1990	Overdue					
124. Spain	27 July 1977	E/1978/8/Add.26 (E/1980/WG.1/ SR.20)	E/1980/6/Add.28 (E/1982/WG.1/ SR.7)	E/1982/3/Add.22 (E/1983/WG.1/ SR.10 and 11)	E/1984/7/Add.2 (E/1984/WG.1/ SR.12 and 14)	E/1986/4/Add.6 (E/1986/WG.1/ SR.10 and 13)	E/1990/7/Add.3 (E/C.12/1991/ SR.13, 14, 16 and 22)
125. Sri Lanka	11 September 1980	E/1990/5/Add.32 (E/C.12/1998/SR.3-5)			Overdue		
126. Sudan	18 June 1986	E/1990/5/Add.41 (E/C.12/2000/SR.36 and 38-41)			Overdue		
127. Suriname	28 March 1977	E/1990/5/Add.20 (E/C.12/1995/SR.13, 15 and 16)			Overdue		
128. Swaziland	26 June 2004	Due on 30 June 2006					
129. Sweden	3 January 1976	E/1978/8/Add.5 (E/1980/WG.1/ SR.15)	E/1980/6/Add.8 (E/1981/WG.1/ SR.9)	E/1982/3/Add.2 (E/1982/WG.1/ SR.19 and 20)	E/1984/7/Add.5 (E/1984/WG.1/ SR.14 and 16)	E/1986/4/Add.13 (E/C.12/1988/ SR.10 and 11)	E/1990/7/Add.2 (E/C.12/1991/ SR.11-13 and 18)
130. Switzerland	18 September 1992	E/1990/5/Add.33 (E/C.12/1998/SR.37-39)			Overdue		
131. Syrian Arab Republic	3 January 1976	E/1978/8/Add.25 and 31 (E/1983/WG.1/ SR.2)	E/1980/6/Add.9 (E/1981/WG.1/ SR.4)		E/1990/6/Add.1 (E/C.12/1991/SR.7, 9 and 11)		
132. Tajikistan	4 April 1999	E/1990/5/Add.68 (Received on 15 May 2005 - pending consideration)					
133. Thailand	5 December 1999	Overdue					
134. The former Yugoslav Republic of Macedonia	17 September 1991	E/C.12/MKD/1 (Received on 21 July 2005 - pending consideration)					
135. Timor-Leste	16 July 2003	Overdue (Was due on 30 June 2005)					
136. Togo	24 August 1984	Overdue (Without report: E/C.12/2001/SR.19 and 25)					
137. Trinidad and Tobago	8 March 1979	E/1984/6/Add.21	E/1986/3/Add.11	E/1988/5/Add.1	E/1990/6/Add.30 (E/C.12/2002/SR.15 and 16)		

Annex I (continued)

State party	Date of entry into force	Initial reports			Second periodic reports		
		Articles 6-9	Articles 10-12	Articles 13-15	Articles 6-9	Articles 10-12	Articles 13-15
		(Summary records of consideration of reports)					
138. Tunisia	3 January 1976	E/1978/8/Add.3 (E/1980/WG.1/ SR.5 and 6)	E/1986/3/Add.9 (E/C.12/1989/ SR.9)		E/1990/6/Add.14 (E/C.12/1999/SR.17-19)		
139. Turkey	23 December 2003	(Was due on 30 June 2005)					
140. Turkmenistan	1 August 1997	Overdue					
141. Uganda	21 April 1987	Overdue					
142. Ukraine	3 January 1976	E/1978/8/Add.22 (E/1980/WG.1/ SR.18)	E/1980/6/Add.24 (E/1982/WG.1/ SR.5 and 6)	E/1982/3/Add.4 (E/1982/WG.1/ SR.11 and 12)	E/1984/7/Add.9 (E/1984/WG.1/ SR.13-15)	E/1986/4/Add.5 (E/C.12/1987/ SR.9-11)	E/1990/7/Add.11 (Withdrawn)
143. United Kingdom of Great Britain and Northern Ireland	20 August 1976	E/1978/8/Add.9 and 30 (E/1980/WG.1/ SR.19 and E/1982/WG.1/ SR.1)	E/1980/6/Add.16 and Corr.1, Add.25 and Corr.1 and Add.26 (E/1981/WG.1/ SR.16 and 17)	E/1982/3/Add.16 (E/1982/WG.1/ SR.19-21)	E/1984/7/Add.20 (E/1985/WG.1/ SR.14 and 17)	E/1986/4/Add.23 (E/C.12/1989/SR.16 and 17) E/1986/4/Add.27 and 28 (E/C.12/1994/SR.33, 34, 36 and 37)	E/1990/7/Add.16 (E/C.12/1994/ SR.33, 34, 36 and 37)
144. United Republic of Tanzania	11 September 1976	Overdue	E/1980/6/Add.2 (E/1981/WG.1/ SR.5)	Overdue			
145. Uruguay	3 January 1976	E/1990/5/Add.7 (E/C.12/1994/SR.3, 4, 6 and 13)			E/1990/6/Add.10 (E/C.12/1997/SR.42-44)		
146. Uzbekistan	28 December 1995	E/1990/5/Add.63 (E/C.12/2005/SR.38-40)			Due on 30 June 2010		
147. Venezuela (Bolivarian Republic of)	10 August 1978	E/1984/6/Add.1 (E/1984/WG.1/ SR.7, 8 and 10)	E/1980/6/Add.38 (E/1986/WG.1/ SR.2 and 5)	E/1982/3/Add.33 (E/1986/WG.1/ SR.12, 17 and 18)	E/1990/6/Add.19 (E/C.12/2001/SR.3-5)		
148. Viet Nam	24 December 1982	E/1990/5/Add.10 (E/C.12/1993/SR.9-11)			Overdue		
149. Yemen	9 May 1987	E/1990/5/Add.54 (E/C.12/2003/SR.35-37)			Due on 30 June 2008		
150. Zambia	10 July 1984		E/1990/5/Add.60 (E/C.12/2005/ SR.3-5)		Due on 30 June 2010		
151. Zimbabwe	13 August 1991	E/1990/5/Add.28 (E/C.12/1997/SR.8-10 and 14)			Overdue		

Annex I (continued)

B. Third and fourth periodic reports

<i>State party</i>	<i>Date of entry into force</i>	<i>Third periodic reports</i>	<i>Fourth periodic reports</i>
		<i>(Summary records of consideration of reports)</i>	
1. Afghanistan	24 April 1983		
2. Albania	4 January 1992		
3. Algeria	12 December 1989	Due on 30 June 2006	
4. Angola	10 April 1992		
5. Argentina	8 November 1986	Overdue	
6. Armenia	13 December 1993		
7. Australia	10 March 1976	E/1994/104/Add.22 (E/C.12/2000/SR.45-47)	Overdue (Was due on 30 June 2005)
8. Austria	10 December 1978	E/1994/104/Add.28 (E/C.12/2005/SR.35-37)	Due on 30 June 2010
9. Azerbaijan	13 November 1992	Due on 30 June 2009	
10. Bangladesh	5 January 1999		
11. Barbados	3 January 1976		
12. Belarus	3 January 1976	E/1994/104/Add.6 (E/C.12/1996/SR.34-36)	Overdue
13. Belgium	21 July 1983	Overdue (Was due on 30 June 2005)	
14. Benin	12 June 1992		
15. Bolivia	12 November 1982		
16. Bosnia and Herzegovina	6 March 1993		
17. Brazil	24 April 1992		
18. Bulgaria	3 January 1976	E/1994/104/Add.16 (E/C.12/1999/SR.30-32)	Overdue
19. Burkina Faso	4 April 1999		
20. Burundi	9 August 1990		
21. Cambodia	26 August 1992		
22. Cameroon	27 September 1984		
23. Canada	19 August 1976	E/1994/104/Add.17 (E/C.12/1998/SR.46-48)	E/C.12/4/Add.15 (Pending consideration)
24. Cape Verde	6 November 1993		
25. Central African Republic	8 August 1981		
26. Chad	9 September 1995		

Annex I (continued)

<i>State party</i>	<i>Date of entry into force</i>	<i>Third periodic reports</i>	<i>Fourth periodic reports</i>
		<i>(Summary records of consideration of reports)</i>	
27. Chile	3 January 1976	E/1994/104/Add.26 (E/C.12/2004/SR.44-46)	Due on 30 June 2009
28. China	27 June 2001		
29. Colombia	3 January 1976	E/1994/104/Add.2 (E/C.12/1995/SR.32, 33 and 35)	E/C.12/4/Add.6 (E/C.12/2001/SR.63 and 64); fifth periodic report due on 30 June 2006
30. Congo	5 January 1984		
31. Costa Rica	3 January 1976		
32. Côte d'Ivoire	26 June 1992		
33. Croatia	8 October 1991		
34. Cyprus	3 January 1976	E/1994/104/Add.12 (E/C.12/1998/SR.34-36)	Overdue
35. Czech Republic	1 January 1993		
36. Democratic People's Republic of Korea	14 December 1981	Due on 30 June 2008	
37. Democratic Republic of the Congo	1 February 1977		
38. Denmark	3 January 1976	E/1994/104/Add.15 (E/C.12/1999/SR.11-13)	E/C.12/4/Add.12 (E/C.12/2004/SR.35-37)
39. Djibouti	5 February 2003		
40. Dominica	17 September 1993		
41. Dominican Republic	4 April 1978	Overdue	
42. Ecuador	3 January 1976	Due on 30 June 2009	
43. Egypt	14 April 1982		
44. El Salvador	29 February 1980		
45. Equatorial Guinea	25 December 1987		
46. Eritrea	17 July 2001		
47. Estonia	21 January 1992		
48. Ethiopia	11 September 1993		
49. Finland	3 January 1976	E/1994/104/Add.7 (E/C.12/1996/SR.37, 38 and 40)	E/C.12/4/Add.1 (E/C.12/2000/SR.61-63)

Annex I (continued)

<i>State party</i>	<i>Date of entry into force</i>	<i>Third periodic reports</i>	<i>Fourth periodic reports</i>
		<i>(Summary records of consideration of reports)</i>	
50. France	4 February 1981	Due on 30 June 2006	
51. Gabon	21 April 1983		
52. Gambia	29 March 1979		
53. Georgia	3 August 1994	Due on 30 June 2007	
54. Germany	3 January 1976	E/1994/104/Add.14 (E/C.12/1998/SR.40-42)	E/C.12/4/Add.3 (E/C.12/2001/SR.48 and 49); fifth periodic report due on 30 June 2006
55. Ghana	7 December 2000		
56. Greece	16 August 1985		
57. Grenada	6 December 1991		
58. Guatemala	19 August 1988	Due on 30 June 2008	
59. Guinea	24 April 1978		
60. Guinea-Bissau	2 October 1992		
61. Guyana	15 May 1977		
62. Honduras	17 May 1981		
63. Hungary	3 January 1976	E/C.12/HUN/3 (Received on 29 September 2005 - pending consideration)	
64. Iceland	22 November 1979	E/1994/104/Add.25 (E/C.12/2003/SR.14-16)	Due on 30 June 2008
65. India	10 July 1979		
66. Iran (Islamic Republic of)	3 January 1976		
67. Iraq	3 January 1976	E/1994/104/Add.9 (E/C.12/1997/SR.33-35)	Was due on 30 June 2000
68. Ireland	8 March 1990	Due on 30 June 2007	
69. Israel	3 January 1992	Due on 30 June 2008	
70. Italy	15 December 1978	E/1994/104/Add.19 (E/C.12/2000/SR.6-8)	E/C.12/4/Add.13 (E/C.12/2004/SR.38-40); fifth periodic report due on 30 June 2009
71. Jamaica	3 January 1976	Overdue	
72. Japan	21 September 1979	Due on 30 June 2006	

Annex I (continued)

<i>State party</i>	<i>Date of entry into force</i>	<i>Third periodic reports</i>	<i>Fourth periodic reports</i>
		<i>(Summary records of consideration of reports)</i>	
73. Jordan	3 January 1976	Overdue	
74. Kenya	3 January 1976		
75. Kuwait	31 August 1996		
76. Kyrgyzstan	7 January 1995		
77. Latvia	14 July 1992		
78. Lebanon	3 January 1976		
79. Lesotho	9 December 1992		
80. Liberia	22 December 2004		
81. Libyan Arab Jamahiriya	3 January 1976	Due on 30 June 2007	
82. Liechtenstein	10 March 1999		
83. Lithuania	20 February 1992		
84. Luxembourg	18 November 1983	E/1994/104/Add.24 (E/C.12/2003/SR.5 and 6)	Due on 30 June 2008
85. Madagascar	3 January 1976		
86. Malawi	22 March 1994		
87. Mali	3 January 1976		
88. Malta	13 December 1990		
89. Mauritania	17 February 2005		
90. Mauritius	3 January 1976		
91. Mexico	23 June 1981	E/1994/104/Add.18 (E/C.12/1999/SR.44-46)	E/C.12/4/Add.16 (Received on 20 December 2004 - pending consideration)
92. Monaco	28 November 1997		
93. Mongolia	3 January 1976	E/1994/104/Add.21 (E/C.12/2000/SR.34-37)	Overdue
94. Morocco	3 August 1979	E/1994/104/Add.29 (Pending consideration)	
95. Namibia	28 February 1995		
96. Nepal	14 August 1991		
97. Netherlands	11 March 1979	E/1994/104/Add.30 and E/C.12/ANT/3 (Netherlands Antilles) (Received on 5 August 2005 and 18 August 2005 - pending consideration)	

Annex I (continued)

<i>State party</i>	<i>Date of entry into force</i>	<i>Third periodic reports</i>	<i>Fourth periodic reports</i>
		<i>(Summary records of consideration of reports)</i>	
98. New Zealand	28 March 1979	Due on 30 June 2008	
99. Nicaragua	12 June 1980		
100. Niger	7 June 1986		
101. Nigeria	29 October 1993		
102. Norway	3 January 1976	E/1994/104/Add.3 (E/C.12/1995/SR.34, 36 and 37)	E/C.12/4/Add.14 (E/C.12/2005/SR.14 and 15; fifth periodic report due on 30 June 2010)
103. Panama	8 June 1977	Overdue (Due on 30 June 2004)	
104. Paraguay	10 September 1992		
105. Peru	28 July 1978		
106. Philippines	3 January 1976		
107. Poland	18 June 1977	E/1994/104/Add.13 (E/C.12/1998/SR.10-12)	E/C.12/4/Add.9 (E/C.12/2002/SR.33 and 34); fifth periodic report due on 30 June 2007
108. Portugal	31 October 1978	E/1994/104/Add.20 (E/C.12/2000/SR.58-60)	Overdue (Was due on 30 June 2005)
109. Republic of Korea	10 July 1990	Due on 30 June 2006	
110. Republic of Moldova	26 March 1993		
111. Romania	3 January 1976	Overdue	
112. Russian Federation	3 January 1976	E/1994/104/Add.8 (E/C.12/1997/SR.11-14)	E/C.12/4/Add.10 (E/C.12/2003/SR.41-43); fifth periodic report due on 30 June 2008
113. Rwanda	3 January 1976		
114. Saint Vincent and the Grenadines	9 February 1982		
115. San Marino	18 January 1986		
116. Senegal	13 May 1978	Overdue	
117. Serbia and Montenegro	12 March 2001		
118. Seychelles	5 August 1982		
119. Sierra Leone	23 November 1996		
120. Slovakia	28 May 1993		

Annex I (continued)

<i>State party</i>	<i>Date of entry into force</i>	<i>Third periodic reports</i>	<i>Fourth periodic reports</i>
		<i>(Summary records of consideration of reports)</i>	
121. Slovenia	6 July 1992		
122. Solomon Islands	17 March 1982		
123. Somalia	24 April 1990		
124. Spain	27 July 1977	E/1994/104/Add.5 (E/C.12/1996/SR.3 and 5-7)	E/C.12/4/Add.11 (E/C.12/2004/SR.12-14); fifth periodic report due on 30 June 2009
125. Sri Lanka	11 September 1980		
126. Sudan	18 June 1986		
127. Suriname	28 March 1977		
128. Swaziland	26 June 2004		
129. Sweden	3 January 1976	E/1994/104/Add.1 (E/C.12/1995/SR.13, 15 and 16)	E/C.12/4/Add.4 (E/C.12/2001/SR.61 and 62); fifth periodic report due on 30 June 2006
130. Switzerland	18 September 1992		
131. Syrian Arab Republic	3 January 1976	E/1994/104/Add.23 (E/C.12/2001/SR.34-35)	Due on 30 June 2006
132. Tajikistan	4 April 1999		
133. Thailand	5 December 1999		
134. The former Yugoslav Republic of Macedonia	17 September 1991		
135. Timor-Leste	16 July 2003		
136. Togo	24 August 1984		
137. Trinidad and Tobago	8 March 1979	Due on 30 June 2007	
138. Tunisia	3 January 1976	Overdue	
139. Turkey	23 December 2003		
140. Turkmenistan	1 August 1997		
141. Uganda	21 April 1987		
142. Ukraine	3 January 1976	E/1994/104/Add.4 (E/C.12/1995/SR.42, 44 and 45)	E/C.12/4/Add.2 (E/C.12/2001/SR.40 and 41); fifth periodic report due on 30 June 2006
143. United Kingdom of Great Britain and Northern Ireland	20 August 1976	E/1994/104/Add.10 (Hong Kong) (E/C.12/1996/SR.39, 41, 42 and 44) E/1994/104/Add.11 (E/C.12/1997/SR.36-38)	E/C.12/4/Add.5 (Overseas Dependent Territories); E/C.12/4/Add.7 (Crown Dependencies); E/C.12/4/Add.8 (E/C.12/2002/SR.11-13); fifth periodic report due on 30 June 2007

Annex I (continued)

<i>State party</i>	<i>Date of entry into force</i>	<i>Third periodic reports</i>	<i>Fourth periodic reports</i>
		<i>(Summary records of consideration of reports)</i>	
144. United Republic of Tanzania	11 September 1976		
145. Uruguay	3 January 1976		
146. Uzbekistan	28 December 1995		
147. Venezuela (Bolivarian Republic of)	10 August 1978	Due on 30 June 2006	
148. Viet Nam	24 December 1982		
149. Yemen	9 May 1987		
150. Zambia	10 July 1984		
151. Zimbabwe	13 August 1991		

C. Fifth periodic reports

<i>State party</i>	<i>Date of entry into force</i>	<i>Fifth periodic reports</i>
23. Canada	24 April 1983	E/C.12/CAN/5 (Received on 17 August 2005 - pending consideration)
49. Finland	4 January 1992	E/C.12/FIN/5 (Received on 10 October 2005 - pending consideration)

* Including the Special Administrative Region of Hong Kong and the Special Administrative Region of Macao.

