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Committee on Economic, Social
and Cultural Rights

**CONSIDERATION OF REPORTS SUBMITTED BY STATES
PARTIES UNDER ARTICLES 16 AND 17 OF THE COVENANT**

Concluding observations of the Committee on Economic,
Social and Cultural Rights

BELARUS

1. At its 34th to 36th meetings on 21 and 22 November 1996, the Committee considered the third periodic report of the Republic of Belarus on articles 1 to 15 of the Covenant (E/1994/104/Add.6) and adopted, at its 54th meeting held on 5 December 1996, the following concluding observations.

A. Introduction

2. The Committee is gratified that the State party punctually submitted its third periodic report, which complied with the guidelines regarding the form and contents of reports to be submitted by States parties. It appreciates also the additional information provided in response to the written list of questions, although the latter did not follow a sufficiently clear format. It welcomes the high level delegation, with which it engaged in an open and constructive dialogue. With some exceptions, the members

of the delegation provided satisfactory oral replies to most of the Committee's questions.

B. Positive aspects

3. The Committee welcomes efforts by the State party to improve and update its legislation and to bring it into line with the socio-economic sphere. In particular, it regards as positive developments the steps taken to update the Labour Code, the Act on collective agreements and work agreements, the Act on pension provision, the Act on employment and the Act on procedures for the settling of labour disputes, and the authorities' dialogue on these questions with experts from the International Labour Organization.
4. The Committee notes that the Government is taking steps to combat unemployment, *inter alia* by setting up and boosting the efficiency of a State employment service and a vocational training and retraining scheme, and by drawing up yearly Government employment programmes calling for a range of measures to aid the unemployed in finding work and offer them material support.
5. The Committee notes the State party's efforts to cope with the aftermath of the accident at the Chernobyl nuclear power station, including the provision of medical assistance to those directly affected and welfare measures for those who were in the vicinity at the time of the accident.
6. The Committee also notes efforts by the Belarusian authorities to incorporate human rights issue into school curricula and teacher-training schedules, and the corresponding segments and specialized courses into vocational training, retraining and further education programmes for professionals of all categories. It also notes with satisfaction the establishment of a Human Rights Chair in the Academy of the Belarusian Ministry of Internal Affairs.
7. The Committee welcomes the statement by the head of the Belarusian delegation that his Government endorsed the idea of drafting of an optional protocol to the International Covenant on Economic, Social and Cultural Rights.
8. The Committee is gratified that the third periodic report of Belarus has been issued as a separate pamphlet and sent to libraries, the mass media and individual non-governmental organizations in the State party.

C. Factors and difficulties impeding the implementation of the Covenant

9. The Committee notes that Belarus is undergoing rapid changes in its development and is experiencing the sort of difficulties in socio-economic matters that are typical in many countries with economies in transition. The dissolution of the Soviet Union, of which Belarus was, until quite recently, a part, has adversely affected the Belarusian economy - especially its industry, large parts of which were closely linked to and dependent on the economies of other republics of the former USSR.
10. Escape from economic crisis is rendered more difficult by the fact that Belarus, with few natural and energy resources of its own, is heavily dependent on raw materials and energy from elsewhere. Rising energy costs have directly affected prices for basic necessities and food.
11. The clean-up after the accident at the Chernobyl nuclear power station is said to absorb up to 20 per cent of the annual budget. International donors and investors have withheld their aid or investments pending the introduction of legal and economic reforms. Many of the country's present economic and social difficulties show the need to expedite economic reforms and to build up democratic institutions based on the principles of the rule of law.

D. Principal subjects of concern

12. The Committee observes that the establishment of a regime that concentrates power in the Presidency, at the expense of the independent role of the Parliament and the independence of the judiciary, is not consistent with the political environment necessary for the exercise of human rights, including economic, social and cultural rights.
13. The Committee expresses its deep concern at the growing number of people in Belarus living at or below the poverty line, the sharp decline in purchasing power and the widening gulf between rich and poor while the very poorest segments of the population are on extremely low incomes.
14. The Committee also expresses concern that crime, drug use, corruption and so forth are on the increase.
15. The Committee is concerned that some 600,000 children still live in the zone affected by the accident at the Chernobyl nuclear power station.

16. The Committee is concerned at the rise in unemployment, particularly in relation to its disproportionate impact on women. It is also concerned at the discrimination against women in appointment to jobs.
17. The Committee is disturbed at the legal status of trade unions in Belarus: the shortcomings of the legislation regulating their activities and the existence of certain legislative provisions which restrict freedom of association. It notes with concern that a number of formerly recognized major trade unions, all of which have been required to register anew under the new legislation, appear to have been prevented from applying for re-registration with the Ministry of Justice.
18. The Committee expresses its preoccupation at the fact that the information on treatment of HIV/AIDS infected persons is completely absent from the report. The delegation's assurance that there exists sexual counselling for men as well as for pregnant women does not eliminate the Committee's concern that such services are inadequate.
19. Although the Committee notes the Government's assurance that it has created sufficient detoxification and rehabilitation centres for drug and alcohol addicts, it remains concerned that what is being done in this view does not appear to be sufficient to meet the needs that exist.

E. Suggestions and recommendations

20. The Committee is gratified that article 8 of the Belarusian Constitution acknowledges the primacy of principles of international law and requires national legislation to conform to those principles. The Committee, taking note of the acknowledgement by the delegation that Belarus legislation needs to be reviewed to bring it into conformity with the Covenant, recommends that the necessary measures be taken as soon as possible and that the human rights legislation to be enacted in Belarus will closely match internationally acknowledged standards.
21. The Committee emphasizes that any economic reform adopted should be undertaken in a manner that is consistent with protection of the economic and social rights of the poorer segments of society.
22. The Committee draws the Government's attention to the need to update the legislation governing the freedom of activity of trade unions and the need for legislation on the right to strike; such legislation should accord with the provisions of the Covenant and the ILO

Conventions No. 87 (Freedom of Association and Protection of the Right to Organize Convention) and No. 98 (Right to Organize and Collective Bargaining Convention). The Committee urges that consideration be given to limiting the list of sectors in which workers do not have the right to strike to no more than those authorized by relevant international standards, such as the armed forces, the police, etc.

23. The Committee also calls upon the Government to adopt legislation and practical steps to combat discrimination against women in employment.
24. The Committee notes the need for the State party to respond to the challenge of HIV/AIDS with adequate new legislative and social measures. In this connection, it would be appropriate if the Government would coordinate with the relevant departments of WHO and UNAIDS. The Committee requests the Government to provide it, in its fourth periodic report, with relevant statistics and information on concrete measures undertaken in that respect since the consideration of the present report.
25. The Committee requests the State party, in its fourth periodic report, to supply it with information on the steps it is taking to raise the standards of living, reduce unemployment, and eliminate the restrictive legislation governing trade unions.
26. The Committee recommends that the Government should increase its efforts in relation to human rights education so as to ensure that all categories of students, teachers, judges and the police and other law enforcement agents are covered.
27. The Committee calls upon the State party to consider the adoption of measures which would enable the courts to take account of and apply the rights recognized in the Covenant on Economic, Social and Cultural Rights.
28. The Committee encourages the State party to widely disseminate the Concluding observations adopted by the Committee following the consideration of the State party's third periodic report.

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Committee on Economic, Social
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**CONSIDERATION OF REPORTS SUBMITTED BY STATES
PARTIES UNDER ARTICLES 16 AND 17 OF THE COVENANT**

Preliminary concluding observations of the Committee on Economic,
Social and Cultural Rights

DOMINICAN REPUBLIC

1. The Committee considered the second periodic report of the Dominican Republic on articles 1 to 15 of the Covenant (E/1990/6/Add.7) at its 29th and 30th meetings, held on 19 November 1996, and adopted, at its 50th meeting, held on 3 December 1996, the following concluding observations.

A. Introduction

2. The Committee expresses its appreciation to the State party for its report and welcomes the appearance before it of the Permanent Representative of the Dominican Republic to the United Nations Office at Geneva. The Committee, however, notes with regret that the Government of the State party neither provided written replies to the Committee's list of issues (E/C.12/1995/LQ.7) made available to it in January 1996, nor sent an expert delegation to present its report as it

had promised to do at the Committee's fourteenth session in May 1996, when requesting the postponement of the consideration of its report to the fifteenth session. Consequently, the Committee was obliged, in accordance with its method of work, to consider the second periodic report of the Dominican Republic without the benefit of a dialogue or the participation of an expert delegation. Nevertheless, the Committee notes the statement by the Permanent Representative of the Dominican Republic to the United Nations Office in Geneva that, although she was unable to take an active part in the dialogue with the Committee, she would communicate to her Government the principal additional subjects of concern identified by the Committee in the course of its deliberations.

3. The Committee notes with dissatisfaction that the report submitted by the Government of the State party was, like the initial report, not prepared in accordance with its revised general guidelines (E/C.12/1991/1). It also notes that information contained therein is incomplete and of a purely legal nature, without any reference to the situation concerning the practical realization of the rights set forth in the Covenant and that the suggestions and recommendations formulated by the Committee in its concluding observations and adopted at its eleventh session in November 1994 have not been addressed in the present report. It further notes, with regret, the lack of information of a general character which the State party was supposed to have provided in a "core document", which it has similarly failed to submit. The Committee feels that the failure of the State party to respond to the list of issues and to send a delegation with competence to engage in a dialogue with it during this fifteenth session shows, on part of the State party, a consistent pattern of disregard for its obligations under the Covenant and an unwillingness to cooperate with the Committee.
4. In this connection, the Committee wishes to express its gratitude to the non-governmental organizations, both national ("Ciudad Alternativa" and COPADEBA) and international (Habitat International Coalition and International Women's Rights Action Watch) for the detailed and carefully documented information they have made available to it in relation to the Dominican Republic's report. In particular, the Committee draws the attention of the State party to the document "The Dominican Republic: An independent report submitted to the UN Committee on Economic, Social and Cultural Rights by the International Women's Rights Action Watch".