** The Committee considered the situation in Kenya, without a report, at its eighth session (3rd meeting). It examined the initial report of Kenya (E/1990/5/Add.17) at its tenth session (12th meeting) and requested the State party to submit a new complete report by the end of 1994.

ANNEX II

States parties whose initial or periodic reports have been overdue for more than 10 years (Status as of 25 November 2005)

A. Initial reports

<i>State party</i>	<i>Date due: 30 June</i>
Angola	1994
Burundi	1992
Cambodia	1994
Cape Verde	1995
Central African Republic	1990
Congo	1990
Côte d'Ivoire	1994
Dominica	1995
Equatorial Guinea	1990
Ethiopia	1995
Gabon	1990
Gambia	1990
Grenada	1993
Guinea	1990
Guinea-Bissau	1994
Kenya	1995
Lesotho	1994
Mali	1990
Niger	1990
Saint Vincent and the Grenadines	1990
San Marino	1990
Seychelles	1994
Somalia	1992
Togo	1990
Uganda	1990
United Republic of Tanzania	1990
<u>Total: 26</u>	

B. Second periodic reports

<i>State party</i>	<i>Date due: 30 June</i>
Afghanistan	1995
Barbados	1991
Costa Rica	1993
Democratic Republic of the Congo	1992
India	1991
Iran (Islamic Republic of)	1995
Lebanon	1995
Madagascar	1990
Mauritius	1995
Nicaragua	1995
Philippines	1995
Rwanda	1990
Suriname	1995
Viet Nam	1995
<u>Total: 14</u>	

C. Third periodic reports

<i>State party</i>	<i>Date due: 30 June</i>
Romania	1994
<u>Total: 1</u>	

ANNEX III

Members of the Committee on Economic, Social and Cultural Rights

<i>Name of member</i>	<i>Country of nationality</i>	<i>Term expires on 31 December</i>
Mr. Mohamed Ezzeldin ABDEL-MONEIM	Egypt	2008
Mr. Clément ATANGANA	Cameroon	2006
Ms. Rocío BARAHONA RIERA	Costa Rica	2008
Ms. Virginia BONOAN-DANDAN	Philippines	2006
Ms. Maria Virginia BRAS GOMES	Portugal	2006
Ms. Arundhati GHOSE	India	2006
Mr. Azzouz KERDOUN	Algeria	2006
Mr. Yuri KOLOSOV	Russian Federation	2006
Mr. Giorgio MALINVERNI	Switzerland	2008
Mr. Jaime MARCHÁN ROMERO	Ecuador	2006
Mr. Sergei MARTYNOV	Belarus	2008
Mr. Ariranga Govindasamy PILLAY	Mauritius	2008
Mr. Eibe RIEDEL	Germany	2006
Mr. Andrzej RZEPLINSKI	Poland	2008
Mr. Waleed M. SADI	Jordan	2008
Mr. SHEN Yongxiang	China	2008
Mr. Philippe TEXIER	France	2008
Mr. Álvaro TIRADO MEJÍA	Colombia	2006

ANNEX IV

A. Agenda of the thirty-fourth session of the Committee on Economic, Social and Cultural Rights (25 April-13 May 2005)

1. Opening of the session.
2. Election of officers.
3. Adoption of the agenda.
4. Organization of work.
5. Substantive issues arising in the implementation of the International Covenant on Economic, Social and Cultural Rights.
6. Consideration of reports:
 - (a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant;
 - (b) Reports submitted by specialized agencies in accordance with article 18 of the Covenant.
7. Submission of reports by States parties in accordance with articles 16 and 17 of the Covenant.
8. Relations with United Nations organs and other treaty bodies.
9. Follow-up to the consideration of reports under articles 16 and 17 of the Covenant.
10. Formulation of suggestions and recommendations of a general nature based on the consideration of reports submitted by States parties to the Covenant and by the specialized agencies.
11. Miscellaneous matters.

**B. Agenda of the thirty-fifth session of the Committee on Economic,
Social and Cultural Rights (7-25 November 2005)**

1. Adoption of the agenda.
2. Organization of work.
3. Substantive issues arising in the implementation of the International Covenant on Economic, Social and Cultural Rights.
4. Follow-up to the consideration of reports under articles 16 and 17 of the Covenant.
5. Relations with United Nations organs and other treaty bodies.
6. Consideration of reports:
 - (a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant;
 - (b) Reports submitted by specialized agencies in accordance with article 18 of the Covenant.
7. Submission of reports by States parties in accordance with articles 16 and 17 of the Covenant.
8. Formulation of suggestions and recommendations of a general nature based on the consideration of reports submitted by States parties to the Covenant and by the specialized agencies.
9. Adoption of the report.
10. Miscellaneous matters.

ANNEX V

List of general comments adopted by the Committee on Economic, Social and Cultural Rights

The general comments adopted to date by the Committee appear in the following relevant reports:*

- No. 1 (1989): reporting by States parties (third session; E/1989/22-E/C.12/1989/5, annex III);
- No. 2 (1990): international technical assistance measures (art. 22 of the Covenant) (fourth session; E/1990/23-E/C.12/1990/3 and Corr.1, annex III);
- No. 3 (1990): the nature of States parties' obligations (art. 2, para. 1, of the Covenant) (fifth session; E/1991/23-E/C.12/1990/8 and Corr.1, annex III);
- No. 4 (1991): on the right to adequate housing (art. 11, para. 1, of the Covenant) (sixth session; E/1992/23-E/C.12/1991/4, annex III);
- No. 5 (1994): on persons with disabilities (eleventh session; E/1995/22-E/C.12/1994/20 and Corr.1, annex IV);
- No. 6 (1995): on the economic, social and cultural rights of older persons (thirteenth session; E/1996/22-E/C.12/1995/18, annex IV);
- No. 7 (1997): on the right to adequate housing (art. 11, para. 1, of the Covenant): forced evictions (sixteenth session; E/1998/22-E/C.12/1997/10, annex IV);
- No. 8 (1997): on the relationship between economic sanctions and respect for economic, social and cultural rights (seventeenth session; E/1998/22-E/C.12/1997/10, annex V);
- No. 9 (1998): on domestic application of the Covenant (eighteenth session; E/1999/22-E/C.12/1998/26, annex IV);
- No. 10 (1998): on the role of national human rights institutions in the protection of economic, social and cultural rights (nineteenth session; E/1999/22-E/C.12/1998/26, annex V);
- No. 11 (1999): on plans of action for primary education (art. 14 of the Covenant) (twentieth session; E/2000/22-E/C.12/1999/11 and Corr.1, annex IV);
- No. 12 (1999): on the right to adequate food (art. 11 of the Covenant) (twentieth session; E/2000/22-E/C.12/1999/11 and Corr.1, annex V);

* Published as *Official Records of the Economic and Social Council*.

- No. 13 (1999): on the right to education (art. 13 of the Covenant) (twenty-first session; E/2000/22-E/C.12/1999/11 and Corr.1, annex VI);
- No. 14 (2000): on the right to the highest attainable standard of health (art. 12 of the Covenant) (twenty-second session; E/2001/22-E/C.12/2000/22, annex IV);
- No. 15 (2002): on the right to water (arts. 11 and 12 of the Covenant) (twenty-ninth session; E/2003/22-E/C.12/2002/13, annex IV);
- No. 16 (2005): on the equal right of men and women to the enjoyment of all economic, social and cultural rights (art. 3 of the Covenant) (thirty-fourth session; E/2006/22-E/C.12/2005/5, annex VIII);
- No. 17 (2005): on the right of everyone to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author (art. 15 (1) (c) of the Covenant) (thirty-fifth session; E/2006/22-E/C.12/2005/5, annex IX);
- No. 18 (2005): on the right to work (art. 6 of the Covenant) (thirty-fifth session; E/2006/22-E/C.12/2005/5, annex X).

ANNEX VI

List of statements adopted by the Committee on Economic, Social and Cultural Rights

The statements and recommendations, adopted by the Committee to date, appear in its relevant reports.*

1. Preparatory activities relating to the World Conference on Human Rights: recommendations to the Preparatory Committee for the World Conference (sixth session; E/1992/23-E/C.12/1991/4, chap. IX);
2. Statement to the World Conference on Human Rights on behalf of the Committee (seventh session; E/1993/22-E/C.12/1992/2, annex III);
3. The World Summit for Social Development and the International Covenant on Economic, Social and Cultural Rights: Statement of the Committee (tenth session; E/1995/22-E/C.12/1994/20 and Corr.1, annex V);
4. Economic, social and cultural rights in the context of the World Summit for Social Development: Statement of the Committee (eleventh session; E/1995/22-E/C.12/1994/20 and Corr.1, annex VI);
5. Fourth World Conference on Women: Action for Equality, Development and Peace - Statement by the Committee (twelfth session; E/1996/22-E/C.12/1995/18, annex VI);
6. United Nations Conference on Human Settlements (Habitat II): Statement of the Committee (thirteenth session; E/1996/22-E/C.12/1995/18, annex VIII);
7. Globalization and its impact on the enjoyment of economic, social and cultural rights (eighteenth session; E/1999/22-E/C.12/1998/26; chap. VI, sect. A, para. 515);
8. Statement of the Committee to the Third Ministerial Conference of the World Trade Organization (twenty-first session; E/2000/22-E/C.12/1999/11 and Corr.1, annex VII);
9. Statement of the Committee to the Convention to draft a Charter of Fundamental Rights of the European Union (twenty-second session; E/2001/22-E/C.12/2000/21, annex VIII);
10. Poverty and the International Covenant on Economic, Social and Cultural Rights: Statement of the Committee to the Third United Nations Conference on the Least Developed Countries (twenty-fifth session; E/2002/22-E/C.12/2001/17, annex VII);

* Published as *Official Records of the Economic and Social Council*.

11. Statement of the Committee to the special session of the General Assembly for an overall review and appraisal of the implementation of the decisions taken at the United Nations Conference on Human Settlements (Habitat II) (New York, 6 to 8 June 2001) (twenty-fifth session; E/2002/22-E/C.12/2001/17, annex XI);
12. Statement of the Committee to the International Consultative Conference on School Education in Relation to Freedom of Religion and Belief, Tolerance and Non-Discrimination (twenty-seventh session; E/2002/22-E/C.12/2001/17, annex XII);
13. Statement of the Committee on human rights and intellectual property (twenty-seventh session; E/2002/22-E/C.12/2001/17, annex XIII);
14. Statement of the Committee to the Commission on Sustainable Development acting as the Preparatory Committee for the World Summit for Sustainable Development (Bali, Indonesia, 27 May-7 June 2002) (twenty-eighth session; E/2003/22-E/C.12/2002/13, annex VI);
15. The Millennium Development Goals and economic, social and cultural rights: joint statement by the Committee and the Special Rapporteurs on economic, social and cultural rights of the Commission on Human Rights (twenty-ninth session; E/2003/22-E/C.12/2002/13, annex VII).

ANNEX VII

Days of general discussion held by the Committee on Economic, Social and Cultural Rights

The following issues have been the focus of discussion:

1. The right to food (third session, 1989);
2. The right to housing (fourth session, 1990);
3. Economic and social indicators (sixth session, 1991);
4. The right to take part in cultural life (seventh session, 1992);
5. The rights of the ageing and elderly (eighth session, 1993);
6. The right to health (ninth session, 1993);
7. The role of social safety nets (tenth session, 1994);
8. Human rights education and public information activities (eleventh session, 1994);
9. The interpretation and practical application of the obligations incumbent on States parties (twelfth session, 1995);
10. A draft optional protocol to the Covenant (thirteenth session, 1995, and fourteenth and fifteenth sessions, 1996);
11. Revision of the general guidelines for reporting (sixteenth session, 1997);
12. The normative content of the right to food (seventeenth session, 1997);
13. Globalization and its impact on the enjoyment of economic, social and cultural rights (eighteenth session, 1998);
14. The right to education (nineteenth session, 1998);
15. The right of everyone to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author (twenty-fourth session, 2000);
16. International consultation on economic, social and cultural rights in development activities of international institutions, organized in cooperation with the High Council for International Cooperation (France) (twenty-fifth session, 2001);
17. Equal right of men and women to the enjoyment of economic, social and cultural rights (art. 3 of the Covenant) (twenty-eighth session, 2002);
18. The right to work (art. 6 of the Covenant) (thirty-first session, 2003).

ANNEX VIII

General comment No. 16 (2005)*

The equal right of men and women to the enjoyment of all economic, social and cultural rights (art. 3 of the Covenant)

Introduction

1. The equal right of men and women to the enjoyment of all human rights is one of the fundamental principles recognized under international law and enshrined in the main international human rights instruments. The International Covenant on Economic, Social and Cultural Rights protects human rights that are fundamental to the dignity of every person. In particular, article 3 of this Covenant provides for the equal right of men and women to the enjoyment of the rights it articulates. This provision is founded on Article 1, paragraph 3, of the Charter of the United Nations and article 2 of the Universal Declaration of Human Rights. Except for the reference to the International Covenant on Economic, Social and Cultural Rights, it is identical to article 3 of the International Covenant on Civil and Political Rights, which was drafted at the same time.
2. The *travaux préparatoires* state that article 3 was included in the International Covenant on Economic, Social and Cultural Rights, as well as in the International Covenant on Civil and Political Rights, to indicate that beyond a prohibition of discrimination, “the same rights should be expressly recognized for men and women on an equal footing and suitable measures should be taken to ensure that women had the opportunity to exercise their rights ... Moreover, even if article 3 overlapped with article 2, paragraph 2, it was still necessary to reaffirm the equal rights of men and women. That fundamental principle, which was enshrined in the Charter of the United Nations, must be constantly emphasized, especially as there were still many prejudices preventing its full application”.^a Unlike article 26 of the International Covenant on Civil and Political Rights, articles 3 and 2, paragraph 2, of the International Covenant on Economic, Social and Cultural Rights are not stand-alone provisions, but should be read in conjunction with each specific right guaranteed under part III of the Covenant.
3. Article 2, paragraph 2, of the Covenant provides for a guarantee of non-discrimination on the basis of sex, among other grounds. This provision, and the guarantee of equal enjoyment of rights by men and women in article 3, are integrally related and mutually reinforcing. Moreover, the elimination of discrimination is fundamental to the enjoyment of economic, social and cultural rights on a basis of equality.
4. The Committee on Economic, Social and Cultural Rights has taken particular note of factors negatively affecting the equal right of men and women to the enjoyment of economic,

* Adopted at the thirty-fourth session (21st meeting) of the Committee on 10 May 2005.

^a Draft international covenants on human rights, report of the Third Committee (A/53/65), para. 85.

social and cultural rights in many of its general comments, including those on the right to adequate housing,^b the right to adequate food,^c the right to education,^d the right to the highest attainable standard of health,^e and the right to water.^f The Committee also routinely requests information on the equal enjoyment by men and women of the rights guaranteed under the Covenant in its list of issues in relation to States parties' reports and during its dialogue with States parties.

5. Women are often denied equal enjoyment of their human rights, in particular by virtue of the lesser status ascribed to them by tradition and custom, or as a result of overt or covert discrimination. Many women experience distinct forms of discrimination due to the intersection of sex with such factors as race, colour, language, religion, political and other opinion, national or social origin, property, birth, or other status, such as age, ethnicity, disability, marital, refugee or migrant status, resulting in compounded disadvantage.^g

I. CONCEPTUAL FRAMEWORK

A. Equality

6. The essence of article 3 of the Covenant is that the rights set forth in the Covenant are to be enjoyed by men and women on a basis of equality, a concept that carries substantive meaning. While expressions of formal equality may be found in constitutional provisions, legislation and policies of Governments, article 3 also mandates the equal enjoyment of the rights in the Covenant for men and women in practice.

7. The enjoyment of human rights on the basis of equality between men and women must be understood comprehensively. Guarantees of non-discrimination and equality in international human rights treaties mandate both de facto and de jure equality. De jure (or formal) equality and de facto (or substantive) equality are different but interconnected concepts. Formal equality assumes that equality is achieved if a law or policy treats men and women in a neutral manner.