B. Positive aspects

5. The Committee notes with satisfaction, from the information available to it from other sources, that the Government has repealed Decree No. 358-91, the application of which had previously negatively affected the realization of the right to adequate housing, and that it has provided a solution to the cases of eviction pronounced under previous governments.
6. The Committee further appreciates the information that the Government has undertaken a thorough review of the public health sector and is preparing a reform of the Health Code.
7. The Committee further appreciates the attempts being made in the Chamber of Deputies to recognize domestic violence as a public health issue and thus to discourage gender violence as a matter of public policy.

C. Factors and difficulties impeding the implementation of the Covenant

8. The Committee notes that the slow evolution towards democracy and the rule of law in the Dominican Republic has inhibited the strengthening of democratic institutions, the modernization of the machinery of government and, consequently, the effective implementation of the Covenant.
9. The Committee also observes that economic difficulties characterized by, *inter alia*, an increasing number of impoverished people (60 to 65 per cent of the population live below the poverty line) and the landless rural population, the high level of unemployment, especially in the cities, and the persistent large-scale emigration of skilled and semi-skilled workers out of the country have had a constraining influence on the implementation of the Covenant in the country.

D. Principal subjects of concern

10. In relation to article 2 of the Covenant, the Committee observes that the Dominican Republic has done very little to promote public awareness of the rights set forth in the Covenant. The Committee has been informed that abuses by the police and other security services persist.

11. The Committee notes with regret that, although in law United Nations human rights treaties become part of Dominican law upon ratification, in practice the judiciary does not apply these international treaties.
12. The Committee is particularly concerned about the exploitation of Haitians, and their unacceptable living conditions in the bateyes. In this connection, it has no reason not to accept the veracity of various reports which emphasize the dire predicament of workers in the bateyes, especially women workers whose presence there is not administratively recognized and who therefore become vulnerable to extreme exploitation (their wages are 50 percent lower than of men's) and are often deprived of their rights and the most basic health and social services. Both men and women in the bateyes, as well as Haitian workers in other sectors of the economy, live in perpetual insecurity and they constitute the principal national group in the Dominican Republic who are subject to deportation in inhuman conditions, often at the whim of employers who take advantage of the State's inaction to exploit the vulnerability of this group.
13. The Committee takes note of information from various sources concerning the arbitrary confiscation of identity cards called "cedulas" and the illegal deportation of persons of Haitian origin born in the Dominican Republic during the 1995-1996 presidential campaign. This information stresses the insecurity prevailing with regard to nationality of Dominican citizens of Haitian origin. It thus appears necessary to adopt clear legislation on nationality, which would procure legal security to persons of Haitian origin born in the Dominican Republic and to their children; which would require the authorities to register births without discrimination; and which would allow Haitians to obtain Dominican nationality through naturalization under the same conditions as other foreigners.
14. The Committee is informed that Black Dominicans are often subject to the same arbitrary police and administrative discrimination as temporary Haitian workers. Groups representing Blacks in the Dominican Republic also claim that the State violates their cultural rights by allowing the police and local communities to suppress Afro-American or African-identified cultural practices. They also assert that discrimination of this kind is encouraged at the public schools and by employers in both the public and private sectors.
15. The Committee also notes with concern that, according to information received from various sources, there is no mechanism for lodging

complaints against the arbitrariness or corruption of some judges and that there is no appellate procedure for challenging the discriminatory application of a law, an executive decree or a decree of the court.

16. The Committee notes with great concern that state expenditures on education and training as a proportion of public expenditure are less than half their average in Latin America.
17. The Committee notes with concern that large-scale emigration of Dominicans has been going on for many years and has had and will continue to have a harmful effect on the Dominican economy, since a great part of the emigrants are skilled workers. The State party will have to take measures in the educational and socio-economic fields to stem the out-flow of skilled workers.
18. The Committee notes with alarm that, 30 years after the first industrial park was established in a free trade zone in the Dominican Republic, unacceptable working conditions and abuses against workers rights under articles 6, 7 and 8 of the Covenant continue.
19. The Committee notes with concern the inhuman and archaic prison system, whereby members of the family of an accused person, who has run away may be imprisoned without trial in his place as a guarantee for the absentee-accused until he hands himself over to the prison authorities; and whereby prisoners are supposed to buy their own meals at weekends, when the prison authorities stop providing any meals to the prisoners.
20. The Committee is concerned to note the persistent rise of "sex tourism" in resort areas, and the spread of AIDS, which is one of the country's greatest health problems.
21. The Committee is particularly concerned that the enjoyment by women of economic, social and cultural rights is undermined, *inter alia* by: a traditional and persistent male dominated society; the failure to ensure that single women heads of household benefit from the agrarian reform or the Government's housing programme; the absence of any administrative mechanism that allows women to file complaints in cases of discrimination by the Dominican Agrarian Institute; the failure of the Government to protect women workers from discrimination or arbitrary dismissal related to pregnancy, including failure to discourage employers from the practice of pregnancy testing; and failure to develop and promote family planning services. The Committee is also con-

cerned that, despite the very high rate of hospital births in the Dominican Republic, the rate of maternal mortality is unacceptably high; common law marriages are not legally recognized, although 60 per cent of all marriages are of this nature and, consequently, in cases of separation, abandonment or the death of the male bread-earner of the family a woman frequently loses everything and finds it difficult to acquire a cedula or collateral, without which she cannot obtain agricultural credit, housing or employment.

22. The Committee wishes to voice its serious concern about the continuing problem of violence against women and the insufficient attention paid to the problem by governmental institutions.
23. The Committee expresses its concern about the issue of limited access to safe drinking water for the rural population and those living in deprived urban areas, the higher incidence of infant mortality in certain socio-economic groups, the deplorable situation of persons with disabilities, the prevalence of endemic diseases, the problem of the inadequacy of social welfare and security, the persisting housing shortage and the inadequacy of access to health care.
24. The Committee also calls attention to the various concerns it has expressed to the State party since its fifth session (1990) in relation to the continuous violation of the right to adequate housing and regrets the fact that it has received an entirely unsatisfactory and inadequate response from the State party in this respect. The Committee reminds the State party of the significance it attaches to the right to adequate housing and thus to the adoption of measures by the State party to recognize, respect, protect and fulfil that right.

E. Suggestions and recommendations

25. The Committee invites the State party to confirm publicly its commitment to implement its binding human rights treaty obligations. It strongly calls upon the Government of the State party to honour its obligations under the International Covenant on Economic, Social and Cultural Rights, particularly through maintaining the proper direct and constructive dialogue with the Committee called for in the Covenant. The Committee proposes to adopt finally its concluding observations in relation to the State party at its sixteenth session. For that reason the Committee decides that these concluding observations will be considered "preliminary", pending further consideration of the

report based on a dialogue with representatives of the State party at its sixteenth session.

26. In view of the consistent failure of the State party to meet its reporting obligations under the Covenant and to respond to successive requests for information made by the Committee over a number of years, the Committee urges the State party to attach the utmost importance to responding to the matters raised in the present concluding observations.
27. The Committee further recommends that the State Party provide it with written replies to its concluding observations adopted at its eleventh session (E/C.12/1994/15), in particular with regard to its request that the State party invite representatives of the Committee to visit the Dominican Republic; the written list of issues drawn up with respect to the third periodic report (E/C.12/1995/LQ.7); information contained in the document "The Dominican Republic: An independent report submitted to the UN Committee on Economic, Social and Cultural Rights by the International Women's Rights Action Watch".
28. The Committee requests the State Party to submit the information referred to in the preceding paragraph by 15 February 1997 in order to allow the Committee to consider that information at its sixteenth session, to be held from 28 April to 16 May 1997.
29. The Committee strongly recommends that the specific information requested above be presented to the Committee at its sixteenth session by an expert delegation.
30. The Committee encourages the State party to widely disseminate the Concluding observations adopted by the Committee following the consideration of the State party's second periodic report.

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PARTIES UNDER ARTICLES 16 AND 17 OF THE COVENANT**Concluding observations of the Committee on Economic,
Social and Cultural Rights

EL SALVADOR

1. The Committee considered the initial report of El Salvador (E/1990/5/Add.25) at its 15th, 16th and 18th meetings, held on 9 and 10 May 1996, and adopted, at its 26th meeting, held on 17 May 1996, the following concluding observations.

A. Introduction

2. The Committee thanks the State party for its initial report, despite the considerable delay in its submission. The Committee also thanks the State party for its written replies to the list of issues, but regrets that they were not submitted in time to be translated and considered more carefully by members of the Committee. The Committee also regrets that information relating to article 15 of the Covenant was missing from the report, as well as from the written replies to the list of issues, in spite of specific requests for such information. The Committee notes

with satisfaction that the report of El Salvador was drafted in consultation with national non-governmental organizations.

3. The Committee points out that the lack of concrete information, both in the written report and in the written and oral replies provided by the delegation, prevented the Committee from making an effective evaluation of the actual situation as regards the exercise of economic, social and cultural rights by the Salvadoran population. The Committee notes in particular the delegation's failure to provide specific statistics on the composition of the population and on the various economic, social and cultural indicators. However, the Committee has taken note of the delegation's undertaking that additional information will be provided in response to the various points raised by the Committee.

B. Positive aspects

4. The Committee notes with satisfaction that, within the internal legal order, international human rights instruments take precedence over national laws, and that the 1983 Constitution contains human rights provisions. The Committee also notes that amparo proceedings may be instituted for the protection of economic, social and cultural rights, although the delegation failed to clarify whether the provisions of the Covenant can be invoked directly before the courts.
5. The Committee welcomes the ratification of 14 ILO Conventions in 1994, including: Medical Examination of Young Persons (Industry) (Convention No. 77), Labour Inspection (Convention No. 81), Minimum Wage Fixing Machinery (Agriculture) (Convention No. 99), Discrimination (Employment and Occupation) (Convention No. 111), Labour Inspection (Agriculture) (Convention No. 129), Minimum Wage Fixing (Convention No. 131), Human Resources Development (Convention No. 142) and Tripartite Consultations (International Labour Standards) (Convention No. 144).
6. The Committee notes with satisfaction the creation in 1991 of the post of Procurator for the Defence of Human Rights, whose important functions, particularly the competence to conduct inspections and investigations, file complaints or draft recommendations, are provided for in article 194 of the Constitution. The Committee also welcomes the creation of local units of the office of the Procurator for the Defence of Human Rights to ensure wider understanding of and greater protection for human rights, including economic, social and cultural rights.