^b General comment No. 4 (1991) on the right to adequate housing (art. 11, para. 1, of the Covenant) para. 6; general comment No. 7 (1997) on the right to adequate housing (art. 11, para. 1, of the Covenant): forced evictions, para. 10.

^c General comment No. 12 (1999) on the right to adequate food (art. 11 of the Covenant), para. 26.

^d General comment No. 11 (1999) on plans for primary education (art. 14 of the Covenant), para. 3; general comment No. 13 (1999) on the right to education (art. 13 of the Covenant), paras. 6 (b), 31 and 32.

^e General comment No. 14 (2000) on the right to the highest attainable standard of health (art. 12 of the Covenant), paras. 18-22.

^f General comment No. 15 (2002) on the right to water (arts. 11 and 12 of the Covenant), paras. 13 and 14.

^g See general recommendation XXV on gender-related dimensions of racial discrimination adopted by the Committee on the Elimination of Racial Discrimination at its fifty-sixth session (*Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 18 (A/55/18), annex V*).

Substantive equality is concerned, in addition, with the effects of laws, policies and practices and with ensuring that they do not maintain, but rather alleviate, the inherent disadvantage that particular groups experience.

8. Substantive equality for men and women will not be achieved simply through the enactment of laws or the adoption of policies that are, *prima facie*, gender-neutral. In implementing article 3, States parties should take into account that such laws, policies and practice can fail to address or even perpetuate inequality between men and women because they do not take account of existing economic, social and cultural inequalities, particularly those experienced by women.

9. According to article 3, States parties must respect the principle of equality in and before the law. The principle of equality in the law must be respected by the legislature when adopting laws, by ensuring that those laws further equal enjoyment of economic, social and cultural rights by men and women. The principle of equality before the law must be respected by administrative agencies, and courts and tribunals, and implies that those authorities must apply the law equally to men and women.

B. Non-discrimination

10. The principle of non-discrimination is the corollary of the principle of equality. Subject to what is stated in paragraph 15 below on temporary special measures, it prohibits differential treatment of a person or group of persons based on his/her or their particular status or situation, such as race, colour, sex, language, religion, political and other opinion, national or social origin, property, birth, or other status, such as age, ethnicity, disability, marital, refugee or migrant status.

11. Discrimination against women is “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field”.^h Discrimination on the basis of sex may be based on the differential treatment of women because of their biology, such as refusal to hire women because they could become pregnant; or stereotypical assumptions, such as tracking women into low-level jobs on the assumption that they are unwilling to commit as much time to their work as men.

12. Direct discrimination occurs when a difference in treatment relies directly and explicitly on distinctions based exclusively on sex and characteristics of men or of women, which cannot be justified objectively.

13. Indirect discrimination occurs when a law, policy or programme does not appear to be discriminatory, but has a discriminatory effect when implemented. This can occur, for example, when women are disadvantaged compared to men with respect to the enjoyment of a particular opportunity or benefit due to pre-existing inequalities. Applying a gender-neutral law may leave the existing inequality in place, or exacerbate it.

^h As defined in article 1 of the Convention on the Elimination of All Forms of Discrimination against Women.

14. Gender affects the equal right of men and women to the enjoyment of their rights. Gender refers to cultural expectations and assumptions about the behaviour, attitudes, personality traits, and physical and intellectual capacities of men and women, based solely on their identity as men or women. Gender-based assumptions and expectations generally place women at a disadvantage with respect to substantive enjoyment of rights, such as freedom to act and to be recognized as autonomous, fully capable adults, to participate fully in economic, social and political development, and to make decisions concerning their circumstances and conditions. Gender-based assumptions about economic, social and cultural roles preclude the sharing of responsibility between men and women in all spheres that is necessary to equality.

C. Temporary special measures

15. The principles of equality and non-discrimination, by themselves, are not always sufficient to guarantee true equality. Temporary special measures may sometimes be needed in order to bring disadvantaged or marginalized persons or groups of persons to the same substantive level as others. Temporary special measures aim at realizing not only *de jure* or formal equality, but also *de facto* or substantive equality for men and women. However, the application of the principle of equality will sometimes require that States parties take measures in favour of women in order to attenuate or suppress conditions that perpetuate discrimination. As long as these measures are necessary to redress *de facto* discrimination and are terminated when *de facto* equality is achieved, such differentiation is legitimate.ⁱ

II. STATES PARTIES' OBLIGATIONS

A. General legal obligations

16. The equal right of men and women to the enjoyment of economic, social and cultural rights is a mandatory and immediate obligation of States parties.^j

17. The equal right of men and women to the enjoyment of economic, social and cultural rights, like all human rights, imposes three levels of obligations on States parties - the obligation to respect, to protect and to fulfil. The obligation to fulfil further contains duties to provide, promote and facilitate.^k Article 3 sets a non-derogable standard for compliance with the obligations of States parties as set out in articles 6 through 15 of the Covenant.

ⁱ However, there is one exception to this general principle: reasons specific to an individual male candidate may tilt the balance in his favour, which is to be assessed objectively, taking into account all criteria pertaining to the individual candidates. This is a requirement of the principle of proportionality.

^j The Committee's general comment No. 3 (1990) on the nature of States parties' obligations (art. 2, para. 1, of the Covenant).

^k According to the Committee's general comments No. 12 (1999) and No. 13 (1999), the obligation to fulfil incorporates an obligation to facilitate and an obligation to provide. In the present general comment, the obligation to fulfil also incorporates an obligation to promote the elimination of all forms of discrimination against women.

B. Specific legal obligations

Obligation to respect

18. The obligation to respect requires States parties to refrain from discriminatory actions that directly or indirectly result in the denial of the equal right of men and women to their enjoyment of economic, social and cultural rights. Respecting the right obliges States parties not to adopt, and to repeal laws and rescind, policies, administrative measures and programmes that do not conform with the right protected by article 3 of the Covenant. In particular, it is incumbent upon States parties to take into account the effect of apparently gender-neutral laws, policies and programmes and to consider whether they could result in a negative impact on the ability of men and women to enjoy their human rights on a basis of equality.

Obligation to protect

19. The obligation to protect requires States parties to take steps aimed directly at the elimination of prejudices, customary and all other practices that perpetuate the notion of inferiority or superiority of either of the sexes, and stereotyped roles for men and women. States parties' obligation to protect under article 3 of the Covenant includes, inter alia, the respect and adoption of constitutional and legislative provisions on the equal right of men and women to enjoy all human rights and the prohibition of discrimination of any kind; the adoption of legislation to eliminate discrimination and to prevent third parties from interfering directly or indirectly with the enjoyment of this right; the adoption of administrative measures and programmes, as well as the establishment of public institutions, agencies and programmes to protect women against discrimination.

20. States parties have an obligation to monitor and regulate the conduct of non-State actors to ensure that they do not violate the equal right of men and women to enjoy economic, social and cultural rights. This obligation applies, for example, in cases where public services have been partially or fully privatized.

Obligation to fulfil

21. The obligation to fulfil requires States parties to take steps to ensure that in practice, men and women enjoy their economic, social and cultural rights on a basis of equality. Such steps should include:

(a) To make available and accessible appropriate remedies, such as compensation, reparation, restitution, rehabilitation, guarantees of non-repetition, declarations, public apologies, educational programmes and prevention programmes;

(b) To establish appropriate venues for redress such as courts and tribunals or administrative mechanisms that are accessible to all on the basis of equality, including the poorest and most disadvantaged and marginalized men and women;

(c) To develop monitoring mechanisms to ensure that the implementation of laws and policies aimed at promoting the equal enjoyment of economic, social and cultural rights by men and women do not have unintended adverse effects on disadvantaged or marginalized individuals or groups, particularly women and girls;

(d) To design and implement policies and programmes to give long-term effect to the economic, social and cultural rights of both men and women on the basis of equality. These may include the adoption of temporary special measures to accelerate women's equal enjoyment of their rights, gender audits, and gender-specific allocation of resources;

(e) To conduct human rights education and training programmes for judges and public officials;

(f) To conduct awareness-raising and training programmes on equality for workers involved in the realization of economic, social and cultural rights at the grass-roots level;

(g) To integrate, in formal and non-formal education, the principle of the equal right of men and women to the enjoyment of economic, social and cultural rights, and to promote equal participation of men and women, boys and girls, in schools and other education programmes;

(h) To promote equal representation of men and women in public office and decision-making bodies;

(i) To promote equal participation of men and women in development planning, decision-making and in the benefits of development and all programmes related to the realization of economic, social and cultural rights.

C. Specific examples of States parties' obligations

22. Article 3 is a cross-cutting obligation and applies to all the rights contained in articles 6 to 15 of the Covenant. It requires addressing gender-based social and cultural prejudices, providing for equality in the allocation of resources, and promoting the sharing of responsibilities in the family, community and public life. The examples provided in the following paragraphs may be taken as guidance on the ways in which article 3 applies to other rights in the Covenant, but are not intended to be exhaustive.

23. Article 6, paragraph 1, of the Covenant requires States parties to safeguard the right of everyone to the opportunity to gain a living by work which is freely chosen or accepted and to take the necessary steps to achieve the full realization of this right. Implementing article 3, in relation to article 6, requires *inter alia*, that in law and in practice, men and women have equal access to jobs at all levels and all occupations and that vocational training and guidance programmes, in both the public and private sectors, provide men and women with the skills, information and knowledge necessary for them to benefit equally from the right to work.

24. Article 7 (a) of the Covenant requires States parties to recognize the right of everyone to enjoy just and favourable conditions of work and to ensure, among other things, fair wages and equal pay for work of equal value. Article 3, in relation to article 7 requires, *inter alia*, that the State party identify and eliminate the underlying causes of pay differentials, such as gender-biased job evaluation or the perception that productivity differences between men and women exist. Furthermore, the State party should monitor compliance by the private sector with national legislation on working conditions through an effectively functioning labour inspectorate. The State party should adopt legislation that prescribes equal consideration in promotion, non-wage compensation and equal opportunity and support for vocational or professional

development in the workplace. Finally, the State party should reduce the constraints faced by men and women in reconciling professional and family responsibilities by promoting adequate policies for childcare and care of dependent family members.

25. Article 8, paragraph 1 (a), of the Covenant requires States parties to ensure the right of everyone to form and join trade unions of his or her choice. Article 3, in relation to article 8, requires allowing men and women to organize and join workers' associations that address their specific concerns. In this regard, particular attention should be given to domestic workers, rural women, women working in female-dominated industries and women working at home, who are often deprived of this right.

26. Article 9 of the Covenant requires that States parties recognize the right of everyone to social security, including social insurance, and to equal access to social services. Implementing article 3, in relation to article 9, requires, inter alia, equalizing the compulsory retirement age for both men and women; ensuring that women receive the equal benefit of public and private pension schemes; and guaranteeing adequate maternity leave for women, paternity leave for men, and parental leave for both men and women.

27. Article 10, paragraph 1, of the Covenant requires that States parties recognize that the widest possible protection and assistance should be accorded to the family, and that marriage must be entered into with the free consent of the intending spouses. Implementing article 3, in relation to article 10, requires States parties, inter alia, to provide victims of domestic violence, who are primarily female, with access to safe housing, remedies and redress for physical, mental and emotional damage; to ensure that men and women have an equal right to choose if, whom and when to marry - in particular, the legal age of marriage for men and women should be the same, and boys and girls should be protected equally from practices that promote child marriage, marriage by proxy, or coercion; and to ensure that women have equal rights to marital property and inheritance upon their husband's death. Gender-based violence is a form of discrimination that inhibits the ability to enjoy rights and freedoms, including economic, social and cultural rights, on a basis of equality. States parties must take appropriate measures to eliminate violence against men and women and act with due diligence to prevent, investigate, mediate, punish and redress acts of violence against them by private actors.

28. Article 11 of the Covenant requires States parties to recognize the right of everyone to an adequate standard of living for him/herself and his/her family, including adequate housing (para. 1) and adequate food (para. 2). Implementing article 3, in relation to article 11, paragraph 1, requires that women have a right to own, use or otherwise control housing, land and property on an equal basis with men, and to access necessary resources to do so. Implementing article 3, in relation to article 11, paragraph 2, also requires States parties, inter alia, to ensure that women have access to or control over means of food production, and actively to address customary practices under which women are not allowed to eat until the men are fully fed, or are only allowed less nutritious food.¹

¹ Other examples of obligations and possible violations of article 3 of the Covenant in relation to article 11, paragraphs 1 and 2, are further discussed in general comment No. 12 (1999), para. 26.

29. Article 12 of the Covenant requires States parties to undertake steps towards the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. The implementation of article 3, in relation to article 12, requires at a minimum the removal of legal and other obstacles that prevent men and women from accessing and benefiting from health care on a basis of equality. This includes, inter alia, addressing the ways in which gender roles affect access to determinants of health, such as water and food; the removal of legal restrictions on reproductive health provisions; the prohibition of female genital mutilation; and the provision of adequate training for health-care workers to deal with women's health issues.^m

30. Article 13, paragraph 1, of the Covenant requires States parties to recognize the right of everyone to education and paragraph 2 (a) stipulates that primary education shall be compulsory and available free to all. Implementing article 3, in relation to article 13, requires, inter alia, the adoption of legislation and policies to ensure the same admission criteria for boys and girls at all levels of education. States parties should ensure, in particular through information and awareness-raising campaigns, that families desist from giving preferential treatment to boys when sending their children to school, and that curricula promote equality and non-discrimination. States parties must create favourable conditions to ensure the safety of children, in particular girls, on their way to and from school.

31. Article 15, paragraph 1 (a) and (b), of the Covenant requires States parties to recognize the right of everyone to take part in cultural life and to enjoy the benefits of scientific progress. Implementing article 3, in relation to article 15, paragraph 1 (a) and (b), requires, inter alia, overcoming institutional barriers and other obstacles, such as those based on cultural and religious traditions, which prevent women from fully participating in cultural life, science education and scientific research, and directing resources to scientific research relating to the health and economic needs of women on an equal basis with those of men.

III. IMPLEMENTATION AT THE NATIONAL LEVEL

A. Policies and strategies

32. The most appropriate ways and means of implementing the right under article 3 of the Covenant will vary from one State party to another. Every State party has a margin of discretion in adopting appropriate measures in complying with its primary and immediate obligation to ensure the equal right of men and women to the enjoyment of all their economic, social and cultural rights. Among other things, States parties must, integrate into national plans of action for human rights appropriate strategies to ensure the equal right of men and women to the enjoyment of economic, social and cultural rights.

33. These strategies should be based on the systematic identification of policies, programmes and activities relevant to the situation and context within the State, as derived from the normative content of article 3 of the Covenant and spelled out in relation to the levels and nature of States

^m See the Committee's general comment No. 14 (2000), paras. 18-21.

parties' obligations referred to in paragraphs 16 to 21 above. The strategies should give particular attention to the elimination of discrimination in the enjoyment of economic, social and cultural rights.

34. States parties should periodically review existing legislation, policies, strategies and programmes in relation to economic, social and cultural rights, and adopt any necessary changes to ensure that they are consonant with their obligations under article 3 of the Covenant.

35. The adoption of temporary special measures may be necessary to accelerate the equal enjoyment by women of all economic, social and cultural rights and to improve the de facto position of women.ⁿ Temporary special measures should be distinguished from permanent policies and strategies undertaken to achieve equality of men and women.

36. States parties are encouraged to adopt temporary special measures to accelerate the achievement of equality between men and women in the enjoyment of the rights under the Covenant. Such measures are not to be considered discriminatory in themselves as they are grounded in the State's obligation to eliminate disadvantage caused by past and current discriminatory laws, traditions and practices. The nature, duration and application of such measures should be designed with reference to the specific issue and context, and should be adjusted as circumstances require. The results of such measures should be monitored with a view to being discontinued when the objectives for which they are undertaken have been achieved.

37. The right of individuals and groups of individuals to participate in decision-making processes that may affect their development must be an integral component of any policy, programme or activity developed to discharge governmental obligations under article 3 of the Covenant.

B. Remedies and accountability

38. National policies and strategies should provide for the establishment of effective mechanisms and institutions where they do not exist, including administrative authorities, ombudsmen and other national human rights institutions, courts and tribunals. These institutions should investigate and address alleged violations relating to article 3 of the Covenant, and provide remedies for such violations. States parties, for their part, should ensure that such remedies are effectively implemented.

C. Indicators and benchmarks

39. National policies and strategies should identify appropriate indicators and benchmarks on the right to equal enjoyment by men and women of economic, social and cultural rights in order

ⁿ Reference is made in this regard to general recommendation No. 25 (2004) on temporary special measures (art. 4, para. 1, of the Convention on the Elimination of All Forms of Discrimination against Women) adopted by the Committee on the Elimination of Discrimination against Women at its thirtieth session (*Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 38 (A/59/38)*, annex I; general comment No. 13 (1999) of the Committee on Economic, Social and Cultural Rights and the Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/2000/13).

to effectively monitor the implementation by the State party of its obligations under the Covenant in this regard. Disaggregated statistics, provided within specific time frames, are necessary to measure the progressive realization of economic, social and cultural rights by men and women, where appropriate.

IV. VIOLATIONS

40. States parties must fulfil their immediate and primary obligation to ensure the equal right of men and women to the enjoyment of economic, social and cultural rights.

41. The principle of equality between men and women is fundamental to the enjoyment of each of the specific rights enumerated in the Covenant. Failure to ensure formal and substantive equality in the enjoyment of any of these rights constitutes a violation of that right. Elimination of de jure as well as de facto discrimination is required for the equal enjoyment of economic, social and cultural rights. Failure to adopt, implement and monitor effects of laws, policies and programmes to eliminate de jure and de facto discrimination with respect to each of the rights enumerated in articles 6 to 15 of the Covenant constitutes a violation of those rights.

42. Violations of the rights contained in the Covenant can occur through the direct action of, failure to act or omission by States parties, or through their institutions or agencies at the national and local levels. The adoption and undertaking of any retrogressive measures that affect the equal right of men and women to the enjoyment of all the rights set forth in the Covenant constitutes a violation of article 3.

ANNEX IX

General comment No. 17 (2005)*

The right of everyone to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author (art. 15, para. 1 (c), of the Covenant)

Introduction and basic premises

1. The right of everyone to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he or she is the author is a human right, which derives from the inherent dignity and worth of all persons. This fact distinguishes article 15, paragraph 1 (c), of the International Covenant on Economic, Social and Cultural Rights and other human rights from most legal entitlements recognized in intellectual property systems. Human rights are fundamental, inalienable and universal entitlements belonging to individuals and, under certain circumstances, groups of individuals and communities. Human rights are fundamental as they are inherent to the human person as such, whereas intellectual property rights are first and foremost means by which States seek to provide incentives for inventiveness and creativity, encourage the dissemination of creative and innovative productions, as well as the development of cultural identities, and preserve the integrity of scientific, literary and artistic productions for the benefit of society as a whole.

2. In contrast to human rights, intellectual property rights are generally of a temporary nature, and can be revoked, licensed or assigned to someone else. While under most intellectual property systems, intellectual property rights, often with the exception of moral rights, may be allocated, limited in time and scope, traded, amended and even forfeited, human rights are timeless expressions of fundamental entitlements of the human person. Whereas the human right to benefit from the protection of the moral and material interests resulting from one's scientific, literary and artistic productions safeguards the personal link between authors and their creations and between peoples, communities, or other groups and their collective cultural heritage, as well as their basic material interests which are necessary to enable authors to enjoy an adequate standard of living, intellectual property regimes primarily protect business and corporate interests and investments. Moreover, the scope of protection of the moral and material interests of the author provided for by article 15, paragraph 1 (c), of the Covenant does not necessarily coincide with what is referred to as intellectual property rights under national legislation or international agreements.^a

* Adopted at the thirty-fifth session (51st meeting) of the Committee on 21 November 2005.

^a Relevant international instruments include, inter alia, the Paris Convention for the Protection of Industrial Property, as last revised in 1967; the Berne Convention for the Protection of Literary and Artistic Works, as last revised in 1979; the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention); the WIPO Copyright Treaty (World Intellectual Property Organization (WIPO)); the WIPO Performances and Phonograms Treaty (which, inter alia, provides international protection for performers of "expressions of folklore"), the Convention on Biological Diversity; the Universal

3. It is therefore important not to equate intellectual property rights with the human right recognized in article 15, paragraph 1 (c), of the Covenant. The human right to benefit from the protection of the moral and material interests of the author is recognized in a number of international instruments. In identical language, article 27, paragraph 2, of the Universal Declaration of Human Rights provides: “Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.” Similarly, this right is recognized in regional human rights instruments, such as article 13, paragraph 2, of the American Declaration of the Rights and Duties of Man, of 1948, article 14, paragraph 1 (c), of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, of 1988 (Protocol of San Salvador) and, albeit not explicitly, in article 1 of Protocol No. 1 to the Convention for the Protection of Human Rights and Fundamental Freedoms, of 1952 (European Convention on Human Rights).

4. The right to benefit from the protection of the moral and material interests resulting from one’s scientific, literary and artistic productions seeks to encourage the active contribution of creators to the arts and sciences and to the progress of society as a whole. As such, it is intrinsically linked to the other rights recognized in article 15 of the Covenant, i.e. the right to take part in cultural life (para. 1 (a)), the right to enjoy the benefits of scientific progress and its applications (para. 1 (b)), and the freedom indispensable for scientific research and creative activity (para. 3). The relationship between these rights and article 15, paragraph 1 (c), is at the same time mutually reinforcing and reciprocally limitative. The limitations imposed on the right of authors to benefit from the protection of the moral and material interests resulting from their scientific, literary and artistic productions by virtue of these rights will partly be explored in this general comment, partly in separate general comments on article 15, paragraphs 1 (a) and (b) and 3, of the Covenant. As a material safeguard for the freedom of scientific research and creative activity, guaranteed under article 15, paragraph 3 and article 15, paragraph 1 (c), also has an economic dimension and is, therefore, closely linked to the rights to the opportunity to gain one’s living by work which one freely chooses (art. 6, para. 1) and to adequate remuneration (art. 7 (a)), and to the human right to an adequate standard of living (art. 11, para. 1). Moreover, the realization of article 15, paragraph 1 (c), is dependent on the enjoyment of other human rights guaranteed in the International Bill of Human Rights and other international and regional instruments, such as the right to own property alone as well as in association with others,^b the

Copyright Convention, as last revised in 1971; and the Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS Agreement).

^b See article 17 of the Universal Declaration of Human Rights; article 5 (d) (v) of the International Convention on the Elimination of All Forms of Racial Discrimination; article 1 of Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights); article 21 of the American Convention on Human Rights (Pact of San José, Costa Rica); and article 14 of the African Charter on Human and Peoples’ Rights.

freedom of expression including the freedom to seek, receive and impart information and ideas of all kinds,^c the right to the full development of the human personality,^d and rights of cultural participation,^e including cultural rights of specific groups.^f

5. With a view to assisting States parties' implementation of the Covenant and fulfilment of their reporting obligations, this general comment focuses on the normative content of article 15, paragraph 1 (c) (chap. I), States parties' obligations (chap. II), violations (chap. III), implementation at the national level (chap. IV) and the obligations of actors other than States parties (chap. V).

I. NORMATIVE CONTENT OF ARTICLE 15, PARAGRAPH 1 (c)

6. Article 15, paragraph 1, of the Covenant enumerates, in three paragraphs, three rights covering different aspects of cultural participation, including the right of everyone to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he or she is the author (para. 1 (c)), without explicitly defining the content and scope of this right. Therefore, each of the elements of article 15, paragraph 1 (c), requires interpretation.

A. Elements of article 15, paragraph 1 (c)

“Author”

7. The Committee considers that only the “author”, namely the creator, whether man or woman, individual or group of individuals,^g of scientific, literary or artistic productions, such as, inter alia, writers and artists, can be the beneficiary of the protection of article 15, paragraph 1 (c). This follows from the words “everyone”, “he” and “author”, which indicate that the drafters of that article seemed to have believed authors of scientific, literary or artistic productions to be

^c See article 19 of the Universal Declaration of Human Rights; article 19, paragraph 2, of the International Covenant on Civil and Political Rights; article 10 of the European Convention on Human Rights; article 13 of the American Convention on Human Rights and article 9 of the African Charter on Human and Peoples' Rights.

^d See article 26, paragraph 2, of the Universal Declaration of Human Rights. See also article 13, paragraph 1, of the International Covenant on Economic, Social and Cultural Rights.

^e See article 5 (e) (vi) of the International Convention on the Elimination of All Forms of Racial Discrimination; article 14 of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador) and article 17, paragraph 2, of the African Charter on Human and Peoples' Rights.

^f See article 27 of the International Covenant on Civil and Political Rights; article 13 (c) of the Convention on the Elimination of All Forms of Discrimination against Women; article 31 of the Convention on the Rights of the Child and article 31 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

^g See also paragraph 32 below.

natural persons,^h without at that time realizing that they could also be groups of individuals. Under the existing international treaty protection regimes, legal entities are included among the holders of intellectual property rights. However, as noted above, their entitlements, because of their different nature, are not protected at the level of human rights.ⁱ

8. Although the wording of article 15, paragraph 1 (c), generally refers to the individual creator (“everyone”, “he”, “author”), the right to benefit from the protection of the moral and material interests resulting from one’s scientific, literary or artistic productions can, under certain circumstances, also be enjoyed by groups of individuals or by communities.^g

“Any scientific, literary or artistic production”

9. The Committee considers that “any scientific, literary or artistic production”, within the meaning of article 15, paragraph 1 (c), refers to creations of the human mind, that is to “scientific productions”, such as scientific publications and innovations, including knowledge, innovations and practices of indigenous and local communities, and “literary and artistic productions”, such as, inter alia, poems, novels, paintings, sculptures, musical compositions, theatrical and cinematographic works, performances and oral traditions.

“Benefit from the protection”

10. The Committee considers that article 15, paragraph 1 (c), recognizes the right of authors to benefit from some kind of protection of the moral and material interests resulting from their scientific, literary or artistic productions, without specifying the modalities of such protection. In order not to render this provision devoid of any meaning, the protection afforded needs to be effective in securing for authors the moral and material interests resulting from their productions. However, the protection under article 15, paragraph 1 (c), need not necessarily reflect the level and means of protection found in present copyright, patent and other intellectual property regimes, as long as the protection available is suited to secure for authors the moral and material interests resulting from their productions, as defined in paragraphs 12 to 16 below.

11. The Committee observes that, by recognizing the right of everyone to “benefit from the protection” of the moral and material interests resulting from one’s scientific, literary or artistic productions, article 15, paragraph 1 (c), by no means prevents States parties from adopting higher protection standards in international treaties on the protection of the moral and material

^h See Maria Green, International Anti-Poverty Law Centre (United States of America), “Drafting history of article 15 (1) (c) of the International Covenant on Economic, Social and Cultural Rights” (background paper submitted to the Committee) (E/C.12/2000/15), para. 45.

ⁱ Statement by the Committee on human rights and intellectual property (*Official Records of the Economic and Social Council, 2002, Supplement No. 2* (E/2002/22-E/C.12/2001/17), annex XIII), para. 6.

interests of authors or in their domestic laws,^j provided that these standards do not unjustifiably limit the enjoyment by others of their rights under the Covenant (see paragraphs 22, 23 and 35 below).^k

“Moral interests”

12. The protection of the “moral interests” of authors was one of the main concerns of the drafters of article 27, paragraph 2, of the Universal Declaration of Human Rights. Thus it was proposed that, “[a]uthors of all artistic, literary, scientific works and inventors shall retain, in addition to just remuneration of their labour, a moral right on their work and/or discovery which shall not disappear, even after such a work shall have become the common property of mankind.”^l Their intention was to proclaim the intrinsically personal character of every creation of the human mind and the ensuing durable link between creators and their creations.

13. In line with the drafting history of article 27, paragraph 2, of the Universal Declaration of Human Rights and article 15, paragraph 1 (c), of the Covenant, the Committee considers that “moral interests” in article 15, paragraph 1 (c), include the right of authors to be recognized as the creators of their scientific, literary and artistic productions and to object to any distortion, mutilation or other modification of, or other derogatory action in relation to, such productions, which would be prejudicial to their honour and reputation.^m

14. The Committee stresses the importance of recognizing the value of scientific, literary and artistic productions as expressions of the personality of their creator, and notes that protection of moral interests can be found, although to a varying extent, in most States, regardless of the legal system in force.

“Material interests”

15. The protection of “material interests” of authors in article 15, paragraph 1 (c), of the Covenant reflects the close linkage of this provision with the right to own property, as recognized in article 17 of the Universal Declaration of Human Rights and in regional human rights instruments, as well as with the right of any worker to adequate remuneration (art. 7 (a)). Unlike other human rights, the material interests of authors are not directly linked to the personality of the creator, but contribute to the enjoyment of the right to an adequate standard of living (art. 11, para. 1).

^j See article 5, paragraph 2, of the Covenant.

^k See also articles 4 and 5 of the Covenant.

^l Commission on Human Rights, second session, Report of the Working Group on the Declaration on Human Rights (E/CN.4/57), chap. III.

^m See article 6 bis of the Berne Convention for the Protection of Literary and Artistic Works.

16. The term of protection of material interests under article 15, paragraph 1 (c), need not extend over the entire lifespan of an author. Rather, the purpose of enabling authors to enjoy an adequate standard of living can also be achieved through one-time payments or by vesting an author, for a limited period of time, with the exclusive right to exploit his scientific, literary or artistic production.

“Resulting”

17. The word “resulting” stresses that authors only benefit from the protection of such moral and material interests which are directly generated by their scientific, literary or artistic productions.

B. Conditions for States parties’ compliance with article 15, paragraph 1 (c)

18. The right to the protection of the moral and material interests of authors contains the following essential and interrelated elements, the precise application of which will depend on the economic, social and cultural conditions prevailing in a particular State party:

(a) *Availability.* Adequate legislation and regulations, as well as effective administrative, judicial or other appropriate remedies, for the protection of the moral and material interests of authors must be available within the jurisdiction of the States parties;

(b) *Accessibility.* Administrative, judicial or other appropriate remedies for the protection of the moral and material interests resulting from scientific, literary or artistic productions must be accessible to all authors. Accessibility has three overlapping dimensions:

- (i) **Physical accessibility:** national courts and agencies responsible for the protection of the moral and material interests resulting from the scientific, literary or artistic productions of authors must be at the disposal of all segments of society, including authors with disabilities;
- (ii) **Economic accessibility (affordability):** access to such remedies must be affordable for all, including disadvantaged and marginalized groups. For example, where a State party decides to meet the requirements of article 15, paragraph 1 (c), through traditional forms of intellectual property protection, related administrative and legal costs must be based on the principle of equity, ensuring that these remedies are affordable for all;
- (iii) **Accessibility of information:** accessibility includes the right to seek, receive and impart information on the structure and functioning of the legal or policy regime to protect the moral and material interests of authors resulting from their scientific, literary and artistic productions, including information on relevant legislation and procedures. Such information should be understandable to everyone and should be published also in the languages of linguistic minorities and indigenous peoples;

(c) *Quality of protection.* Procedures for the protection of the moral and material interests of authors should be administered competently and expeditiously by judges and other relevant authorities.

C. Special topics of broad application

Non-discrimination and equal treatment

19. Article 2, paragraph 2, and article 3 of the Covenant prohibit any discrimination in the access to an effective protection of the moral and material interests of authors, including administrative, judicial and other remedies, on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, which has the intention or effect of nullifying or impairing the equal enjoyment or exercise of the right as recognized in article 15, paragraph 1 (c).ⁿ

20. The Committee stresses that the elimination of discrimination to ensure equal access to an effective protection of the moral and material interests of authors can often be achieved with limited resources through the adoption or amendment or abrogation of legislation or through the dissemination of information. The Committee recalls general comment No. 3 (1990) on the nature of States parties' obligations, paragraph 12, which states that even in times of severe resource constraints, the disadvantaged and marginalized individuals and groups of society must be protected by the adoption of relatively low-cost targeted programmes.

21. The adoption of temporary special measures taken for the sole purpose of securing de facto equality for disadvantaged or marginalized individuals or groups, as well as those subjected to discrimination is not a violation of the right to benefit from the protection of the moral and material interests of the author, provided that such measures do not perpetuate unequal or separate protection standards for different individuals or groups and are discontinued once the objectives for which they were adopted are achieved.

Limitations

22. The right to the protection of the moral and material interests resulting from one's scientific, literary and artistic productions is subject to limitations and must be balanced with the other rights recognized in the Covenant (see paragraph 35 below).^o However, limitations on the

ⁿ This prohibition, to some extent, duplicates the national treatment provisions contained in international conventions for the protection of intellectual property, the main difference being that articles 2, paragraph 2, and 3 of the Covenant apply not only to foreigners but also to a State party's own nationals (see arts. 6–15 of the Covenant: "everyone"). See also the Committee's general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights, (art. 3 of the Covenant) (annex VIII to the present report).

^o The need to strike an adequate balance between article 15, paragraph 1 (c), and other rights under the Covenant applies, in particular, to the rights to take part in cultural life (art. 15, para. 1 (a)) and to enjoy the benefits of scientific progress and its applications (para. 1 (b)), as well as the right to food (art. 11), the right to health (art. 12) and the right to education (art. 13).

rights protected under article 15, paragraph 1 (c), must be determined by law in a manner compatible with the nature of these rights, must pursue a legitimate aim, and must be strictly necessary for the promotion of the general welfare in a democratic society, in accordance with article 4 of the Covenant.

23. Limitations must therefore be proportionate, meaning that the least restrictive measures must be adopted when several types of limitations may be imposed. Limitations must be compatible with the very nature of the rights protected in article 15, paragraph 1 (c), which lies in the protection of the personal link between the author and his/her creation and of the means which are necessary to enable authors to enjoy an adequate standard of living.

24. The imposition of limitations may, under certain circumstances, require compensatory measures, such as payment of adequate compensation^P for the use of scientific, literary or artistic productions in the public interest.

II. STATES PARTIES' OBLIGATIONS

A. General legal obligations

25. While the Covenant provides for progressive realization and acknowledges constraints based on limits of available resources (art. 2, para. 1), it also imposes on States parties various obligations that are of an immediate effect, including core obligations. Steps taken to fulfil obligations must be deliberate, concrete and targeted towards the full realization of the right of everyone to benefit from the protection of the moral and material benefits resulting from any scientific, literary or artistic production of which he or she is the author.^Q

26. The progressive realization of that right over a period of time means that States parties have a specific and continuing obligation to move as expeditiously and effectively as possible towards the full realization of article 15, paragraph 1 (c).^R

27. As in the case of all other rights contained in the Covenant, there is a strong presumption that retrogressive measures taken in relation to the right to the protection of the moral and material interests of authors are not permissible. If any deliberately retrogressive measures are

^P See article 17, paragraph 2, of the Universal Declaration of Human Rights; article 21, paragraph 2, of the American Convention on Human Rights and article 1 of Protocol No. 1 to the Convention for the Protection of Human Rights and Fundamental Freedoms.