7. The Committee welcomes the adoption of an economic and social development plan for 1994-1999, the main aims of which are to reduce poverty, improve the quality of life of the population and increase the access of landless peasants to the land. The Committee also notes that the portion of the national budget allocated to social expenditures has increased. The establishment of a Social Investment Fund to channel resources from donors to projects designed mainly to help low-income groups and the implementation of the Social Rehabilitation Plan for 78 communes are welcomed by the Committee.
8. The Committee welcomes the measures taken by the Government to reform the education system and improve access to education. The EDUCO programme introduced to promote the education of rural children and adults, literacy programmes and the comprehensive child care programme are all positive steps towards the realization for all of the right to education.
9. The Committee also welcomes the creation in 1989 of the National Secretariat for the Family, the adoption of a new Family Code, the Government's ratification of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women in August 1995, and the establishment of the Salvador Institute for the Development of Women and the Salvador Institute for the Protection of Minors. The Committee welcomes the introduction of a telephone hotline to provide psychological help to victims of violence and to inform them about the social and medical help and legal assistance available to them.

C. Factors and difficulties impeding the implementation of the Covenant

10. The Committee recognizes that the high cost of rebuilding numerous elements of infrastructure that were destroyed during the 12 years of civil war and of the implementation of the two Peace Agreements, in conjunction with the region's difficult economic circumstances, hamper the full realization of economic, social and cultural rights.
11. The full implementation of economic, social and cultural rights is further hampered by the high cost of the reintegration of returning refugees and displaced persons.

D. Principal subjects of concern

12. The Committee is deeply concerned at the high level of poverty which is affecting most of the country's inhabitants. The food and nutritional situation is a major problem, reflected among other things in a high level of infant mortality, since a very high proportion of children are suffering from malnutrition. Although the Committee recognizes that considerable efforts have been made by the authorities to improve the situation, it wishes to emphasize that the continued existence of such a level of poverty in a country experiencing constant economic growth is unjustifiable.
13. The Committee is concerned at the sluggishness with which certain clauses of the 1992 Peace Agreement are being implemented, including those concerning respect for the economic, social and cultural rights of the population, and more particularly the programme of land redistribution.
14. The Committee also notes that the scope of the authority of the Office of the Procurator for the Defence of Human Rights is unclear, particularly as regards follow-up by the administrative or judicial authorities to complaints filed by his Office concerning violations of economic, social and cultural rights brought to his attention by individuals.
15. The Committee notes with concern that discrimination against women, both at work and in the home, remains a major problem within Salvadoran society, and while noting that efforts have been made to change the legislation, it emphasizes that the law still contains discriminatory provisions, particularly in the Civil and Penal Codes.
16. The Committee regrets the total lack of specific information provided on articles 6 to 8 of the Covenant, both in the written report and in the debate. The Committee expresses its concern over the adverse consequences for economic, social and cultural rights of the way in which economic adjustment, austerity and privatization programmes have been implemented, especially in the short term. The Committee notes that working conditions in the duty-free zones have deteriorated and that difficulties have resulted from the inadequacy of resources available to enable the factory inspectorates to enforce legislation on the minimum wage, equal remuneration for men and women, industrial safety and hygiene and wrongful dismissal.
17. The Committee regrets that article 291 of the Penal Code still remains in force, despite the fact that it has been deemed contrary to

Convention No. 105 of the International Labour Organization by its Committee of Experts.

18. Although the Committee takes note of the increase in the minimum wage, it is concerned that the minimum wage remains below the cost of subsistence, as acknowledged by the delegation of El Salvador; the minimum wage amounts to 1,050 colones in urban areas and 900 colones in rural areas, while the meeting of basic subsistence costs amounts to 4,500 colones.
19. The Committee considers that the legal restrictions on trade-union freedom and the right to strike are far too extensive. In the view of the Committee, the prohibition on aliens occupying positions of responsibility within a trade union is contrary to the Covenant. The Committee is concerned at the numerous reports it has received of violations with virtually total impunity in enterprises located in duty-free zones of the rights contained in articles 7 and 8 of the Covenant.
20. The Committee expresses its concern at the extent of the problem of violence against women, both within and outside the family, in El Salvadoran society and its implications for the physical and mental health of women and their children.
21. The Committee notes with concern the apparently chronic housing shortage and the fact that a large proportion of the population lives in precarious conditions and in housing that does not correspond to the content of the right to adequate housing recognized in article 11 of the Covenant.
22. The Committee notes that, despite a number of initiatives by the Government, effective access to education by children of school age is unsatisfactory in El Salvador. The Committee is particularly concerned at the fact that the objective of universal primary education has not yet been achieved. The high drop-out rate, high absenteeism, failure rates and the high rates of illiteracy as a result of exclusion from the education system are also of concern to the Committee. Although child labour is often necessary for the survival of the family, it is one of the factors hampering the implementation of articles 13 and 14 of the Covenant, and the Committee is disturbed by the apparent lack of action by the authorities to remedy the situation.
23. The Committee is concerned that it has received no information on any programmes introduced by the Government to guarantee the economic, social and cultural rights of ethnic minorities in El Salvador.

24. The Committee notes with concern the total lack of information on either legislation or practice in El Salvador concerning the implementation of cultural rights specified in article 15 of the Covenant.
25. The Committee notes that the technical cooperation project submitted by the Centre for Human Rights of the United Nations to the Government of El Salvador, which would enable the latter to receive the assistance necessary to implement the international human rights conventions to which El Salvador is a party and to develop greater familiarity with and respect for human rights among the members of its administration, has not yet been approved by the authorities.

E. Suggestions and recommendations

26. The Committee recommends that the Government address the problem of the inequitable distribution of wealth among the population in order to combat the poverty that characterizes the country.
27. The Committee recommends that every effort be made to ensure the prompt and full implementation of the 1992 Peace Agreements, including the provisions which relate to land redistribution and economic, social and cultural rights, respect for which is, in the Committee's opinion, a guarantee of social peace in El Salvador.
28. The Committee would like the next report submitted by El Salvador to contain specific information on the activities of the Office of the Procurator for the Defence of Human Rights and, in particular, on how much weight is carried by the recommendations it makes and on the action taken on complaints it files with regard to violations of economic, social and cultural rights.
29. The Committee urges that all necessary measures should be taken to eradicate discrimination against women in Salvadoran law and that programmes be set up to eliminate inequalities between men and women.
30. The Committee recommends that particular attention be paid to the problems of unemployment. It recommends that measures be taken to ensure that as few jobs as possible are sacrificed and that social protection and vocational rehabilitation programmes are guaranteed for persons who lose their jobs.

31. The Committee recommends that the State party make the necessary efforts to implement the Salvadoran legislation on minimum wages, safe and healthy working conditions, equal pay for equal work by men and women and arbitrary dismissals. To this end, the Committee stresses that sufficient resources must be allocated to labour inspection services to enable them to carry out the tasks entrusted to them.
32. The Committee recommends that El Salvador take the necessary measures to bring its legislation on trade-union freedom, collective bargaining and the right to strike into line with its international obligations.
33. The Committee recommends that the construction of low-income housing for the poorest sectors of Salvadoran society be intensified in urban and in rural areas and that a greater effort be made to provide sanitation and drinking water supplies for the entire population.
34. The Committee encourages the Government of El Salvador to pursue the reforms of the education system that it is carrying out, particularly in order to make primary education available to all and to reduce illiteracy. It is the Committee's opinion that measures should be taken by the authorities to enable working children to receive an adequate education.
35. The Committee would like the next report of the State party to contain information enabling it to evaluate the extent to which the members of indigenous communities enjoy all the economic, social and cultural rights provided for in the Covenant.
36. In view of the many gaps identified by the Committee in the written report and the additional information supplied by the Government and the delegation of El Salvador, the Committee reiterates its request to the Government to submit further information on articles 6 to 8 and 15 of the Covenant, as well as on any problems encountered in this regard. Such information should be provided to the Committee by 31 October 1996.
37. While welcoming the establishment of collaboration between the authorities and non-governmental organizations, the Committee notes that that collaboration is sporadic, and expresses the hope that it will become general, particularly with regard to drafting reports for the various international human rights treaty bodies, including this Committee, and publicizing the activities of the Procurator for the Defence of Human Rights.

38. The Committee expresses the hope that the State party will consider the possibility of ratifying the Additional Protocol the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador).
39. The Committee recommends that the proposal of the Centre for Human Rights concerning technical cooperation be given favourable consideration by the Salvadoran authorities and that such assistance be used to guarantee the enjoyment of economic, social and cultural rights by all.

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**CONSIDERATION OF REPORTS SUBMITTED BY STATES
PARTIES UNDER ARTICLES 16 AND 17 OF THE COVENANT**

Concluding observations of the Committee on Economic,
Social and Cultural Rights

FINLAND

1. The Committee considered the third periodic report of Finland on the rights covered by articles 1 to 15 of the Covenant (E/1994/104/Add.7) at its 37th, 38th and 40th meetings, held on 25 and 26 November 1996, and adopted, at its 51st meeting held on 4 December 1996, the following concluding observations.