^Q See the Committee's general comments No. 3 (1990), para. 9, No. 13 (1999) on the right to education (art. 13 of the Covenant), para. 43 and No. 14 (2000) on the right to the highest attainable standard of health (art. 12 of the Covenant), para. 30. See also the Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/2000/13), paras. 16 and 22.

^R See the Committee's general comments No. 3 (1990), para. 9, No. 13 (1999), para. 44 and No. 14 (2000), para. 31. See also Limburg Principles, para. 21.

taken, the State party has the burden of proving that they have been introduced after careful consideration of all alternatives and that they are duly justified in the light of the totality of the rights recognized in the Covenant.⁵

28. The right of everyone to benefit from the protection of the moral and material benefits resulting from any scientific, literary or artistic production of which he or she is the author, like all human rights, imposes three types or levels of obligations on States parties: the obligations to *respect*, *protect* and *fulfil*. The obligation to *respect* requires States parties to refrain from interfering directly or indirectly with the enjoyment of the right to benefit from the protection of the moral and material interests of the author. The obligation to *protect* requires States parties to take measures that prevent third parties from interfering with the moral and material interests of authors. Finally, the obligation to *fulfil* requires States parties to adopt appropriate legislative, administrative, budgetary, judicial, promotional and other measures towards the full realization of article 15, paragraph 1 (c).[†]

29. The full realization of article 15, paragraph 1 (c), requires measures necessary for the conservation, development and diffusion of science and culture. This follows from article 15, paragraph 2, which defines obligations that apply to each aspect of the rights recognized in article 15, paragraph 1, including the right of authors to benefit from the protection of their moral and material interests.

B. Specific legal obligations

30. States parties are under an obligation to *respect* the human right to benefit from the protection of the moral and material interests of authors by, inter alia, abstaining from infringing the right of authors to be recognized as the creators of their scientific, literary or artistic productions and to object to any distortion, mutilation or other modification of, or other derogatory action in relation to, their productions that would be prejudicial to their honour or reputation. States parties must abstain from unjustifiably interfering with the material interests of authors, which are necessary to enable those authors to enjoy an adequate standard of living.

31. Obligations to *protect* include the duty of States parties to ensure the effective protection of the moral and material interests of authors against infringement by third parties. In particular, States parties must prevent third parties from infringing the right of authors to claim authorship of their scientific, literary or artistic productions, and from distorting, mutilating or otherwise modifying, or taking any derogatory action in relation to such productions in a manner that would be prejudicial to the author's honour or reputation. Similarly, States parties are obliged to prevent third parties from infringing the material interests of authors resulting from their productions. To that effect, States parties must prevent the unauthorized use of scientific, literary and artistic productions that are easily accessible or reproducible through modern communication and reproduction technologies, e.g. by establishing systems of collective administration of authors' rights or by adopting legislation requiring users to inform authors of

⁵ See the Committee's general comment No. 3 (1990), para. 9, No. 13 (1999), para. 45 and No. 14 (2000), para. 32.

[†] See the Committee's general comments No. 13 (1999), paras. 46 and 47 and No. 14 (2000), para. 33. See also Maastricht Guidelines on Violations of Economic, Social and Cultural Rights (E/C.12/2000/13), para. 6.

any use made of their productions and to remunerate them adequately. States parties must ensure that third parties adequately compensate authors for any unreasonable prejudice suffered as a consequence of the unauthorized use of their productions.

32. With regard to the right to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of indigenous peoples, States parties should adopt measures to ensure the effective protection of the interests of indigenous peoples relating to their productions, which are often expressions of their cultural heritage and traditional knowledge. In adopting measures to protect scientific, literary and artistic productions of indigenous peoples, States parties should take into account their preferences. Such protection might include the adoption of measures to recognize, register and protect the individual or collective authorship of indigenous peoples under national intellectual property rights regimes and should prevent the unauthorized use of scientific, literary and artistic productions of indigenous peoples by third parties. In implementing these protection measures, States parties should respect the principle of free, prior and informed consent of the indigenous authors concerned and the oral or other customary forms of transmission of scientific, literary or artistic production; where appropriate, they should provide for the collective administration by indigenous peoples of the benefits derived from their productions.

33. States parties in which ethnic, religious or linguistic minorities exist are under an obligation to protect the moral and material interests of authors belonging to these minorities through special measures to preserve the distinctive character of minority cultures.^u

34. The obligation to *fulfil* (provide) requires States parties to provide administrative, judicial or other appropriate remedies in order to enable authors to claim the moral and material interests resulting from their scientific, literary or artistic productions and to seek and obtain effective redress in cases of violation of these interests.^v States parties are also required to *fulfil* (facilitate) the right in article 15, paragraph 1 (c), of the Covenant, e.g. by taking financial and other positive measures which facilitate the formation of professional and other associations representing the moral and material interests of authors, including disadvantaged and marginalized authors, in line with article 8, paragraph 1 (a)^w The obligation to *fulfil* (promote) requires States parties to ensure the right of authors of scientific, literary and artistic productions to take part in the conduct of public affairs and in any significant decision-making processes that

^u See article 15, paragraph 1 (c), of the International Covenant on Economic, Social and Cultural Rights, read in conjunction with article 27 of the International Covenant on Civil and Political Rights. See also Recommendation on Participation by the people at large in cultural life and their contribution to it, adopted by the General Conference of UNESCO at its nineteenth session (*Records of the General Conference, Nairobi, 26 October-30 November 1976*, vol. 1, *Resolutions*, annex I), chapter II, para. 4 (f).

^v See the Committee's general comment No. 9 (1998) on domestic application of the Covenant, para. 9. See also article 8 of the Universal Declaration of Human Rights and article 2, paragraph 3, of the International Covenant on Civil and Political Rights.

^w See also article 22, paragraph 1, of the International Covenant on Civil and Political Rights.

have an impact on their rights and legitimate interests, and to consult these individuals or groups or their elected representatives prior to the adoption of any significant decisions affecting their rights under article 15, paragraph 1 (c).^x

C. Related obligations

35. The right of authors to benefit from the protection of the moral and material interests resulting from their scientific, literary and artistic productions cannot be isolated from the other rights recognized in the Covenant. States parties are therefore obliged to strike an adequate balance between their obligations under article 15, paragraph 1 (c), on one hand, and under the other provisions of the Covenant, on the other hand, with a view to promoting and protecting the full range of rights guaranteed in the Covenant. In striking this balance, the private interests of authors should not be unduly favoured and the public interest in enjoying broad access to their productions should be given due consideration.^y States parties should therefore ensure that their legal or other regimes for the protection of the moral and material interests resulting from one's scientific, literary or artistic productions constitute no impediment to their ability to comply with their core obligations in relation to the rights to food, health and education, as well as to take part in cultural life and to enjoy the benefits of scientific progress and its applications, or any other right enshrined in the Covenant.^z Ultimately, intellectual property is a social product and has a social function.^{aa} States parties thus have a duty to prevent unreasonably high costs for access to essential medicines, plant seeds or other means of food production, or for schoolbooks and learning materials, from undermining the rights of large segments of the population to health, food and education. Moreover, States parties should prevent the use of scientific and technical progress for purposes contrary to human rights and dignity, including the rights to life, health and privacy, e.g. by excluding inventions from patentability whenever their commercialization would jeopardize the full realization of these rights.^{bb} States parties should, in particular, consider to what extent the patenting of the human body and its parts would affect their obligations under the Covenant or under other relevant international human rights instruments.^{cc} States parties should also consider undertaking human rights impact assessments prior to the adoption and after a period of implementation of legislation for the protection of the moral and material interests resulting from one's scientific, literary or artistic productions.

^x See Statement by the Committee on human rights and intellectual property, (*supra* note i), para. 9.

^y *Ibid.*, para. 17.

^z *Ibid.*, para. 12.

^{aa} *Ibid.*, at para. 4.

^{bb} See article 27, paragraph 2, of the TRIPS Agreement.

^{cc} See article 4 of the UNESCO Universal Declaration on the Human Genome and Human Rights, adopted by the General Conference of UNESCO at its twenty-ninth session (*Records of the General Conference, Paris, 21 October-12 November 1997*, vol. 1, *Resolutions*, chap. III), although this instrument is not as such legally binding.

D. International obligations

36. In its general comment No. 3 (1990), the Committee drew attention to the obligation of all States parties to take steps, individually and through international assistance and cooperation, especially economic and technical, towards the full realization of the rights recognized in the Covenant. In the spirit of Article 56 of the Charter of the United Nations, as well as the specific provisions of the Covenant (arts. 2, para. 1, 15, para. 44 and 23), States parties should recognize the essential role of international cooperation for the achievement of the rights recognized in the Covenant, including the right to benefit from the protection of the moral and material interests resulting from one's scientific, literary and artistic productions, and should comply with their commitment to take joint and separate action to that effect. International cultural and scientific cooperation should be carried out in the common interest of all peoples.

37. The Committee recalls that, in accordance with Articles 55 and 56 of the Charter of the United Nations, well-established principles of international law, and the provisions of the Covenant itself, international cooperation for development and thus for the realization of economic, social and cultural rights is an obligation of all States parties and, in particular, of States which are in a position to assist.^{dd}

38. Bearing in mind the different levels of development of States parties, it is essential that any system for the protection of the moral and material interests resulting from one's scientific, literary and artistic productions facilitates and promotes development cooperation, technology transfer, and scientific and cultural cooperation,^{ee} while at the same time taking due account of the need to preserve biological diversity.^{ff}

E. Core obligations

39. In general comment No. 3 (1990), the Committee confirmed that States parties have a core obligation to ensure the satisfaction of minimum essential levels of each of the rights enunciated in the Covenant. In conformity with other human rights instruments, as well as international agreements on the protection of the moral and material interests resulting from one's scientific, literary or artistic productions, the Committee considers that article 15, paragraph 1 (c), of the Covenant entails at least the following core obligations, which are of immediate effect:

(a) To take legislative and other necessary steps to ensure the effective protection of the moral and material interests of authors;

^{dd} The Committee's general comment No. 3 (1990), para. 14.

^{ee} See Statement by the Committee on human rights and intellectual property (*supra* note i), para. 15.

^{ff} See article 8 (j) of the Convention on Biological Diversity. See also Sub-Commission on the Promotion and Protection of Human Rights resolution 2001/21 of 16 August 2001.

(b) To protect the rights of authors to be recognized as the creators of their scientific, literary and artistic productions and to object to any distortion, mutilation or other modification of, or other derogatory action in relation to, their productions that would be prejudicial to their honour or reputation;

(c) To respect and protect the basic material interests of authors resulting from their scientific, literary or artistic productions, which are necessary to enable those authors to enjoy an adequate standard of living;

(d) To ensure equal access, particularly for authors belonging to disadvantaged and marginalized groups, to administrative, judicial or other appropriate remedies enabling authors to seek and obtain redress in case their moral and material interests have been infringed;

(e) To strike an adequate balance between the effective protection of the moral and material interests of authors and States parties' obligations in relation to the rights to food, health and education, as well as the rights to take part in cultural life and to enjoy the benefits of scientific progress and its applications, or any other right recognized in the Covenant.

40. The Committee wishes to emphasize that it is particularly incumbent on States parties and other actors in a position to assist, to provide "international assistance and cooperation, especially economic and technical", which enable developing countries to fulfil their obligations indicated in paragraph 36 above.

III. VIOLATIONS

41. In determining which actions or omissions by States parties amount to a violation of the right to the protection of the moral and material interests of authors, it is important to distinguish the inability from the unwillingness of a State party to comply with its obligations under article 15, paragraph 1 (c), of the Covenant. This follows from article 2, paragraph 1, which obliges each State party to take the necessary steps to the maximum of its available resources. A State which is unwilling to use the maximum of its available resources for the realization of the right of authors to benefit from the protection of the moral and material interests resulting from their scientific, literary and artistic productions is in violation of its obligations under article 15, paragraph 1 (c). If resource constraints render it impossible for a State to comply fully with its obligations under the Covenant, it has the burden of justifying that every effort has been made to use all available resources at its disposal to satisfy, as a matter of priority, the core obligations outlined above.

42. Violations of the right to benefit from the protection of the moral and material interests of authors can occur through the direct action of States parties or of other entities insufficiently regulated by States parties. The adoption of any retrogressive measures incompatible with the core obligations under article 15, paragraph 1 (c), outlined in paragraph 39 above, constitutes a violation of that right. Violations through acts of commission include the formal repeal or unjustifiable suspension of legislation protecting the moral and material interests resulting from one's scientific, literary and artistic productions.

43. Violations of article 15, paragraph 1 (c), can also occur through the omission or failure of States parties to take necessary measures to comply with its legal obligations under that provision. Violations through omission include the failure to take appropriate steps towards the

full realization of the right of authors to benefit from the protection of the moral and material interests resulting from their scientific, literary or artistic productions and the failure to enforce relevant laws or to provide administrative, judicial or other appropriate remedies enabling authors to assert their rights under article 15, paragraph 1 (c).

A. Violations of the obligation to respect

44. Violations of the obligation to *respect* include State actions, policies or laws which have the effect of infringing the right of authors to be recognized as the creators of their scientific, literary and artistic productions and to object to any distortion, mutilation or other modification of, or other derogatory action in relation to, their productions that would be prejudicial to their honour or reputation; unjustifiably interfering with the material interests of authors, which are necessary to enable those authors to enjoy an adequate standard of living; denying authors access to administrative, judicial or other appropriate remedies to seek redress in case their moral and material interests have been violated; and discriminating against individual authors in relation to the protection of their moral and material interests.

B. Violations of the obligation to protect

45. Violations of the obligation to *protect* follow from the failure of a State to take all necessary measures to safeguard authors within their jurisdiction from infringements of their moral and material interests by third parties. This category includes such omissions as the failure to enact and/or enforce legislation prohibiting any use of scientific, literary or artistic productions that is incompatible with the right of authors to be recognized as the creator of their productions or that distorts, mutilates or otherwise modifies, or is derogatory towards, such productions in a manner that would be prejudicial to their honour or reputation or that unjustifiably interferes with those material interests that are necessary to enable authors to enjoy an adequate standard of living; and the failure to ensure that third parties adequately compensate authors, including indigenous authors, for any unreasonable prejudice suffered as a consequence of the unauthorized use of their scientific, literary and artistic productions.

C. Violations of the obligation to fulfil

46. Violations of the obligation to *fulfil* occur when States parties fail to take all necessary steps within their available resources to promote the realization of the right to benefit from the protection of the moral and material interests resulting from one's scientific, literary or artistic productions. Examples include the failure to provide administrative, judicial or other appropriate remedies enabling authors, especially those belonging to disadvantaged and marginalized groups, to seek and obtain redress in case their moral and material interests have been infringed, or the failure to provide adequate opportunities for the active and informed participation of authors and groups of authors in any decision-making process that has an impact on their right to benefit from the protection of the moral and material interests resulting from their scientific, literary or artistic productions.

IV. IMPLEMENTATION AT THE NATIONAL LEVEL

A. National legislation

47. The most appropriate measures to implement the right to the protection of the moral and material interests of the author will vary significantly from one State to another. Every State has a considerable margin of discretion in assessing which measures are most suitable to meet its specific needs and circumstances. The Covenant, however, clearly imposes a duty on each State to take whatever steps are necessary to ensure that everyone has equal access to effective mechanisms for the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he or she is the author.

48. National laws and regulations for the protection of the moral and material interests of the author should be based on the principles of accountability, transparency and independence of the judiciary, since these principles are essential to the effective implementation of all human rights, including article 15, paragraph 1 (c), of the Covenant. In order to create a favourable climate for the realization of that right, States parties should take appropriate steps to ensure that the private business sector and civil society are aware of, and consider the effects on the enjoyment of other human rights of the right to benefit from the protection of the moral and material interests resulting from one's scientific, literary and artistic productions. In monitoring progress towards the realization of article 15, paragraph 1 (c), States parties should identify the factors and difficulties affecting implementation of their obligations.

B. Indicators and benchmarks

49. States parties should identify appropriate indicators and benchmarks designed to monitor, at the national and international levels, States parties' obligations under article 15, paragraph 1 (c). States parties may obtain guidance on appropriate indicators, which should address different aspects of the right to the protection of the moral and material interests of the author, from the World Intellectual Property Organization (WIPO), the United Nations Educational, Scientific and Cultural Organization (UNESCO) and other specialized agencies and programmes within the United Nations system that are concerned with the protection of scientific, literary and artistic productions. Such indicators must be disaggregated on the basis of the prohibited grounds of discrimination, and cover a specified time frame.

50. Having identified appropriate indicators in relation to article 15, paragraph 1 (c), States parties are invited to set appropriate national benchmarks in relation to each indicator. During the periodic reporting procedure, the Committee will engage in a process of scoping with the State party. Scoping involves the joint consideration by the State party and the Committee of the indicators and national benchmarks, which will then provide the targets to be achieved by the State party during the next reporting cycle. During that period, the State party will use these national benchmarks to monitor its implementation of article 15, paragraph 1 (c). Thereafter, in the subsequent reporting process, the State party and the Committee will consider whether or not the benchmarks have been achieved, and any difficulties that may have been encountered.