A. Introduction

2. The Committee expresses its appreciation to the Government of Finland for the submission of its report, which follows the Committee's guidelines regarding the form and contents of States parties' reports. The Committee welcomes the submission by Finland of comprehensive written answers to its list of issues and expresses its satisfaction at the frank and constructive dialogue established with the State party,

through a delegation composed of experts. The Committee also notes with satisfaction the information submitted by the Government of Finland in a core document (HRI/CORE/1/Add.59/Rev.1), as well as the supplementary information on the implementation of articles 13 to 15 of the Covenant submitted in response to the Committee's request after the consideration of the second periodic report of Finland in December 1991 (E/1989/5/Add.10).

B. Positive aspects

3. The Committee notes the generally high level of achievement by Finland of its obligations in respect of the protection of the rights set forth in the Covenant. In this regard, the Committee expresses its appreciation of the recent amendments which have been incorporated in the Constitution concerning the protection of certain economic, social and cultural rights of all persons under the State party's jurisdiction. The Committee also notes with satisfaction the existence and the activities of the Advisory Board on Human Rights Affairs, composed of representatives of various human rights organizations and of several ministries, and of the Parliamentary Ombudsman, who has competence in the field of human rights.
4. The Committee welcomes the measures taken to promote equality between men and women, such as the establishment of the Council of Equality, the Equality Ombudsman and the recent adoption of legislation requiring at least 40 per cent representation of both sexes in government appointed bodies at the national and local levels.
5. The Committee also welcomes the Government's policies and programmes aimed at creating new jobs and at helping the unemployed to join or return to the labour force, through vocational training programmes, particularly those aimed at young people.
6. The Committee notes with satisfaction the measures taken to protect and shelter the victims of domestic violence, in particular the activities deployed in this respect by the government-subsidized Union of Shelter Homes. The Committee also welcomes the recent criminalization of marital rape as a means to combat the phenomenon of violence against women.
7. The Committee notes with satisfaction the measures aimed at promoting the teaching of the Roma and Sami languages in schools and wel-

comes the possibility provided to the elected representatives of the Sami people to address the Parliament on issues affecting their interests.

8. The Committee notes that, despite the difficulties due to the economic recession, Finland regularly contributes, although at a reduced level, to programmes of international cooperation, thus potentially promoting the realization of economic, social and cultural rights in other countries.

C. Factors and difficulties impeding the implementation of the Covenant

9. The Committee notes that the economic recession facing Finland and the policies adopted to meet the convergence criteria for participating in the European Economic and Monetary Union have had significant consequences for the enjoyment of economic, social and cultural rights by the Finnish population as a whole, and by vulnerable social groups in particular. In this regard, the Committee notes that the recent budgetary cuts in social expenditure, as well as economic restructuring and the decentralization of social service arrangements are factors which may affect the full implementation of the provisions of the Covenant. However, the Committee notes the Government's view that European Union membership has been a useful instrument towards fulfilling its economic policy goals, including those aimed at fighting unemployment.

D. Principal subjects of concern

10. The Committee notes that, although the provisions of the Covenant may be directly invoked before the courts or referred to by the courts, this has not yet been the case. In this respect, the Committee expresses concern that lawyers and judges may not be sufficiently aware of the rights enshrined in the Covenant.
11. The Committee is concerned that, although equality between men and women is established in the law, it is not fully achieved in practice, in particular in the field of equal remuneration, and that, in general, women continue to encounter more obstacles than men in advancing to higher professional positions.
12. While it notes with satisfaction the recent decrease in the percentage of the population who are unemployed, the Committee is still concerned that the level of unemployment remains high, especially among young people, immigrants and refugees.

13. Although it notes that collective agreements in some sectors of professional activity contain provisions for the determination of minimum wages, the Committee is concerned that no minimum wage is guaranteed by law.
14. The Committee expresses its concern that the major cuts in social security and other welfare expenditures have reduced the disposable incomes of single parents and young families with children, have affected the situation of persons without regular income under the Sickness Insurance Act, and have led to the cessation of adjustments to pensions and unemployment benefits.
15. The Committee expresses its concern at reports according to which members of the Roma minority have been discriminated against when decisions have been taken by some authorities in respect of the allocation of publicly-owned dwellings.
16. The Committee regrets the lack of official statistical data and other information with regard to problems such as domestic violence, child abuse, child pornography, child and adolescent suicide and alcohol abuse, the latter also affecting children and adolescents, which prevents both the authorities and the Committee from ascertaining the real extent of these problems.
17. The Committee expresses its concern at the recent increase in the school drop-out rate, which particularly affects children from economically disadvantaged groups and children belonging to minorities.

E. Suggestions and recommendations

18. The Committee recommends that specifically targeted training programmes be launched by the authorities to increase the awareness of judges and lawyers of the rights enshrined in the Covenant.
19. The Committee recommends that the Government intensify its efforts to ensure that equality between men and women, in particular with regard to employment and salary matters, is effective in practice.
20. The Committee urges that consideration be given to enacting legislation providing for minimum wages, and their periodical adjustment, so that protection be ensured also to workers who are not protected by sectoral collective agreements.

21. The Committee encourages the Government to take adequate measures to ensure that the reduction of the budgetary allocations for social welfare programmes does not result in the violation of the State party's obligations under the Covenant. The Committee particularly lays emphasis on the need to protect the rights of socially vulnerable groups, such as young families with children, refugees and elderly or unemployed persons.
22. The Committee draws the attention of the authorities to the need to eliminate discrimination of any kind in the exercise of the rights set forth in the Covenant, especially the right to housing.
23. The Committee encourages the Government to continue its efforts to combat the problems of alcoholism, domestic violence, child and adolescent suicide and child abuse and it recommends that statistical data be collected and that thorough and targeted studies be conducted on the extent, the causes and the consequences of such problems. The Committee particularly draws the attention of the authorities to the importance to be given to detection measures and preventive policies. It also stresses the need to ensure that specific and appropriate penal legislation be enacted and applied in order to combat child abuse and child pornography.
24. The Committee also draws the attention of the State party to the emerging problem of school drop-out, which mainly affects children coming from vulnerable social groups, such as economically disadvantaged children or children belonging to minorities. In this regard, the Committee recommends that specific measures be taken to ensure that these children can complete their studies to the extent of their academic capacities.
25. The Committee recommends that the concerns expressed in the present concluding observations, as well as the issues raised during the discussion of the third periodic report which remain unanswered, be addressed in the State party's fourth periodic report.
26. The Committee encourages the State party to widely disseminate the Concluding observations adopted by the Committee following the consideration of the State party's third periodic report.

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**CONSIDERATION OF REPORTS SUBMITTED BY STATES
PARTIES UNDER ARTICLES 16 AND 17 OF THE COVENANT**

Concluding observations of the Committee on Economic,
Social and Cultural Rights

GUATEMALA

1. The Committee considered the initial report of Guatemala on articles 1 to 15 of the Covenant (E/1990/5/Add.24) at its 11th to 14th meetings, held on 7 and 8 May 1996, and adopted, at its 26th meeting, held on 17 May 1996, the following concluding observations.

A. Introduction

2. The Committee expresses its appreciation to the State party for the submission of a comprehensive core document and written replies to its list of questions, and for the introductory statement which offered an overview of recent developments and plans in relation to the promotion and protection of the rights provided for in the Covenant.
3. The Committee welcomes the willingness of the high-level delegation to engage in an open and constructive dialogue with the Committee.

In this regard, the Committee appreciates the delegation's frank admission that numerous difficulties continue to be encountered and problems remain to be overcome in order to ensure the effective enjoyment of the rights provided for in the Covenant. The readiness of the State party to distribute to the members of the Committee copies of the Human Rights Procurator's report, which contains material critical of the present situation with regard to the implementation of human rights in the country, is indicative of the openness of the Government in acknowledging and pointing out the present weaknesses and failures of the system for the implementation of human rights standards in Guatemala.

B. Positive aspects

4. The Committee is encouraged by the Government's commitment to the continuity of the process of negotiating a comprehensive peace agreement, as illustrated by the signing in Mexico City on 6 May 1996 of the "Acuerdo Sobre Aspectos Socioeconomicos y Situacion Agraria" which forms part of, and will come into effect with the signing of, the "Acuerdo de Paz Firme Y Duradera".
5. The Committee welcomes the signing on 29 March 1994 of the Comprehensive Agreement on Human Rights and the establishment of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreements on Human Rights in Guatemala (MINUGUA). Further positive developments are the conclusion of the Agreement on Resettlement of the Population Groups uprooted by the Armed Conflict of 23 June 1994, and the Agreement on the Identity and Rights of Indigenous Peoples of 31 March 1995 signed between the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (UNRG). The Government's recent adherence to ILO Convention No. 169 of 1989 concerning Indigenous and Tribal Peoples is also noted with interest.
6. The Committee notes the establishment of the Presidential Commission for coordinating Executive Policy in the Field of Human Rights and the Office of the Human Rights Procurator. It is noted that the latter Office has a unit for the promotion and protection of the rights of persons with disabilities and the elderly and that a bill concerning the care of persons with disabilities is currently being considered.

7. Satisfaction is expressed by the Committee at the ending of the illegal practice of forced enlistment into military service.
8. The Committee takes note of the measures introduced to promote equality between men and women through reform of the Labour Code by Congressional Decree 64-92 of November 1992 and the Constitutional Court's declaration that articles 232 to 235 of the Penal Code are null and void on the grounds that they conflicted with article 4 of the Constitution which states that all human beings are free and equal in dignity, responsibilities and rights.
9. The Committee further notes that the Guatemalan Housing Fund (FOGUAVI) was set up in February 1995 for the principal purpose of providing funding for projects designed to solve the housing problems of Guatemalan families living in poverty or extreme poverty.