C. Remedies and accountability

51. The human right of everyone to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he or she is the author should be adjudicated by competent judicial and administrative bodies. Indeed, effective protection of the moral and material interests of authors resulting from their scientific, literary and artistic productions would be hardly conceivable without the possibility of availing oneself of administrative, judicial or other appropriate remedies.^{gg}

52. All authors who are victims of a violation of the protected moral and material interests resulting from their scientific, literary or artistic productions should, consequently, have access to effective administrative, judicial or other appropriate remedies at the national level. Such remedies should not be unreasonably complicated or costly, or entail unreasonable time limits or unwarranted delays.^{hh} Parties to legal proceedings should have the right to have these proceedings reviewed by a judicial or other competent authority.

53. All victims of violations of the rights protected under article 15, paragraph 1 (c), of the Covenant should be entitled to adequate compensation or satisfaction.

54. National ombudsmen, human rights commissions, where they exist, and professional associations of authors or similar institutions should address violations of article 15, paragraph 1 (c).

V. OBLIGATIONS OF ACTORS OTHER THAN STATES PARTIES

55. While only States parties to the Covenant are held accountable for compliance with its provisions, they are nevertheless urged to consider regulating the responsibility resting on the private business sector, private research institutions and other non-State actors to respect the rights recognized in article 15, paragraph 1 (c), of the Covenant.

56. The Committee notes that, as members of international organizations such as WIPO, UNESCO, the Food and Agriculture Organization of the United Nations (FAO), the World Health Organization (WHO), and the World Trade Organization, States parties have an obligation to take whatever measures they can to ensure that the policies and decisions of those organizations are in conformity with their obligations under the Covenant, in particular the obligations contained in articles 2, paragraph 1, 15, paragraph 4, 22 and 23 concerning international assistance and cooperation.ⁱⁱ

^{gg} See article 8 of the Universal Declaration of Human Rights; the Committee's general comment No. 9 (1998), paras. 3 and 9; Limburg Principles, para. 19; and Maastricht Guidelines, para. 22.

^{hh} See the Committee's general comment No. 9 (1998), para. 9 (with regard to administrative remedies). See further article 14, paragraph 1, of the International Covenant on Civil and Political Rights.

ⁱⁱ See Statement by the Committee on globalization and economic, social and cultural rights (*Official Records of the Economic and Social Council, 1999, Supplement No. 2 (E/1999/22-E/C.12/1998/26)*, chap. VI, sect. A, para. 515) para. 5.

57. United Nations organs, as well as specialized agencies, should, within their fields of competence and in accordance with articles 22 and 23 of the Covenant, take international measures likely to contribute to the effective implementation of article 15, paragraph 1 (c). In particular, WIPO, UNESCO, FAO, WHO and other relevant agencies, organs and mechanisms of the United Nations are called upon to intensify their efforts to take into account human rights principles and obligations in their work concerning the protection of the moral and material benefits resulting from one's scientific, literary and artistic productions, in cooperation with the Office of the United Nations High Commissioner for Human Rights.

ANNEX X

General comment No. 18 (2005)*

The right to work (art. 6 of the Covenant)

Introduction and basic premises

1. The right to work is a fundamental right, recognized in several international legal instruments. The International Covenant on Economic, Social and Cultural Rights, as laid down in article 6, deals more comprehensively than any other instrument with this right. The right to work is essential for realizing other human rights and forms an inseparable and inherent part of human dignity. Every individual has the right to be able to work, allowing him/her to live in dignity. The right to work contributes at the same time to the survival of the individual and to that of his/her family, and insofar as work is freely chosen or accepted, to his/her development and recognition within the community.^a

2. The Covenant proclaims the right to work in a general sense in its article 6 and explicitly develops the individual dimension of the right to work through the recognition in article 7 of the right of everyone to the enjoyment of just and favourable conditions of work, in particular the right to safe working conditions. The collective dimension of the right to work is addressed in article 8, which enunciates the right of everyone to form trade unions and join the trade union of his/her choice as well as the right of trade unions to function freely. When drafting article 6 of the Covenant, the Commission on Human Rights affirmed the need to recognize the right to work in a broad sense by laying down specific legal obligations rather than a simple philosophical principle.^b Article 6 defines the right to work in a general and non-exhaustive manner. In article 6, paragraph 1, States parties recognize “the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right”. In paragraph 2, States parties recognize that “to achieve the full realization of this right” the steps to be taken “shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment, under conditions safeguarding fundamental political and economic freedoms to the individual”.

3. These objectives reflect the fundamental purposes and principles of the United Nations as defined in Article 1, paragraph 3, of the Charter of the United Nations. The essence of these objectives is also reflected in article 23, paragraph 1, of the Universal Declaration of Human Rights. Since the adoption of the Covenant by the General Assembly in 1966, several

* Adopted at the thirty-fifth session of the Committee (56th meeting) on 24 November 2005.

^a See the preamble to International Labour Organization (ILO) Convention No. 168 (1988) concerning Employment Promotion and Protection against Unemployment, which emphasizes “the importance of work and productive employment in any society not only because of the resources which they create for the community, but also because of the income which they bring to workers, the social role which they confer and the feeling of self-esteem which workers derive from them”.

^b Draft international covenants on human rights, report of the Third Committee (A/3525 and Corr.1), para. 52.

universal and regional human rights instruments have recognized the right to work. At the international level, the right to work is contained in article 8, paragraph 3 (*a*), of the International Covenant on Civil and Political Rights; in article 5, paragraph (*e*) (i), of the International Convention on the Elimination of All Forms of Racial Discrimination; in article 11, paragraph 1 (*a*), of the Convention on the Elimination of All Forms of Discrimination against Women; in article 32 of the Convention on the Rights of the Child; and in articles 11, 25, 26, 40, 52 and 54 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Several regional instruments recognize the right to work in its general dimension, including the European Social Charter (1961) and the European Social Charter (Revised) (1996) (Part II, art. 1), the African Charter on Human and Peoples' Rights (1981) (art. 15) and the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador) (1988) (art. 6), and affirm the principle that respect for the right to work imposes on States parties an obligation to take measures aimed at the realization of full employment. Similarly, the right to work has been proclaimed by the General Assembly in the Declaration on Social Progress and Development, in its resolution 2542 (XXIV) (1969) (art. 6).

4. The right to work, as guaranteed in the International Covenant on Economic, Social and Cultural Rights, affirms the obligation of States parties to assure individuals their right to freely chosen or accepted work, including the right not to be deprived of work unfairly. This definition underlines the fact that respect for the individual and his dignity is expressed through the freedom of the individual regarding the choice to work, while emphasizing the importance of work for personal development as well as for social and economic inclusion. International Labour Organization (ILO) Convention No. 122 (1964) concerning Employment Policy, speaks of "full, productive and freely chosen employment", linking the obligation of States parties to create the conditions for full employment with the obligation to ensure the absence of forced labour. Nevertheless, for millions of human beings throughout the world, full enjoyment of the right to freely chosen or accepted work remains a remote prospect. The Committee recognizes the existence of structural and other obstacles arising from international factors beyond the control of States which hinder the full enjoyment of article 6 of the Covenant in many States parties.

5. With the aim of helping States parties to implement the Covenant and discharge their reporting obligations, this general comment deals with the normative content of article 6 (chap. I), the obligations of States parties (chap. II), violations (chap. III), implementation at the national level (chap. IV) and the obligations of actors other than States parties (chap. V). The general comment is based on the experience gained by the Committee over many years in its consideration of reports of States parties.

I. NORMATIVE CONTENT OF THE RIGHT TO WORK

6. The right to work is an individual right that belongs to each person and is at the same time a collective right. It encompasses all forms of work, whether independent work or dependent wage-paid work. The right to work should not be understood as an absolute and unconditional right to obtain employment. Article 6, paragraph 1, of the Covenant contains a definition of the right to work and paragraph 2 cites, by way of illustration and in a non-exhaustive manner, examples of obligations incumbent upon States parties. It includes the right of every human being to decide freely to accept or choose work. This implies not being

forced in any way whatsoever to exercise or engage in employment and the right of access to a system of protection guaranteeing each worker access to employment. It also implies the right not to be unfairly deprived of employment.

7. Work as specified in article 6 must be *decent work*. This is work that respects the fundamental rights of the human person as well as the rights of workers in terms of conditions of work safety and remuneration. It also provides an income allowing workers to support themselves and their families as highlighted in article 7. These fundamental rights also include respect for the physical and mental integrity of the worker in the exercise of his/her employment.

8. Articles 6, 7 and 8 are interdependent. The characterization of work as decent presupposes that it respects the fundamental rights of the worker. Although articles 7 and 8 are closely linked to article 6, they will be dealt with in separate general comments. Reference to articles 7 and 8 will therefore only be made whenever the indivisibility of these rights so requires.

9. ILO defines forced labour as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”.^c The Committee reaffirms the need for States parties to abolish, forbid and counter all forms of forced labour as enunciated in article 4 of the Universal Declaration of Human Rights, article 5 of the Slavery Convention and article 8 of the International Covenant on Civil and Political Rights.

10. High unemployment and the lack of secure employment are causes that induce workers to seek employment in the informal sector of the economy. States parties must take the requisite measures, legislative or otherwise, to reduce to the fullest extent possible the number of workers outside the formal economy, workers who as a result of that situation have no protection. These measures would compel employers to respect labour legislation and declare their employees, thus enabling the latter to enjoy all the rights of workers, in particular those provided for in articles 6, 7 and 8 of the International Covenant on Economic, Social and Cultural Rights. These measures must reflect the fact that people living in an informal economy do so for the most part because of the need to survive, rather than as a matter of choice. Moreover, domestic and agricultural work must be properly regulated by national legislation so that domestic and agricultural workers enjoy the same level of protection as other workers.

11. ILO Convention No. 158 (1982) concerning Termination of Employment, at the Initiative of the Employer defines the lawfulness of dismissal in its article 4 and in particular imposes the requirement to provide valid grounds for dismissal, as well as the right to legal and other redress in the case of unjustified dismissal.

12. The exercise of work in all its forms and at all levels requires the existence of the following interdependent and essential elements, implementation of which will depend on the conditions present in each State party:

^c ILO Convention No. 29 (1930) concerning Forced or Compulsory Labour (art. 2, para. 1); see also article 2, paragraph 2, as well as ILO Convention No. 105 (1957) concerning the Abolition of Forced Labour.

(a) *Availability.* States parties must have specialized services to assist and support individuals in order to enable them to identify and find available employment;

(b) *Accessibility.* The labour market must be open to everyone under the jurisdiction of States parties.^d Accessibility comprises three dimensions:

- (i) Under its article 2, paragraph 2, and article 3, the Covenant prohibits any discrimination in access to and maintenance of employment on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, physical or mental disability, health status (including HIV/AIDS), sexual orientation, or civil, political, social or other status, which has the intention or effect of impairing or nullifying exercise of the right to work on a basis of equality. According to article 2 of ILO Convention No. 111 (1958) concerning Discrimination in Respect of Employment and Occupation, States parties should “declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof”. Many measures, such as most strategies and programmes designed to eliminate employment-related discrimination, as emphasized in paragraph 18 of the Committee’s general comment No. 14 (2000) on the right to the highest attainable standard of health (art. 12 of the Covenant), can be pursued with minimum resource implications through the adoption, modification or abrogation of legislation or the dissemination of information. The Committee recalls that, even in times of severe resource constraints, disadvantaged and marginalized individuals and groups must be protected by the adoption of relatively low-cost targeted programmes;^e
- (ii) Physical accessibility is one dimension of accessibility to employment as explained in paragraph 22 of the Committee’s general comment No. 5 (1994) on persons with disabilities;
- (iii) Accessibility includes the right to seek, obtain and impart information on the means of gaining access to employment through the establishment of data networks on the employment market at the local, regional, national and international levels;

(c) *Acceptability and quality.* Protection of the right to work has several components, notably the right of the worker to just and favourable conditions of work, in particular to safe working conditions, the right to form trade unions and the right freely to choose and accept work.

^d Only some of these topics feature in articles 2, paragraph 2, and 3 of the Covenant. The others have been inferred from the practice of the Committee or from legislation or judicial practice in a growing number of States parties.

^e See the Committee’s general comment No. 3 (1990) on the nature of States parties’ obligations, para. 12.

A. Special topics of broad application

Women and the right to work

13. Article 3 of the Covenant prescribes that States parties undertake to “ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights”. The Committee underlines the need for a comprehensive system of protection to combat gender discrimination and to ensure equal opportunities and treatment between men and women in relation to their right to work by ensuring equal pay for work of equal value.^f In particular, pregnancies must not constitute an obstacle to employment and should not constitute justification for loss of employment. Lastly, emphasis should be placed on the link between the fact that women often have less access to education than men and certain traditional cultures which compromise the opportunities for the employment and advancement of women.

Young persons and the right to work

14. Access to a first job constitutes an opportunity for economic self-reliance and in many cases a means to escape poverty. Young persons, particularly young women, generally have great difficulties in finding initial employment. National policies relating to adequate education and vocational training should be adopted and implemented to promote and support access to employment opportunities for young persons, in particular young women.

Child labour and the right to work

15. The protection of children is covered by article 10 of the Covenant. The Committee recalls its general comment No. 14 (2000) and in particular paragraphs 22 and 23 on children’s right to health, and emphasizes the need to protect children from all forms of work that are likely to interfere with their development or physical or mental health. The Committee reaffirms the need to protect children from economic exploitation, to enable them to pursue their full development and acquire technical and vocational education as indicated in article 6, paragraph 2. The Committee also recalls its general comment No. 13 (1999) on the right to education (art. 13 of the Covenant), in particular the definition of technical and vocational education (paras. 15 and 16) as a component of general education. Several international human rights instruments adopted after the International Covenant on Economic, Social and Cultural Rights, such as the Convention on the Rights of the Child, expressly recognize the need to protect children and young people against any form of economic exploitation or forced labour.^g

^f See general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights (art. 3 of the Covenant), paras. 23-25 (annex VIII to the present report).

^g See article 32, paragraph 1, of the Convention on the Rights of the Child, reflected in the second preambular paragraph of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. See also article 3, paragraph 1, of the Optional Protocol, on forced labour.

Older persons and the right to work

16. The Committee recalls its general comment No. 6 (1995) on the economic, social and cultural rights of older persons and in particular the need to take measures to prevent discrimination on grounds of age in employment and occupation.^h

Persons with disabilities and the right to work

17. The Committee recalls the principle of non-discrimination in access to employment by persons with disabilities enunciated in its general comment No. 5 (1994) on persons with disabilities. “The ‘right of everyone to the opportunity to gain his living by work which he freely chooses or accepts’ is not realized where the only real opportunity open to disabled workers is to work in so-called ‘sheltered’ facilities under substandard conditions.”ⁱ States parties must take measures enabling persons with disabilities to secure and retain appropriate employment and to progress in their occupational field, thus facilitating their integration or reintegration into society.^j

Migrant workers and the right to work

18. The principle of non-discrimination as set out in article 2, paragraph 2, of the Covenant and in article 7 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families should apply in relation to employment opportunities for migrant workers and their families. In this regard the Committee underlines the need for national plans of action to be devised to respect and promote such principles by all appropriate measures, legislative or otherwise.

II. STATES PARTIES’ OBLIGATIONS

A. General legal obligations

19. The principal obligation of States parties is to ensure the progressive realization of the exercise of the right to work. States parties must therefore adopt, as quickly as possible, measures aiming at achieving full employment. While the Covenant provides for progressive realization and acknowledges the constraints due to the limits of available resources, it also imposes on States parties various obligations which are of immediate effect.^k States parties have immediate obligations in relation to the right to work, such as the obligation to “guarantee” that it will be exercised “without discrimination of any kind” (art. 2, para. 2) and the obligation “to

^h See general comment No. 6 (1995), paragraph 22 (and para. 24 on retirement).

ⁱ See general comment No. 5 (1994), in particular paras. 20-24.

^j See article 1, paragraph 2, on access to employment of ILO Convention No. 159 (1983) concerning Vocational Rehabilitation and Employment (Disabled Persons). See also the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96 of 20 December 1993, annex).

^k See the Committee’s general comment No. 3 (1990), para. 1.

take steps” (art. 2, para. 1) towards the full realization of article 6.¹ Such steps must be deliberate, concrete and targeted towards the full realization of the right to work.

20. The fact that realization of the right to work is progressive and takes place over a period of time should not be interpreted as depriving States parties’ obligations of all meaningful content.^m It means that States parties have a specific and continuing obligation “to move as expeditiously and effectively as possible” towards the full realization of article 6.

21. As with all other rights in the Covenant, retrogressive measures should in principle not be taken in relation to the right to work. If any deliberately retrogressive steps are taken, States parties have the burden of proving that they have been introduced after consideration of all alternatives and that they are duly justified by reference to the totality of the rights provided for in the Covenant in the context of the full use of the States parties’ maximum available resources.^m

22. Like all human rights, the right to work imposes three types or levels of obligations on States parties: the obligations to *respect*, *protect* and *fulfil*. The obligation to *respect* the right to work requires States parties to refrain from interfering directly or indirectly with the enjoyment of that right. The obligation to *protect* requires States parties to take measures that prevent third parties from interfering with the enjoyment of the right to work. The obligation to *fulfil* includes the obligations to provide, facilitate and promote that right. It implies that States parties should adopt appropriate legislative, administrative, budgetary, judicial and other measures to ensure its full realization.