C. Factors and difficulties impeding the implementation of the Covenant

10. The Committee recognizes that Guatemala continues to suffer from the consequences of armed conflict which has lasted over 30 years. Overcoming the resistance to reform from vested interests which have, in the past, caused the failure of agrarian reform, and which continue to be relevant today, is of major importance. Thus, as recognized by the State party, the root causes of the armed conflict remain to be tackled, embedded as they are in socio-economic disparities and uneven land distribution in an almost feudal like system characterized by discrimination against the indigenous and rural populations.
11. The Committee agrees with the observations made by the Government that the situation of armed conflict has resulted in serious human rights violations. The continuing existence of paramilitary groups in the guise of so-called "civilian self-defence committees", which are responsible for many thousands of extrajudicial executions, remains a serious obstacle to peace. The continuing difficulties encountered in combating the problem of impunity and the uneven distribution of economic resources has led to a loss of confidence on the part of the civilian population which needs to be addressed in order to secure economic, social and cultural rights, and a return to the rule of law in the country.
12. The Committee is of the opinion that traditional values and practices assigning an inferior role to women in society and within the family are

serious factors impeding the full realization by women of their economic, social and cultural rights as provided for in the Covenant.

D. Principal subjects of concern

13. While the Committee welcomes the Government's intention to reform domestic legislation to bring it into greater conformity with the provisions of international human rights instruments, among them the International Covenant on Economic, Social and Cultural Rights, it remains concerned about the significant gap existing between the rights provided for in legislation and their implementation in practice. It notes with concern the fact that provisions of the Civil Code of Guatemala, especially its articles 109, 114 and 131, discriminate against women.
14. The Committee is extremely concerned at adverse effects that the economic and social disparities existing in the country have on the enjoyment of economic, social and cultural rights by the majority of the population, particularly by the indigenous and rural populations of Guatemala, as well as by other vulnerable groups of society, especially children, persons with disabilities and elderly persons.
15. Far-reaching racial discrimination, extreme poverty and social exclusion in relation to the indigenous populations negatively affect the enjoyment of economic, social and cultural rights by these populations, and are matters of deep concern for the Committee.
16. The Committee wishes to voice its serious concern about the continuing problem of violence against women and the insufficient attention paid to the problem by governmental institutions which has led to the invisibility of the problem of domestic violence against women.
17. While the Committee appreciates the open admission of the Government that land was illegally appropriated by force in the past and that plans are in place to address this problem, the Committee remains convinced that the issue of land ownership and distribution of land is crucial to addressing economic, social and cultural grievances of a substantial segment of the population.
18. The Committee is deeply disturbed at the apparent flagrant disregard of labour laws, the alarming reports of employer impunity, the lack of respect for minimum wages, for conditions of work and unionization,

particularly as they affect individuals employed in a large number of the farming sectors. The ineffectiveness of labour laws in protecting trade unions rights when coupled with the problems of high levels of unemployment and underemployment give cause for deep concern. Thus, despite the Government's stated policy of undertaking further commitments to strengthen the labour inspectorate and introduce changes in the monitoring and enforcement of labour standards, including through the proposals on economic policy and labour legislation contained in recently signed agreements, the possibilities for ensuring effective implementation of the new proposals continue to give grounds for concern to the Committee. One aspect which is of serious concern to the Committee is the situation of those persons working in the "maquillas" (export sector industries), many of whom are women.

19. The Committee remains unclear as to the adequacy of social protection provided to those employed in the informal sector.
20. The general situation faced by internally and externally displaced persons remains a serious cause of concern for the Committee.
21. The Committee expresses its concern about the issue of low access to safe water for the rural population, the higher incidence of infant mortality within certain socio-economic groups, the situation of persons with disabilities, the prevalence of endemic diseases, the problem of the inadequacy of social welfare and security, the persisting housing shortage and the inadequacy of access to health care. The Committee is of the view that this general situation, affecting the most vulnerable in Guatemalan society, deprives them of their full enjoyment of the economic, social and cultural rights provided for in the Covenant.
22. Particular concern is expressed by the Committee at the persisting problems of illiteracy and lack of access to education as they affect the poorest sectors of the population. Notice is also taken by the Committee of the inadequacy of human rights education provided for the entire population.

E. Suggestions and recommendations

23. The Committee acknowledges the good will of the Government and its open admission of the need for reform in all areas of social, economic and cultural life. The Committee stresses that the implementation of the Covenant's provisions cannot be ensured without reform and ade-

quate implementation of the peace accord, which require above all the just distribution of wealth and of land.

24. Thus the Committee is of the opinion that the issue of land ownership and redistribution should be closely monitored, both in the light of the implementation of article 14 of the Political Constitution of the Republic of Guatemala, which provides for the expropriation of fallow land on private estates, and the implementation of the “Acuerdo Sobre Aspectos Socioeconomicos y Situacion Agraria”. The establishment of national benchmarks is essential to ensure a systematic review of the progress made towards their implementation and should be viewed as an essential element for ensuring international cooperation and domestic change. The Committee recommends therefore that international cooperation must be devoted to the goal of implementation of economic, social and cultural rights.
25. The Committee notes the intention of the Government to reform its fiscal and monetary policy as a means of promoting social and economic development. The Government’s plans to divert resources to social welfare measures, particularly in the fields of health and education, are welcomed. The Committee recommends that the international community support the measures taken in this regard and ensure the regular and close monitoring and reviewing of projects undertaken pursuant to various agreements entered into with view to securing a lasting peace.
26. The Committee emphasizes the importance of the role being undertaken by MINUGUA in monitoring the peace process and the progress of efforts to improve respect for human rights, which should include economic, social and cultural rights.
27. The Committee recommends that all legislative and other reforms should take into account the need to promote equality and reverse the devastating effects of discrimination against the indigenous populations, in particular through affirmative action.
28. It is the Committee’s view that the problem of discrimination against women has been neglected and that this lacuna should be addressed, especially in view of the present efforts to effect changes in attitudes and policy for sustainable peace and development in the country. The Committee notes with approval the proposed consideration of reform of family law in the Civil Code, namely its articles 109, 131 and 114, which discriminate against women.

29. It is urgently recommended that the effective implementation of trade-union rights and the labour laws be addressed. The protection of such rights requires that particular attention be accorded to the enforcement of labour laws, consistent with the provisions of the Covenant, especially in view of the considerable needs of the indigenous and other disadvantaged groups of society to enjoy economic opportunities and social mobility.
30. While taking note of the various measures taken to reintegrate returning refugees and internally displaced persons, the Committee wishes to highlight the need for continued international cooperation in this field too. Moreover, the careful scrutiny and involvement of the international community in all these efforts will be all the more indispensable in the event of the peace agreement being signed and of the consequent necessity for the reintegration of the demobilized army and guerilla forces into society and the economy.
31. The Committee recommends that further measures be taken to prevent and combat the phenomenon of child labour, including through full respect for the international standards relating to the minimum age of employment of children.
32. The Committee acknowledges the value of the shift in health and education policy towards promoting access to health care and services and to education for the most disadvantaged groups of society and strongly recommends that this focus be maintained. It reiterates its strong conviction of the need to devote sufficient resources to the implementation of articles 9 to 14 of the Covenant. In this context, attention is also drawn to the urgent need to undertake further measures to tackle the problem of illiteracy.
33. The Committee concurs with the observations made by the delegation that a major task facing the country and its Government is to further develop, strengthen and secure the participation of the population in establishing and preserving lasting peace in the country through implementation of decisions agreed upon in peace agreements regarding the full respect of human rights and fundamental freedoms. It is the Committee's opinion that a human rights culture must be created, including addressing the problem of culturally ingrained discrimination, which is pervasive in Guatemala.



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**CONSIDERATION OF REPORTS SUBMITTED BY STATES
PARTIES UNDER ARTICLES 16 AND 17 OF THE COVENANT**

Concluding observations of the Committee on Economic,
Social and Cultural Rights

GUINEA

1. The Committee considered the state of implementation by Guinea of the economic, social and cultural rights contained in the Covenant at its 17th and 22nd meetings, held on 10 and 14 May 1996, and, at its 22nd meeting, held on 14 May 1996, adopted the following concluding observations:
 - A. **Review of the implementation of the Covenant in relation to States Parties which have failed to report**
2. At its seventh session, the Committee on Economic, Social and Cultural Rights decided to proceed to a consideration of the state of implementation of the International Covenant on Economic, Social and Cultural Rights in a number of States Parties which, despite many requests to do so, had not fulfilled their reporting obligations under articles 16 and 17 of the Covenant.

3. The purpose of the reporting system established by the Covenant is for the States Parties to report to the competent monitoring body, the Committee on Economic, Social and Cultural Rights, and through it to the Economic and Social Council, on the measures which have been adopted, the progress made, and the difficulties encountered in achieving the observance of the rights recognized in the Covenant. Non-performance by a State party of its reporting obligations, in addition to constituting a breach of the Covenant, creates a severe obstacle to the fulfilment of the Committee's functions. Nevertheless, the Committee has to perform its supervisory role in such cases and must do so on the basis of all reliable information available to it.
4. In situations in which a Government has not supplied the Committee with any information as to how it evaluates its own compliance with its obligations under the Covenant, the Committee has to base its observations on a variety of materials stemming from both intergovernmental and non-governmental sources. While the former provide mainly statistical information and apply important economic and social indicators, the information gathered from the relevant academic literature, from non-governmental organizations and from the press tends, by its very nature, to be more critical of the political, economic and social conditions in the countries concerned. Under normal circumstances, the constructive dialogue between a State Party reporting and the Committee will provide an opportunity for the Government to voice its own view, and to seek to refute such criticism and convince the Committee of the conformity of its policy with what is required by the Covenant. Non-submission of reports and non-appearance before the Committee deprives a Government of this possibility to set the record straight.

B. Introduction

5. Guinea has been a party to the Covenant since 24 April 1978. Since then, it has not submitted a single report. The Committee strongly urges the Government of Guinea to fulfil its reporting obligations as soon as possible, so that the Covenant on Economic, Social and Cultural Rights can be given full effect for the benefit of the people of Guinea. The Committee emphasizes that it considers the non-performance by Guinea of its reporting obligations not only a violation of the Covenant but also a grave impediment to an adequate application of the Covenant.

C. Factors and difficulties impeding the application of the Covenant

6. The Committee takes note of the fact that performance by Guinea of the obligations arising from the International Covenant on Economic, Social and Cultural Rights cannot be evaluated without taking into consideration the political, economic and social conditions in which the country finds itself at present.
7. The Committee finds that the progress made in the field of economic, social and cultural rights since the death of Sékou Touré and the assumption of power by Lansana Conté late in 1993 is inadequate. Although the transition from a one-party system to a multiparty one is under way, it is encountering some difficulties, and the Committee believes that the existence of a rule of law proclaimed by the 1990 Constitution remains essentially formal. According to information received by the Committee, social tensions persist and there is a climate of violence in Guinea. That climate was heightened during elections, popular uprisings and the recent army mutiny.
8. With regard to the economic and social situation, the Committee observes that the living conditions of Guineans are extremely difficult. According to a 1994 World Bank report, "Trends in developing economies", Guinea is among the poorest countries of Africa, despite its natural resources, such as agriculture, energy and mining. The average annual per capita income for 1992 was estimated at \$510. Around one fourth of children die before the age of 5, and average life expectancy is 45 years. Only 37 per cent of school-age children have access to primary school, and 59 per cent of adults are illiterate. According to one estimate, about 50 per cent of the population is living in poverty. Even though inflation has clearly diminished since 1950, prices remain high, inflation significant and per capita gross domestic product (GDP) inadequate. The Committee recalls that extreme poverty and social exclusion undermine human dignity. New alternative national and international policies should be adopted in those areas.
9. The Committee notes that the Government has not succeeded in halting the economic and social crisis described, although it has taken various measures with a view to adopting a new socio-economic development strategy. Thus, Guinea opted in favour of a free market economy, and in 1995 a programme for financial and economic reform was launched and an agreement with regard to the Enhanced Structural Adjustment Facility (EAF) was negotiated with the assistance of the World Bank and the International Monetary Fund. In this extent, the Committee

emphasizes, however, that from the viewpoint of the Covenant and its interpretation by the Committee, any reform measures must be accompanied by the adoption of targeted programmes designed to protect the vulnerable groups and members of society.

D. Positive aspects

10. Concerning the rights proclaimed under article 8 of the Covenant, the Committee notes that, despite the major role played by the trade unions at the time of independence, trade-union freedom has since been stifled by the Government. None the less, the Committee welcomes the observations made by the Guinean Government to the International Labour Office in 1995, according to which several new trade unions had been formed in Guinea in conformity with the 1988 Labour Code.
11. As to article 12, the Committee notes that clear progress can be observed in the BCG, tetanus and polio vaccination rates.

E. Principal subjects of concern

12. The Committee notes with concern that only some of the rights proclaimed in the Covenant (for example, trade-union freedom and freedom of education, which is compulsory) are recognized in the 1990 Constitution, and that the provisions of the Covenant have not yet been incorporated into Guinean internal law. Furthermore, despite the embodiment of the principle of the independence of the judiciary in the Constitution, the Supreme Court and High Court of Justice seem to be under the control of the executive branch. That explains the difficulties encountered by Guineans in exercising their fundamental rights, since the judiciary does not play an effective role in guaranteeing those rights.
13. With regard to the rights contained in articles 6 and 7 of the Covenant, the Committee notes that there is a serious unemployment problem in Guinea. For example, unemployment among qualified young people has increased considerably in recent years. According to information received by the Committee, the low salaries are too low for the high cost of living, leaving many Guineans to supplement their incomes through additional jobs, as the majority of civil servants are forced to do, quite illegally.

14. The Committee also notes that unequal treatment of men and women is increasing, particularly in the informal sector of the economy. The Committee therefore invites the Guinean Government to take steps on a national level to implement the principle of “equal pay for equal work”, which derives from the principle of non-discrimination against women proclaimed in the Covenant, ILO Convention No. 111 and the 1990 Constitution.
15. Concerning working conditions, the Labour Code contains provisions on health and safety in the workplace. However, the Government has not yet formulated rules for their implementation. The Committee notes, for example, that according to the ILO Committee of Experts on the Application of Conventions and Recommendations, the Government has not yet adopted regulations on protection against atomic radiation.
16. With regard to article 8 of the Covenant, the Committee notes that the right to strike recognized by the 1990 Constitution and by ILO Conventions Nos. 87 and 98, which were ratified by Guinea, was apparently not being observed. The Government had intimidated, and even arrested, strikers on several occasions. The Committee referred, for example, to the complaint brought before the ILO Committee on Freedom of Association in late 1995 with regard to the strike organized by the free trade union of teachers and researchers of Guinea.
17. With respect to article 9, the Committee is concerned by the fact that, as late as 1995, no follow-up had yet been given to the draft social security code recently revised with the assistance of ILO. Social security protection is limited to public administration, State-controlled entities and large enterprises. As most of the country’s workforce is concentrated in agriculture, the extent of social security coverage remains insignificant.
18. Concerning article 10 of the Covenant, the Committee notes that many children work on farms, in small businesses and as street vendors. According to the Committee, observance of the Covenant requires that the Government implement the Labour Code provisions prohibiting child labour under the age of 16.
19. The Committee remains concerned about the cases of domestic violence against women and invites the Government to take the appropriate action to remedy the situation.
20. With regard to article 11 of the Covenant, which provides that everyone

has the right to an adequate standard of living, the Committee recalls with concern the poverty affecting approximately 50 per cent of the population. Malnutrition is still widespread throughout the country. The Committee is equally concerned by the lack of a minimum wage guaranteed by law. Concerning the right to adequate housing, the Committee observes that the measures taken by the Government do not always seem adequate to meet the needs of the Guinean people.

21. Regarding the right to health proclaimed in article 12, the Committee refers to the information provided by The Economist Intelligence Unit in 1994-1995, and notes that only 13 per cent of the population have access to medical services. Furthermore, only 55 per cent have access to drinking water, a situation that is made even worse by onchocercosis, or "river blindness". The Guinean life expectancy of 45 years is one of the lowest in Africa. The Committee notes that women and children are particularly affected by the precarious health situation.
22. Similarly, the Committee is especially concerned by the persistent practice of female genital mutilation, which has serious consequences on the physical, psychological and social health of women. Women are also among the first victims of the AIDS virus. Concerning children, the Committee notes that the mortality rate remains high.
23. Concerning articles 13 and 14 of the Covenant, the Committee recalls that illiteracy persists, and regrets that the Guinean Government has not given enough priority in the structural adjustment agreement to schooling and education. The Committee thinks it necessary to give children the right to schooling and training that will enable them to be a part of the socio-economic fabric, which is still in great need of suitably trained people to deal with underdevelopment. The Committee notes that discrimination against women is on the rise, which is apparent from the adult illiteracy rate, access to education and the school drop-out rate among girls. Furthermore, according to information received by the Committee, the school-attendance rate remains low, primary schools are overcrowded and the principle of free primary education guaranteed by law is not always applied. The Government is also apparently not willing to increase the education budget in order to deal with the serious shortage of teachers.
24. The Committee notes that the provisions under article 15 are not being implemented satisfactorily. Access to culture remains difficult, as demonstrated, for example, by the high price of publications. The Committee is equally concerned by the inadequacy of the steps taken by

the Government to safeguard the cultural identity of the various ethnic groups in Guinea.

F. Suggestions and recommendations

25. The Committee reiterates its request that the Government of Guinea actively participate in a constructive dialogue with the Committee on how the obligations arising from the International Covenant on Economic, Social and Cultural Rights can be fulfilled in a more adequate manner. It calls to the Government's attention the fact that the Covenant creates a legal obligation for all States parties to submit periodic reports and that Guinea has been in breach of this obligation for many years.
26. The Committee recommends that the Government of Guinea avail itself of the advisory services of the Centre for Human Rights of the United Nations in order to enable it to submit as soon as possible a comprehensive report on the implementation of the Covenant in conformity with the Revised General Guidelines adopted by the Committee in 1990 (E/C.12/1991/1) and with particular emphasis on the issues raised and concerns expressed in the present concluding observations. The Committee also encourages the Centre for Human Rights to make available, through its programme of advisory services and technical assistance, expert assistance to States for the purpose of formulating policies on economic, social and cultural rights, and developing the implementation of coherent and comprehensive plans of action for the promotion and protection of human rights, as well as developing adequate means of evaluating and monitoring their realization.

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**CONSIDERATION OF REPORTS SUBMITTED BY STATES
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Concluding observations of the Committee on Economic,
Social and Cultural Rights

PARAGUAY

1. The Committee considered the initial report of Paraguay (E/1990/5/Add.23) at its 1st, 2nd and 4th meetings, held on 30 April and 1 May 1996, and adopted, at its 22nd meeting, held on 14 May 1996, the following concluding observations.

A. Introduction

2. The Committee expresses its satisfaction to the State party for its detailed and frank initial report and for the substantial additional information supplied by the delegation verbally, as well as the constructive dialogue maintained between the delegation and Committee members. However, it regrets the lack of clear statistics and the State party's failure to provide written replies in due time to the list of issues submitted to it and the delegation's inability to provide satisfactory answers on many of those issues. The Committee notes that replies to some of the

questions raised during the dialogue established with the State party were received subsequently.

B. Positive aspects

3. The Committee notes with great satisfaction that the State party is undergoing a process of peaceful democratization, which has begun to have a notable impact on the enjoyment of human rights. The ratification of the two Covenants in 1992 and the adoption of the new Constitution guaranteeing many of the rights embodied in the Covenant in 1992 and of the new Labour Code in 1993 are highly appreciated developments. The Committee also welcomes the clearly defined place of the Covenant (and of the other international human rights instruments) in the country's internal legal order. The repeal of Acts Nos. 294/55 and 209/70 is noted with satisfaction.
4. The creation of a Directorate-General of Human Rights within the Ministry of Justice and Labour and the State party's initiation of a programme of technical cooperation with the Centre for Human Rights of the United Nations are seen by the Committee as encouraging developments.
5. The Committee notes with satisfaction the creation of a Secretariat for Women to coordinate activities undertaken by the Government in relation to the mandate contained in the Constitution, which proclaims the principle of equal rights for men and women.
6. The Committee also notes the progress made by the State party in the field of education. The constitutional provision whereby 20 per cent of the State budget must be allocated to education is noted with great interest.