B. Specific legal obligations

23. States parties are under the obligation to *respect* the right to work by, inter alia, prohibiting forced or compulsory labour and refraining from denying or limiting equal access to decent work for all persons, especially disadvantaged and marginalized individuals and groups, including prisoners or detainees,ⁿ members of minorities and migrant workers. In particular, States parties are bound by the obligation to respect the right of women and young persons to have access to decent work and thus to take measures to combat discrimination and to promote equal access and opportunities.

24. With regard to the obligations of States parties relating to child labour as set out in article 10 of the Covenant, States parties must take effective measures, in particular legislative

¹ Ibid, para. 2.

^m Ibid, para. 9.

ⁿ If offered on a voluntary basis. On the question of the work of prisoners, see also the Standard Minimum Rules for the Treatment of Prisoners and article 2 of ILO Convention No. 29 (1930).

measures, to prohibit labour of children under the age of 16. Further, they have to prohibit all forms of economic exploitation and forced labour of children.^o States parties must adopt effective measures to ensure that the prohibition of child labour will be fully respected.^p

25. Obligations to *protect* the right to work include, inter alia, the duties of States parties to adopt legislation or to take other measures ensuring equal access to work and training and to ensure that privatization measures do not undermine workers' rights. Specific measures to increase the flexibility of labour markets must not render work less stable or reduce the social protection of the worker. The obligation to protect the right to work includes the responsibility of States parties to prohibit forced or compulsory labour by non-State actors.

26. States parties are obliged to *fulfil* (provide) the right to work when individuals or groups are unable, for reasons beyond their control, to realize that right themselves by the means at their disposal. This obligation includes, inter alia, the obligation to recognize the right to work in national legal systems and to adopt a national policy on the right to work as well as a detailed plan for its realization. The right to work requires formulation and implementation by States parties of an employment policy with a view to "stimulating economic growth and development, raising levels of living, meeting manpower requirements and overcoming unemployment and underemployment".^q It is in this context that effective measures to increase the resources allocated to reducing the unemployment rate, in particular among women, the disadvantaged and marginalized, should be taken by States parties. The Committee emphasizes the need to establish a compensation mechanism in the event of loss of employment, as well as the obligation to take appropriate measures for the establishment of employment services (public or private) at the national and local levels.^r Further, the obligation to fulfil (provide) the right to work includes the implementation by States parties of plans to counter unemployment.^s

27. The obligation to *fulfil* (facilitate) the right to work requires States parties, inter alia, to take positive measures to enable and assist individuals to enjoy the right to work and to implement technical and vocational education plans to facilitate access to employment.

28. The obligation to *fulfil* (promote) the right to work requires States parties to undertake, for example, educational and informational programmes to instil public awareness on the right to work.

^o See article 32, paragraph 1, of the Convention on the Rights of the Child.

^p See article 7, paragraph 2, of ILO Convention No. 182 (1999) concerning the Prohibition and Immediate Action for the elimination of the Worst Forms of Child Labour and the Committee's general comment No. 13 (1999) on the right to education.

^q See article 1, paragraph 1, of ILO Convention No. 122 (1964) concerning Employment Policy.

^r See ILO Convention No. 88 (1948) concerning the Organization of the Employment Service.

^s See ILO Conventions No. 88 (1948) and No. 2 (1919) concerning Unemployment. See also ILO Convention No. 168 (1988) concerning Employment Promotion and Protection against Unemployment.

C. International obligations

29. In its general comment No. 3 (1990) on the nature of States parties' obligations (art. 2, para. 1, of the Covenant) the Committee drew attention to the obligation of all States parties to take steps individually and through international assistance and cooperation, especially economic and technical, towards the full realization of the rights recognized in the Covenant. In the spirit of Article 56 of the Charter of the United Nations and specific provisions of the Covenant (art. 2, para. 1, arts. 6, 22 and 23), States parties should recognize the essential role of international cooperation and comply with their commitment to take joint and separate action to achieve the full realization of the right to work. States parties should, through international agreements where appropriate, ensure that the right to work as set forth in articles 6, 7 and 8 of the Covenant is given due attention.

30. To comply with their international obligations in relation to article 6, States parties should endeavour to promote the right to work in other countries as well as in bilateral and multilateral negotiations. In negotiations with international financial institutions, States parties should ensure protection of the right to work of their population. States parties that are members of international financial institutions, in particular the International Monetary Fund (IMF), the International Bank for Reconstruction and Development (the World Bank) and regional development banks, should pay greater attention to the protection of the right to work in influencing the lending policies, credit agreements, structural adjustment programmes and international measures of these institutions. The strategies, programmes and policies adopted by States parties under structural adjustment programmes should not interfere with their core obligations in relation to the right to work and impact negatively on the right to work of women, young persons and the disadvantaged and marginalized individuals and groups.

D. Core obligations

31. In general comment No. 3 (1990) the Committee confirms that States parties have a core obligation to ensure the satisfaction of minimum essential levels of each of the rights covered by the Covenant. In the context of article 6, this "core obligation" encompasses the obligation to ensure non-discrimination and equal protection of employment. Discrimination in the field of employment comprises a broad cluster of violations affecting all stages of life, from basic education to retirement, and can have a considerable impact on the work situation of individuals and groups. Accordingly, these core obligations include at least the following requirements:

(a) To ensure the right of access to employment, especially for disadvantaged and marginalized individuals and groups, permitting them to live a life of dignity;

(b) To avoid any measure that results in discrimination and unequal treatment in the private and public sectors of disadvantaged and marginalized individuals and groups or in weakening mechanisms for the protection of such individuals and groups;

(c) To adopt and implement a national employment strategy and plan of action based on and addressing the concerns of all workers on the basis of a participatory and transparent process that includes employers' and workers' organizations. Such an employment strategy and plan of action should target disadvantaged and marginalized individuals and groups in particular and include indicators and benchmarks by which progress in relation to the right to work can be measured and periodically reviewed.

III. VIOLATIONS

32. A distinction should be drawn between the inability and the unwillingness of States parties to comply with their obligations under article 6 of the Covenant. This follows from article 6, paragraph 1, which guarantees the right of everyone to the opportunity to gain his living by work that he freely chooses or accepts, and article 2, paragraph 1, which places an obligation on each State party to undertake the necessary measures “to the maximum of its available resources”. The obligations of States parties must be interpreted in the light of these two articles. States parties that are unwilling to use the maximum of their available resources for the realization of the right to work are in violation of their obligations under article 6. Nevertheless, resource constraints may explain the difficulties a State party may encounter in fully guaranteeing the right to work, to the extent that the State party demonstrates that it has used all available resources at its disposal in order to fulfil, as a matter of priority, the obligations outlined above. Violations of the right to work can occur through the direct action of States or State entities, or through the lack of adequate measures to promote employment. Violations through *acts of omission* occur, for example, when States parties do not regulate the activities of individuals or groups to prevent them from impeding the right of others to work. Violations through *acts of commission* include forced labour; the formal repeal or suspension of legislation necessary for continued enjoyment of the right to work; denial of access to work to particular individuals or groups, whether such discrimination is based on legislation or practice; and the adoption of legislation or policies which are manifestly incompatible with international obligations in relation to the right to work.

A. Violations of the obligation to respect

33. Violations of the obligation to respect the right to work include laws, policies and actions that contravene the standards laid down in article 6 of the Covenant. In particular, any discrimination in access to the labour market or to means and entitlements for obtaining employment on the grounds of race, colour, sex, language, age, religion, political or other opinion, national or social origin, property, birth or any other situation with the aim of impairing the equal enjoyment or exercise of economic, social and cultural rights constitutes a violation of the Covenant. The principle of non-discrimination mentioned in article 2, paragraph 2, of the Covenant is immediately applicable and is neither subject to progressive implementation nor dependent on available resources. It is directly applicable to all aspects of the right to work. The failure of States parties to take into account their legal obligations regarding the right to work when entering into bilateral or multilateral agreements with other States, international organizations and other entities such as multinational entities constitutes a violation of their obligation to respect the right to work.

34. As for all other rights in the Covenant, there is a strong presumption that retrogressive measures taken in relation to the right to work are not permissible. Such retrogressive measures include, inter alia, denial of access to employment to particular individuals or groups, whether such discrimination is based on legislation or practice, abrogation or suspension of the legislation necessary for the exercise of the right to work or the adoption of laws or policies that are manifestly incompatible with international legal obligations relating to the right to work. An example would be the institution of forced labour or the abrogation of legislation protecting the employee against unlawful dismissal. Such measures would constitute a violation of States parties’ obligation to respect the right to work.

B. Violations of the obligation to protect

35. Violations of the obligation to protect follow from the failure of States parties to take all necessary measures to safeguard persons within their jurisdiction from infringements of the right to work by third parties. They include omissions such as the failure to regulate the activities of individuals, groups or corporations so as to prevent them from violating the right to work of others; or the failure to protect workers against unlawful dismissal.

C. Violations of the obligation to fulfil

36. Violations of the obligation to fulfil occur through the failure of States parties to take all necessary steps to ensure the realization of the right to work. Examples include the failure to adopt or implement a national employment policy designed to ensure the right to work for everyone; insufficient expenditure or misallocation of public funds that results in the non-enjoyment of the right to work by individuals or groups, particularly the disadvantaged and marginalized; the failure to monitor the realization of the right to work at the national level, for example, by identifying right-to-work indicators and benchmarks; and the failure to implement technical and vocational training programmes.

IV. IMPLEMENTATION AT THE NATIONAL LEVEL

37. In accordance with article 2, paragraph 1, of the Covenant, States parties are required to utilize “all appropriate means, including particularly the adoption of legislative measures” for the implementation of their Covenant obligations. Every State party has a margin of discretion in assessing which measures are most suitable to meet its specific circumstances. The Covenant, however, clearly imposes a duty on each State party to take whatever steps are necessary to ensure that everyone is protected from unemployment and insecurity in employment and can enjoy the right to work as soon as possible.

A. Legislation, strategies and policies

38. States parties should consider the adoption of specific legislative measures for the implementation of the right to work. Those measures should (a) establish national mechanisms to monitor implementation of employment strategies and national plans of action; (b) contain provisions on numerical targets and a time frame for implementation; (c) provide means of ensuring compliance with the benchmarks established at the national level; and (d) provide the involvement of civil society, including experts on labour issues, the private sector and international organizations. In monitoring progress on realization of the right to work, States parties should identify the factors and difficulties affecting the fulfilment of their obligations.

39. Collective bargaining is a tool of fundamental importance in the formulation of employment policies.

40. United Nations specialized agencies and programmes should, upon States parties’ request, assist in drafting and reviewing relevant legislation. ILO, for example, has considerable expertise and accumulated knowledge concerning legislation in the field of employment.

41. States parties should adopt a national strategy, based on human rights principles aimed at progressively ensuring full employment for all. Such a national strategy also imposes a requirement to identify the resources available to States parties for achieving their objectives as well as the most cost-effective ways of using them.

42. The formulation and implementation of a national employment strategy should involve full respect for the principles of accountability, transparency, and participation by interested groups. The right of individuals and groups to participate in decision-making should be an integral part of all policies, programmes and strategies intended to implement the obligations of States parties under article 6 of the Covenant. The promotion of employment also requires effective involvement of the community and, more specifically, of associations for the protection and promotion of the rights of workers and trade unions in the definition of priorities, decision-making, planning, implementation and evaluation of the strategy to promote employment.

43. To create conditions favourable to the enjoyment of the right to work, States parties must also take appropriate measures to ensure that both the private and public sectors reflect an awareness of the right to work in their activities.

44. The national employment strategy must take particular account of the need to eliminate discrimination in access to employment. It must ensure equal access to economic resources and to technical and vocational training, particularly for women, disadvantaged and marginalized individuals and groups, and should respect and protect self-employment as well as employment with remuneration that enables workers and their families to enjoy an adequate standard of living as stipulated in article 7 (a) (ii) of the Covenant.^t

45. States parties should develop and maintain mechanisms to monitor progress towards the realization of the right to freely chosen or accepted employment, to identify the factors and difficulties affecting the degree of compliance with their obligations and to facilitate the adoption of corrective legislative and administrative measures, including measures to implement their obligations under articles 2, paragraph 1, and 23 of the Covenant.

B. Indicators and benchmarks

46. A national employment strategy must define indicators on the right to work. The indicators should be designed to monitor effectively, at the national level, the compliance by States parties with their obligations under article 6 of the Covenant and should be based on ILO indicators such as the rate of unemployment, underemployment and the ratio of formal to informal work. Indicators developed by ILO that apply to the preparation of labour statistics may be useful in the preparation of a national employment plan.^u

47. Having identified appropriate right to work indicators, States parties are invited to set appropriate national benchmarks in relation to each indicator. During the periodic reporting

^t See the Committee's general comment No. 12 (1999) on the right to adequate food (art. 11 of the Covenant), para. 26.

^u See ILO Convention No. 160 (1985) concerning Labour Statistics, in particular, its articles 1 and 2.

procedure the Committee will engage in a process of “scoping” with the State party. This process involves the joint consideration by the State party and the Committee of the indicators and national benchmarks which will then provide the targets to be achieved during the next reporting period. During the following five years the State party will use these national benchmarks to help monitor its implementation of the right to work. Thereafter, in the subsequent reporting process, the State party and the Committee will consider whether or not the benchmarks have been achieved and the reasons for any difficulties that may have been encountered. Further, when setting benchmarks and preparing their reports States parties should utilize the extensive information and advisory services of specialized agencies with regard to data collection and disaggregation.

C. Remedies and accountability

48. Any person or group who is a victim of a violation of the right to work should have access to effective judicial or other appropriate remedies at the national level. At the national level trade unions and human rights commissions should play an important role in defending the right to work. All victims of such violations are entitled to adequate reparation, which may take the form of restitution, compensation, satisfaction or a guarantee of non-repetition.

49. Incorporation of international instruments setting forth the right to work into the domestic legal order, in particular the relevant ILO conventions, should strengthen the effectiveness of measures taken to guarantee the right to work and is encouraged. The incorporation of international instruments recognizing the right to work into the domestic legal order, or the recognition of their direct applicability, significantly enhances the scope and effectiveness of remedial measures and is encouraged in all cases. Courts would then be empowered to adjudicate violations of the core content of the right to work by directly applying obligations under the Covenant.

50. Judges and other law enforcement authorities are invited to pay greater attention to violations of the right to work in the exercise of their functions.

51. States parties should respect and protect the work of human rights defenders and other members of civil society, in particular the trade unions, who assist disadvantaged and marginalized individuals and groups in the realization of their right to work.

V. OBLIGATIONS OF ACTORS OTHER THAN STATES PARTIES

52. While only States parties to the Covenant are ultimately accountable for compliance with its provisions, all members of society - individuals, local communities, trade unions, civil society and private sector organizations - have responsibilities regarding the realization of the right to work. States parties should provide an environment facilitating the discharge of these obligations. Private enterprises - national and multinational - while not bound by the Covenant, have a particular role to play in job creation, hiring policies and non-discriminatory access to work. They should conduct their activities on the basis of legislation, administrative measures, codes of conduct and other appropriate measures promoting respect for the right to work, agreed between the government and civil society. Such measures should recognize the labour standards elaborated by ILO and aim at increasing the awareness and responsibility of enterprises in the realization of the right to work.

53. The role of the United Nations specialized agencies and programmes, and in particular the key function of ILO in protecting and implementing the right to work at the international, regional and national levels, is of particular importance. Regional institutions and instruments, where they exist, also play an important role in ensuring the right to work. When formulating and implementing their national employment strategies, States parties should avail themselves of the technical assistance and cooperation offered by ILO. When preparing their reports, States parties should also use the extensive information and advisory services provided by ILO for data collection and disaggregation as well as the development of indicators and benchmarks. In conformity with articles 22 and 23 of the Covenant, ILO and the other specialized agencies of the United Nations, the World Bank, regional development banks, IMF, the World Trade Organization and other relevant bodies within the United Nations system should cooperate effectively with States parties to implement the right to work at the national level, bearing in mind their own mandates. International financial institutions should pay greater attention to the protection of the right to work in their lending policies and credit agreements. In accordance with paragraph 9 of the Committee's general comment No. 2 (1990) on international technical assistance measures (art. 22 of the Covenant), particular efforts should be made to ensure that the right to work is protected in all structural adjustment programmes. When examining the reports of States parties and their ability to meet their obligations under article 6, the Committee will consider the effects of the assistance provided by actors other than States parties.

54. Trade unions play a fundamental role in ensuring respect for the right to work at the local and national levels and in assisting States parties to comply with their obligations under article 6. The role of trade unions is fundamental and will continue to be considered by the Committee in its consideration of the reports of States parties.