C. Factors and difficulties impeding the implementation of the Covenant

7. The Committee is well aware that democracy in Paraguay must be consolidated and that it will take many more years to eradicate completely the attitudes created by decades of dictatorship, glaring social inequalities and latifundismo. The economic difficulties encountered by the State party, the high degree of poverty throughout the country and the constraints imposed by foreign debt repayment are further obstacles to

the full realization of the economic, social and cultural rights embodied in the Covenant. The Committee also recognizes that the persistence in Paraguayan society of attitudes engendered by a culture in which men are treated as superior to women does not facilitate the full implementation of article 3 of the Covenant.

D. Principal subjects of concern

8. Of particular concern to the Committee is the persistence of clear disparities in the exercise of economic, social and cultural rights in Paraguayan society, where a high percentage of the population is still living in conditions of poverty. The Committee therefore notes with concern the slow pace at which the Government, through the Institute for Social Welfare, is proceeding with the land reform provided for in the Constitution, since that slow pace is a continuing cause of labour and social conflict and is hampering the exercise by the agricultural sector of the rights recognized in the Covenant.
9. The Committee is very concerned at the plight of the indigenous population as well as the estimated 200,000 landless mestizo peasant families. The main reason for hunger and malnutrition of the indigenous population and the deprivation of their rights is linked to the severe problem of obtaining access to traditional and ancestral lands. Though recognized by Law 904/81 and other subsequent laws, this right remains in abeyance. Eighty documented claims for legalizing indigenous access to traditional land have been pending for a number of years. All indigenous groups in the Chaco were expelled from their traditional land by cattle ranchers or industrial enterprises. The Committee is also concerned by the situation of landless peasant families, of whom 50,000, on 15 March 1996, marched on the capital, Asunción, demanding adoption of legislative measures with respect to the land occupied by them and denouncing the Government's failure to fulfil past promises of agrarian reform. In Paraguay today, 5 per cent of the population owns between 60 and 80 per cent of the national territory, a situation fraught with danger for Paraguayan peace and stability.
10. The Committee expresses its concern at the many forms of discrimination against women. Discrimination in employment is a serious problem, particularly in the form of unequal pay for equal work. The Committee also regrets that no information has been received from the State party regarding the actual status of women in Paraguay, in particular on violence against women.

11. Regarding the implementation of article 7 of the Covenant, the Committee's most concerned that, despite the existence of legislation governing the minimum wage, many workers - perhaps even as many as 50 per cent - do not earn that wage.
12. While recognizing that the right to form and join trade unions is established by law, the Committee is concerned by the excessive number of cases of discriminatory practices by employers against unionized workers, including wrongful dismissal for trade union activities. While aware of the impact of decades of dictatorship on the culture of entrepreneurs, the Committee is compelled to point out that the free exercise of trade-union rights is one of the fundamental rights of workers, as elaborated in article 8 of the Covenant.
13. The Committee expresses its concern about the restrictive nature of the legislation governing the right to strike.
14. With regard to the implementation of article 9 of the Covenant, the Committee expresses its concern that large sectors of the population are excluded from any social protection because the informal sector accounts for a large share of the economy.
15. The Committee is particularly concerned about the large number of child workers and street children in Paraguay. It draws attention to the inadequacy of the measures taken by the Government to combat these phenomena, which are serious violations of the fundamental rights of the child.
16. The Committee expresses its concern about the inequitable distribution of health services between urban and rural areas. It also notes the very small number of medical and paramedical personnel in the country. The high rate of infant mortality and infant morbidity are also matters of concern for the Committee, as are the high maternal mortality rate and the inadequacy of guidance and family planning services.
17. With regard to the implementation of articles 13 and 14 of the Covenant, the Committee recognizes the sustained efforts made by the Government of Paraguay, but is very concerned about the disparities between the school system in urban and rural areas and the high drop-out rate. The Committee also expresses concern about the inadequate training and pay of teachers at all educational levels. The decline in the quality of education, the irrelevance of educational methods and the overly centralized and bureaucratic management of the educational sector, as diagnosed by UNICEF, are noted with concern by the Committee.

18. The Committee regrets the apparent failure to disseminate the Covenant in the various sectors of society, particularly in the Guaraní language. The Committee notes that little has been done to inform the general population and, in particular, the indigenous population, of its fundamental rights.

E. Suggestions and recommendations

19. The Committee recommends that the office of the Ombudsman, as provided for in the chapter IV of the 1992 Constitution, should be established without delay.
20. The Committee urges the Government of Paraguay to continue the economic development, agrarian reform and fiscal reform programmes now under way in order to deal with the serious problem of the unfair distribution of wealth, as a means of combating poverty.
21. The Committee urges the State party to take energetic measures to eliminate the forms of discrimination to which the indigenous peoples are subjected in the enjoyment of their economic, social and cultural rights. It is essential that particular attention should be paid to the land problems which affect them and that genuine political will should be displayed to solve these problems in a human rights context. The Committee also recommends that a detailed study should be carried out, under government auspices, on the socio-economic situation of indigenous women.
22. The Committee recommends that the Government of Paraguay pursue policies designed to achieve genuine equality of rights between men and women, and eliminate the discriminatory provisions that are still contained in civil, criminal, trade and labour laws, as well as in family law.
23. The Committee recommends that appropriate legal measures should be undertaken in relation to crimes of violence against women and children within or outside the family.
24. The Committee recommends that the Government of Paraguay adopt an affirmative action policy to improve the social status of women, inter alia at the workplace. The Committee encourages the State party to take all necessary measures for the full implementation of legislation on equal pay and equality of opportunity.

25. The Committee recommends that urgent measures should be adopted, inter alia by increasing the awareness of employers, labour judges and the police, in order fully to guarantee the implementation of the right to engage in trade union activities and the right to strike.
26. The Committee recommends that the necessary legislative and other measures should be adopted to prevent and remedy situations of distress caused by the abandonment of families by fathers, making them responsible for assisting and supporting their families.
27. The Committee recommends that the State party should launch a programme, in cooperation with UNICEF and ILO, to combat the exploitation of child labour and the abandonment and exploitation of street children.
28. The Committee encourages the State party to take measures to improve the system of health care which should take into account the needs of all segments of society and reduce the disparities from which the system now suffers.
29. The Committee recommends that the Government of Paraguay should energetically pursue its efforts and increase its investment in education, particularly primary education. Greater attention should be paid to this sector in the technical cooperation programmes in which the country is involved. The Committee urges the Government of Paraguay to expand the campaign undertaken by the Human Rights Office of the Ministry of Justice and Labour in relation to human rights education at the primary, secondary and university levels and extend its scope to include elected officials, the military, professors and the judiciary.
30. The State party is encouraged to ratify the Additional Protocol to the Inter-American Convention on Human Rights in the Area of Economic, Social and Cultural Rights.
31. The Committee considers that systems for collecting statistics should be improved on the basis of more appropriate indicators, with a view to the objective evaluation of problems and the progress made in the implementation of the provisions of the Covenant.
32. The Committee requests the State party to provide it with written replies to the unanswered questions from the list of issues submitted to it prior to the consideration of the report (questions 2, 6, 10, 12, 19, 20, 30 and 32), as well as all those relating to the rights contained in

articles 13 to 15 of the Covenant, covered by questions 34 to 42, and asks that such information should be sent to the Centre for Human Rights by 31 October 1996. The Committee would also like the next report of the Government of Paraguay to fill in the information gaps identified during the consideration of the present report by the Committee. The report should contain detailed information on the full implementation of legislative and administrative measures relating to prevention and enforcement in respect of safe and healthy working conditions. The Committee would also like information to be transmitted on cases in which the Covenant has been invoked in the courts.

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**CONSIDERATION OF REPORTS SUBMITTED BY STATES
PARTIES UNDER ARTICLES 16 AND 17 OF THE COVENANT**

Concluding observations of the Committee on Economic,
Social and Cultural Rights

PORTUGAL (MACAU)

1. At its 31st, 32nd and 33rd meetings, held 20 and 21 November 1996, the Committee considered the second periodic report of Portugal relating to Macau concerning the rights covered by articles 1 to 15 of the Covenant (E/1990/6/Add.8), as well as the written replies to the additional questions drawn up by the pre-sessional working group (E/C.12/1995/LQ.10), and adopted, at its 54th meeting, held on 5 December 1996, the following concluding observations.

A. Introduction

2. The Committee expresses its appreciation to the State party for its report and written replies to the list of issues, and for the open dialogue conducted between the Committee members and the large delegation from Macau.

3. The Committee notes that the report and the written replies to the list of issues have not been prepared in a manner which enabled the Committee to adequately evaluate the enjoyment of economic, social and cultural rights in Macau.

B. Positive aspects

4. The Committee appreciates the efforts being made by the Portuguese Government to secure from the Government of the People's Republic of China all possible guarantees regarding respect for the provisions of the International Covenant on Economic, Social and Cultural Rights in the Territory of Macau after 1999. The Committee notes the enactment of Article 40 of the Basic Law of the Macau Special Administrative Region which prescribes that the precepts of the Covenant, which are applicable to Macau, will continue to apply and shall be implemented through legislation enacted by the Special Administrative Region of Macau. The Committee hopes that the ongoing discussions between the Portuguese Government and the Chinese Government through the Sino-Portuguese Joint Liaison Group will lead to a continuation of the reporting practice under articles 16 and 17 of the Covenant beyond the year 1999.
5. The Committee notes with satisfaction that the Covenant was published on 31 December 1992 in Macau's Official Gazette in both official languages (Portuguese and Chinese) and also that its contents have been disseminated in the Administrative Region.
6. The Committee notes that in January 1993, the Portuguese Government gave the Chinese language (Cantonese) an official status comparable to that of Portuguese.
7. The Committee welcomes the efforts undertaken by the State party to extend coverage of social security, in particular in the private sector, as stated in decree law No. 58/93/M which came into force in January 1994.