ANNEX XI

A. List of States parties' delegations which participated in the consideration of their respective reports by the Committee on Economic, Social and Cultural Rights at its thirty-fourth session

ZAMBIA

Representative:

Ms. G.M.K. Imbwa
Permanent Secretary
Ministry of Justice

Advisers:

Mr. Love Mtesa
Ambassador
Permanent Representative
Permanent Mission of Zambia to the
United Nations Office at Geneva

Ms. Encyla Sinjela
Counsellor
Permanent Mission of Zambia to the
United Nations Office at Geneva

Ms. Maria M. Kawimbe
Deputy Director
Ministry of Justice

Mr. Enoch Mulembe
Director
Permanent Human Rights Commission

Mr. Lumbwe Chola
Statistician
Central Statistical Office

Ms. Belinda Lumbala
Planner
Ministry of Finance and National Planning

Mr. Joel Ukwimi
Acting Deputy Accountant General
Ministry of Finance and National Planning

CHINA

Representative: Mr. Sha Zukang
Ambassador
Permanent Representative
Permanent Mission of China
to the United Nations Office at Geneva

Advisers: Mr. Liu Jieyi
Director General
Department of International Organizations
and Conferences
Ministry of Foreign Affairs

Ms. Shao Wenhong
Director General
Research Office
Supreme People's Court

Mr. Mao Gongning
Director General
Department of Policies Laws and Regulations
State Ethnic Affairs Commission

Mr. Gao Weizhong
Deputy Director General
Department of Health Policies and Legislation
Ministry of Public Health

Ms. Dong Zihua
Division Director
Department of International Organizations
and Conferences
Ministry of Foreign Affairs

Mr. Huang Xingsheng
Deputy Division Director
Department of Policy and Regulation
Ministry of Education

Ms. You Xueyun
Deputy Division Director
Seventh Bureau
Information Office of the State Council

Mr. Zhang Yongqing
Deputy Division Director
General Office
Ministry of Labour and Social Security

CHINA (cont'd)

Mr. Wu Xuyan
Section Chief
Department of Housing and
Real Estate Industry
Ministry of Construction

Ms. Tian Ni
Third Secretary
Department of Treaty and Law
Ministry of Foreign Affairs

Mr. Zhou Xianfeng
Attaché
Department of International
Organizations and Conferences
Ministry of Foreign Affairs

Mr. Fan Yong
Attaché
Department of International
Organizations and Conferences
Ministry of Foreign Affairs

Hong Kong Special Administrative Region

Mr. Stephen Fisher
Permanent Secretary for Home Affairs
Home Affairs Bureau

Mr. John Dean
Principal Assistant Secretary for Home Affairs
Home Affairs Bureau

Ms. Amy Yeung
Assistant Secretary for Home Affairs
Home Affairs Bureau

Ms. Cynthia Tong
Principal Information Officer
Home Affairs Bureau

Mr. Robert Allcock
Solicitor General
Department of Justice

Ms. Anita Ng
Government Counsel
Department of Justice

CHINA (cont'd)

Ms. Salina Yan
Deputy Secretary
Health, Welfare and Food Bureau

Ms. Hoo Ying
Training Officer
Social and Welfare Department

Ms. Do Pang Wai-yee
Assistant Commissioner
Labour Department

Mr. Tam Wing-pong
Deputy Director
Housing Department

Ms. Fanny Lam
Principal Assistant Secretary
Education and Manpower Bureau

Macao Special Administrative Region

Mr. Jorge Costa Oliveira
Director
International Law Office

Ms. Tou Wai Fong
Assistant Commissioner
Commission Against Corruption

Mr. Zhu Lin
Assessor
Office of the Secretary for
Administration and Justice

Mr. Diamantino José dos Santos
Director
Security Forces Coordination Office

Ms. Patricia Albuquerque Ferreira
Deputy Director
International Law Office

Mr. José Carlos Bento da Silva
Legal Adviser
Labour Affairs Bureau

NORWAY

Representative: Mr. Peter F. Wille
Deputy Director General
Norwegian Ministry of Foreign Affairs

Advisers: Ms. Astrid Helle Ajamay
Minister Counsellor
Permanent Mission of Norway to the
United Nations Office at Geneva

Mr. Per Ivar Lied
First Secretary
Permanent Mission of Norway to the
United Nations Office at Geneva

Ms. Claire Hubert
Senior Executive Officer
Norwegian Ministry of Foreign Affairs

Mr. Roger Østbøl
Deputy Director General
Norwegian Ministry of Health and Care

Ms. Bjørg Unstad
Assistant Director General
Norwegian Ministry of Local Government
and Regional Development

**SERBIA AND
MONTENEGRO**

Representative: Mr. Dejan Šahović
Ambassador
Permanent Representative
Permanent Mission of Serbia and Montenegro
to the United Nations Office at Geneva

Advisers: Ms. Slobodanka Krivokapić
Assistant Minister
Ministry of Health of the Republic of
Montenegro

Ms. Slavka Lakićević
Assistant Minister
Ministry of Labour, Employment and Social
Policy of the Republic of Serbia

Mr. Milan Begović
Minister Plenipotentiary
Permanent Mission of Serbia and Montenegro
to the United Nations Office at Geneva

**SERBIA AND
MONTENEGRO**
(cont'd)

Ms. Rina Ivančević
Inspector General for Architecture and Urbanism
Ministry of Environmental Protection and Urban
Planning of the Republic of Montenegro

Ms. Mira Nikolić
Minister Plenipotentiary
Head of the Group for Human Rights
Ministry of Foreign Affairs of
Serbia and Montenegro

Ms. Snežana Bogdanović
Director
Ministry of Labour, Employment and
Social Policy of the Republic of Serbia

Ms. Tanja Prijić
Director
Ministry of Labour, Employment and
Social Policy of the Republic of Serbia

Ms. Ranka Vujović
Director
Ministry of Labour, Employment and
Social Policy of the Republic of Serbia

Ms. Dubravka Lalović
Senior Adviser
Ministry of Foreign Affairs of the
Republic of Montenegro

Ms. Gordana Mohorović
Senior Adviser
Section for Human Rights
Ministry of Human and Minority Rights of
Serbia and Montenegro

Ms. Bedrija Đoković
Counsellor
Analyst
Ministry of the Interior of the
Republic of Montenegro

Ms. Marina Vučićević
Counsellor
Ministry of Labour and Social Welfare
of the Republic of Montenegro

**SERBIA AND
MONTENEGRO**
(cont'd)

Ms. Marina Pavićević
Counsellor for Environmental Protection
Ministry of Environmental Protection and Urban
Planning of the Republic of Montenegro

Ms. Marina Ivanović
Second Secretary
Permanent Mission of Serbia and Montenegro
to the United Nations Office at Geneva

**B. List of States parties' delegations which participated in
the consideration of their respective reports by the
Committee on Economic, Social and Cultural Rights at its
thirty-fifth session**

SLOVENIA

Representative:

Ms. Marjeta Cotman
Head of Delegation
State Secretary
Ministry of Labour, Family and Social Affairs

Advisers:

Mr. Andrej Logar
Ambassador
Permanent Representative of Slovenia to the
United Nations Office at Geneva

Mr. Marko Štrovs
Acting Director General
Labour Relations and Labour Rights Directorate,
Ministry of Labour, Family and Social Affairs

Mr. Janez Obreza
Acting Director
Office for Nationalities

Ms. Jana Lovšin
International Cooperation and European Affairs
Department
Ministry of Labour, Family and Social Affairs

Ms. Suzana Čurin Radovič
Section for Cultural Rights of Minorities and
Development of Cultural Diversity
Ministry of Culture

SLOVENIA
(cont'd)

Ms. Violeta Neubauer
Office for Equal Opportunities

Ms. Tatjana Mušič
General Police Directorate
Ministry of the Interior

Mr. Beno Arnejčič
Development of Education Office
Ministry of Education and Sport

Mr. Davor Dominkuš
Social Affairs Directorate
Ministry of Labour, Family and Social Affairs

Ms. Janja Romih
Labour Market and Employment Directorate
Ministry of Labour, Family and Social Affairs

Ms. Erika Ponikvar-Dečman
Directorate for International Cooperation and
International Legal Assistance
Ministry of Justice

Ms. Brigita Lipovšek
European Affairs and Cultural Development
Section
Ministry of Culture

Ms. Vesna Kalčič
Office for Nationalities

Mr. Peter Pavlin
Directorate for Legislation on the Justice System
Ministry of Justice

Ms. Agata Zupančič
Public Health Directorate
Ministry of Labour, Family and Social Affairs

Ms. Lea Javornik Novak
Family Affairs Directorate
Ministry of Labour, Family and Social Affairs

Mr. Aljuš Pertinač
Labour Market and Employment Directorate
Ministry of Labour, Family and Social Affairs

SLOVENIA
(cont'd)

Ms. Nastaša Sax
International Cooperation and European Affairs
Department
Ministry of Labour, Family and Social Affairs

Mr. Peter Sotošek Štular
Media Directorate
Ministry of Culture

Ms. Alenka Markov
Third Secretary
Permanent Mission of Slovenia to the
United Nations Office at Geneva

Mr. Bojan Trnovšek
Internal Administrative Affairs Directorate
Ministry of the Interior

Mr. Žarko Bogunovič
Migrations Directorate
Ministry of the Interior

Mr. Sandi Čurin
Interdepartmental Working Group for the Fight
Against Trafficking in Persons
Ministry of the Interior

AUSTRIA

Representative:

Mr. Harald Dossi
Head of Delegation
Federal Chancellery

Advisers:

Mr. Wolfgang Petritsch
Ambassador
Permanent Representative of Austria to the
United Nations Office at Geneva

Mr. Anton Mair
Federal Ministry for Foreign Affairs

Mr. Heinz Tichy
Federal Ministry for Education, Science
and Culture

Mr. Hubert Hrabcik
Federal Ministry for Health and Women

Ms. Sylvia Kölbl
Federal Ministry for Health and Women

AUSTRIA (cont'd)

Ms. Regina Buchmann
Federal Ministry for the Interior

Ms. Yasmina Beciragic
Federal Ministry for the Interior

Mr. Gerhard Buczolich
Federal Ministry for Social Security, Generations
and Consumer Protection

Mr. Hannes Spreitzer
Federal Ministry for Social Security,
Generations and Consumer Protection

Ms. Elisabeth Weissenböck
Federal Ministry for Economy and Labour

Ms. Elisabeth Ellison-Kramer
Counsellor
Permanent Mission of Austria to the
United Nations Office at Geneva

Ms. Nicole Bjerler
Attaché
Permanent Mission of Austria to the
United Nations Office at Geneva

UZBEKISTAN

Representative:

Mr. Akmal Saidov
Head of Delegation
Director of the National Centre for
Human Rights

Advisers:

Mr. Badriddin Obidov
Chargé d'Affaires
Permanent Mission of Uzbekistan to the
United Nations Office at Geneva

Mr. Alisher Mursaliyev
Representative to WTO
Permanent Mission of Uzbekistan to the
United Nations Office at Geneva

Mr. Nodir Shamaksudov
Assistant on Cultural Affairs
Permanent Mission of Uzbekistan to the
United Nations Office at Geneva

**BOSNIA AND
HERZEGOVINA**

Representative: Mr. Slobodan Nagradić
Head of Delegation
Assistant Minister
Ministry for Human Rights and Refugees of
Bosnia and Herzegovina

Advisers: Ms. Amir Dzajic
Ministry of Civil Affairs of Bosnia and
Herzegovina

Ms. Azra Hadžibegić
Expert Adviser
Ministry for Human Rights and
Refugees of Bosnia and Herzegovina

Mr. Dragutin Čegar
Expert Adviser
Ministry for Human Rights and Refugees of
Bosnia and Herzegovina

Mr. Rajko Kličković
Assistant Minister
Government of the Republika Srpska,
Bosnia and Herzegovina

Ms. Marina Bera
Expert Adviser
Ministry of Health of the Federation of
Bosnia and Herzegovina

Ms. Dragana Anđelić
Chargé d'Affaires
Counsellor
Permanent Mission of Bosnia and Herzegovina
to the United Nations Office at Geneva

**LIBYAN ARAB
JAMAHIRIYA**

Representative: Mr. Abdel Hafid Derbi
Head of Delegation
General People's Committee for Labour Forces
and Employment

Advisers: Mr. Abdalla Alhabib Ammar
Director of Legal Affairs and Human Rights
Secretariat of the General People's Congress

Ms. Husniya Markus
General People's Committee for Foreign
Liaison and International Organizations

**LIBYAN ARAB
JAMAHIRIYA**
(cont'd)

Ms. Fayza Yunes Albasha
General People's Congress

Mr. Ahmed Mohamed Abu Hajar
General People's Committee

Mr. Abdelhakim Daw Zamouna
General People's Committee for High Schools

Mr. Alfitouri Said Altoumi
General People's Committee for Health and
Planning

Mr. Mostafa Mahmoud Alnami
General People's Committee for Justice

Mr. Isa Abouseta
General Department for Conventions and Legal
Affairs

ANNEX XII

A. List of documents of the Committee at its thirty-fourth session

E/1990/5/Add.59	Initial reports submitted by States parties to the Covenant: China
E/1990/5/Add.60	Idem: Zambia
E/1990/5/Add.61	Idem: Serbia and Montenegro
E/C.12/4/Add.14	Fourth periodic reports by States parties to the Covenant: Norway
E/2005/22-E/C.12/2004/9	Report of the Committee on its thirty-second and thirty-third sessions
E/C.12/1	Concluding observations of the Committee on reports submitted by States parties in accordance with articles 16 and 17 of the Covenant: note by the Secretary-General
E/C.12/1989/L.3/Rev.3	Note by the Secretary-General
E/C.12/1990/4/Rev.1	Rules of procedure of the Committee
E/C.12/1993/3/Rev.6	Status of the International Covenant on Economic, Social and Cultural Rights and reservations, withdrawals, declarations and objections under the Covenant: note by the Secretary-General
E/C.12/2003/3	Follow-up to the consideration of reports under articles 16 and 17 of the Covenant: note by the secretariat
E/C.12/2005/1	Provisional agenda and annotations: note by the Secretary-General
E/C.12/2005/2	States parties to the International Covenant on Economic, Social and Cultural Rights and the status of the submission of reports in accordance with the programme established by the Economic and Social Council in its resolution 1988/4 and article 58 of the rules of procedure of the Committee: note by the Secretary-General
E/C.12/2005/4	General comment No. 16 (2005): the equal right of men and women to the enjoyment of all economic, social and cultural rights (art. 3 of the Covenant)
E/C.12/2005/L.1	Draft programme of work: note by the Secretary-General
E/C.12/Q/CHN/1	List of issues: China

E/C.12/Q/NOR/2	Idem: Norway
E/C.12/Q/SEMO/1	Idem: Serbia and Montenegro
E/C.12/Q/ZMB/1	Idem: Zambia
E/C.12/1/Add.106	Concluding observations of the Committee: Zambia
E/C.12/1/Add.107	Idem: China
E/C.12/1/Add.108	Idem: Serbia and Montenegro
E/C.12/1/Add.109	Idem: Norway
E/C.12/2005/SR.1-27 and E/C.12/2005/SR.1-27/ Corrigendum	Summary records of the thirty-fourth session (1st to 27th meetings) of the Committee

B. List of documents of the Committee at its thirty-fifth session

E/1990/5/Add.62	Initial reports submitted by States parties to the Covenant: Slovenia
E/1990/5/Add.63	Idem: Uzbekistan
E/1990/5/Add.65	Idem: Bosnia and Herzegovina
E/1990/6/Add.38	Second periodic reports submitted by States parties to the Covenant: Libyan Arab Jamahiriya
E/1994/104/Add.28	Third periodic reports submitted by States parties to the Covenant: Austria
E/2005/22-E/C.12/2004/9	Report of the Committee on its thirty-second and thirty-third sessions
E/C.12/1989/L.3/Rev.3	Note by the Secretary-General
E/C.12/1990/4/Rev.1	Rules of procedure of the Committee
E/C.12/1993/3/Rev.6	Status of the International Covenant on Economic, Social and Cultural Rights and reservations, withdrawals, declarations and objections under the Covenant: note by the Secretary-General
E/C.12/2003/3	Follow-up to the consideration of reports under articles 16 and 17 of the Covenant: note by the secretariat
E/C.12/2005/3	Provisional agenda and annotations: note by the Secretary-General

E/C.12/GC/17	General comment No. 17 (2005): the right of everyone to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author (art. 15 (1) (c) of the Covenant)
E/C.12/GC/18	General comment No. 18 (2005): the right to work (art. 6 of the Covenant)
E/C.12/2005/L.2	Draft programme of work: note by the Secretary-General
E/C.12/Q/AUT/1	List of issues: Austria
E/C.12/Q/BIH/1	Idem: Bosnia and Herzegovina
E/C.12/Q/LBY/1	Idem: Libyan Arab Jamahiriya
E/C.12/Q/SVN/1	Idem: Slovenia
E/C.12/Q/UZB/1	Idem: Uzbekistan
E/C.12/AUT/CO/3	Concluding observations of the Committee: Austria
E/C.12/BIH/CO/1	Idem: Bosnia and Herzegovina
E/C.12/LBY/CO/2 and Corr.1	Idem: Libyan Arab Jamahiriya
E/C.12/SVN/CO/1	Idem: Slovenia
E/C.12/UZB/CO/1	Idem: Uzbekistan
E/C.12/UZB/CO/1/Add.1*	Comments by the Government of Uzbekistan on the concluding observations of the Committee on Economic, Social and Cultural Rights
E/C.12/2005/SR.30-58 and E/C.12/2005/SR.30-58/ Corrigendum	Summary records of the thirty-fifth session (30th to 58th meetings) of the Committee

* Issued after the closure of the thirty-fifth session of the Committee.