C. Factors and difficulties impeding the implementation of the Covenant

8. The Committee notes that prevailing Chinese traditions, namely of avoiding direct confrontations and strikes in favour of personal or family

ties, have not been conducive to the application of the laws concerning the right to collective bargaining and to strikes.

D. Principal subjects of concern

9. The Committee notes with concern that labour regulations are not enforced effectively in Macau, resulting in workers having to work under unfavourable and repressive conditions without access to legal recourse. Protective measures on working conditions and social security for non-resident workers are still lacking. Measures protecting the right to strike, the right to organize trade unions and the right to bargain collectively are also lacking.
10. The Committee is concerned that the majority of the population is not familiar with the judicial system of the Territory, and that insufficient measures have been adopted to ensure that the principles and the provisions of the Covenant are made widely known to the population.
11. The Committee expresses concern that Macanese residents, including civil servants who hold Portuguese passports may not be able to stay in Macau after 1999, bearing in mind that China does not recognize dual nationality.
12. The Committee notes with concern that no special programme aimed at helping the physically and mentally disabled exists to facilitate their access to employment, education and public facilities.
13. The Committee expresses concern that non-resident workers are not covered by the social security system.
14. Although Chinese constitute about 95% of the population in Macau, the localization of the civil service effectively excludes many persons of Chinese origin who cannot satisfy the criteria of "local people" because of lack of necessary language or other qualifications or for other reasons which cannot be overcome in a short period of time. Therefore, the Committee considers that it is necessary to incorporate persons of Chinese origin in the civil service in order to facilitate a smooth transmission of administration to China.
15. The Committee is further concerned that the territory does not have a procedure for the determination of minimum wages.

E. Suggestions and recommendations

16. The Committee takes note of the readiness of the State party to provide it with traditional information in reply to the concerns expressed by it in the course of the discussion and recommends that in its replies, particular attention be paid to the issue of family reunification and to the legislative provisions safeguarding the principles of the ILO Conventions No. 103 (Maternity Protection Convention) and No. 138 (Minimum Age Convention) and their practical applications.
17. The Committee recommends that appropriate measures be taken to effectively secure economic, social and cultural rights of disabled persons, particularly through funding for special programmes aimed at helping the physically and mentally disabled to gain better access to employment, education and public facilities.
18. The Committee recommends, in view of the lack of sufficient information provided by the State party with respect to article 10 of the Covenant, that detailed information be provided on measures taken to implement provisions of article 10. In that connection, the attention of the State party is drawn to relevant parts of the Committee's Revised Guidelines regarding the form and contents of reports to be submitted by State parties (E/C.12/1991/1).
19. The Committee urges the Portuguese Administration to take affirmative steps to facilitate the integration of persons of Chinese origin into the placement programme of the civil service.
20. The Committee urges the Portuguese Administration to promote appropriate policies which would facilitate the right to form labour unions, the right to engage in collective bargaining and the right to strike, so as to fill the gap between domestic law and the Covenant.
21. The Committee also urges the enactment of legislation on the right to social security so as to ensure full compliance with the requirements of the Covenant, and recommends that the State party extend the coverage of social security to non-resident workers.
22. The Committee urges the Portuguese Administration to make more efforts to disseminate the Covenant within the civil society.
23. The Committee welcomes the observations of the State party that measures shall be taken to develop information and awareness programmes

on the judicial system of the Territory and on the principles and provisions of the Covenant in the various languages spoken in Macau. Additionally, the Committee recommends that comprehensive human rights training be provided to all segments of the population, including law enforcement officers and all the persons involved in the administration of justice.

24. The Committee urges strongly the Portuguese Administration to take all necessary measures to ensure that the reports under the Covenant be submitted after 1999.
25. The Committee encourages the State party to widely disseminate the Concluding observations adopted by the Committee following the consideration of the State party's second periodic report.

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**CONSIDERATION OF REPORTS SUBMITTED BY STATES
PARTIES UNDER ARTICLES 16 AND 17 OF THE COVENANT**

Concluding observations of the Committee on Economic,
Social and Cultural Rights

SPAIN

1. At its 3rd, 5th, 6th and 7th meetings, held on 1, 2 and 3 May 1996, the Committee considered the third periodic report of Spain concerning the rights covered by articles 1 to 15 of the Covenant (E/1994/104/Add.5), as well as the written replies to the additional questions drawn up by the pre-sessional working group, and adopted, at its 22nd meeting, held on 14 May 1996, the following concluding observations.

A. Introduction

2. The Committee expresses its satisfaction at the detailed report submitted by the State party and the substantial additional information supplied in writing, as well as the excellent dialogue established between its members and the large delegation of experts, including women, representing the ministries concerned.

3. However, the Committee regrets that the Government did not cover articles 7, 8, 9 and 12 of the Covenant in its report. Nevertheless, the Committee is satisfied with the oral information concerning those articles provided during the dialogue, which demonstrates the Government's firm resolve to implement all the provisions of the Covenant.

B. Positive aspects

4. The Committee congratulates Spain on the many steps, in constitutional law and otherwise, it has taken to promote the realization of the economic, social and cultural rights set forth in the Covenant. It notes with satisfaction the particular efforts the Government has made to address unemployment in various forms, the positive action taken to enable adults to pursue academic studies, even through distance learning, the improvement of the status of motherhood and fatherhood and the special attention paid to protecting the rights of elderly persons.

C. Factors and difficulties impeding the implementation of the Covenant

5. The Committee notes the difficulties currently being experienced by Spain as a result of structural changes and the economic recession. The decentralization and privatization of some social services, persistent large-scale unemployment and budget cuts affect the whole population, and especially the most vulnerable groups.

D. Principal subjects of concern

6. The Committee notes with concern that despite the new legislative provisions in force, discrimination continues against women with regard to the right to equal treatment at work, the right to equal pay and access to education.
7. The Committee also notes with concern that as a result of the economic recession, budget cuts have been made in the social welfare sector and have had a particular impact on the most vulnerable groups in society. In this regard, the Committee emphasizes the importance of the views expressed in its General Comment No. 3 that even in times of severe resource constraints, whether caused by a process of adjustment, of

economic recession, or by other factors, the vulnerable members of society can, and indeed must, be protected by the adoption of relatively low-cost targeted programmes.

8. The Committee further notes with concern that the unemployment rate in Spain is extremely high, and particularly so for women and young people.
9. The Committee notes the persistence of a worrying rate of illiteracy, especially among women and in certain southern regions.
10. The Committee notes with great concern the growth in the number of acts of discrimination and racism against foreigners in Spain, particularly directed at groups from North Africa, asylum seekers, illegal workers and the Romany (Gypsy) population.
11. The Committee notes that the central Government does not systematically collect disaggregated national statistics concerning the rights covered by the covenant, and that consequently it does not always possess adequate data to enable it to evaluate the application of the Covenant fully and appropriately.
12. The Committee notes that the public as a whole and the media are still largely ignorant of the Covenant's provisions, with the result that the vast majority of the population is unaware of the commitments entered into by the Spanish authorities with regard to economic, social and cultural rights.

E. Suggestions and recommendations

13. The Committee recommends that the Spanish authorities continue their efforts to ensure effective equality between men and women, in particular with regard to access to education and jobs and equal pay for equal work.
14. The Committee recommends that the State party take special steps to protect the most vulnerable groups in society as effectively as possible against the impact of the budget cuts currently affecting the social sector.
15. The Committee encourages the Government of Spain to continue to devise and apply all possible measures to curb the present rate of unem-

ployment. In that context, it suggests that the State party should retain the integration of women and young people in the labour market as a priority policy.

16. The Committee encourages the Spanish authorities to take all necessary steps to reduce the level of illiteracy, which particularly affects women and certain population groups living in particular parts of the country.
17. The Committee urges the Government to take all appropriate preventive and penal measures to combat effectively all forms of racial discrimination which particularly affects groups from North Africa, asylum seekers, illegal workers and the Romany (Gypsy) population.
18. The Committee recommends that the State party should take the necessary steps systematically to collect and analyse disaggregated national statistics relating to the provisions of the Covenant, in order to have an effective tool for monitoring the realization of those rights.
19. The Committee recommends that the State party's report and the concluding observations should be extensively publicized within the country, especially through the media, the universities and interested non-governmental organizations.

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**CONSIDERATION OF REPORTS SUBMITTED BY STATES
PARTIES UNDER ARTICLES 16 AND 17 OF THE COVENANT**

Concluding observations of the Committee on Economic,
Social and Cultural Rights

UNITED KINGDOM OF GREAT BRITAIN AND
NORTHERN IRELAND (HONG KONG)

1. The Committee considered, at its fifteenth session, the third periodic report submitted by the United Kingdom of Great Britain and Northern Ireland on articles 1 to 15 of the Covenant as applied in Hong Kong (E/1994/104/Add.10). The Committee considered this report at its 39th, 41st, 42nd, and 44th meetings held on 26, 27 and 28 November 1996. After having considered the report, the Committee adopted at its 55th meeting held on 6 December 1996, the following concluding observations:

Introduction

2. The Committee notes with satisfaction that the report submitted by the State party was prepared in accordance with the Committee's guidelines. It welcomes the large and high-level delegation composed of represent-

atives from the United Kingdom of Great Britain and Northern Ireland and from Hong Kong. The information submitted in the report and that provided by the delegation in reply to both written and oral questions enabled the Committee to obtain a broad view of the extent of the State party's compliance with its obligations under the International Covenant on Economic, Social and Cultural Rights. The Committee also expresses its appreciation for the written replies to its list of questions (E/C.12/Q/HON.1). The Committee notes with satisfaction that this information enabled it to engage in a constructive dialogue with the State party, particularly concerning the applicable law. However, it is regretted that a number of the Committee's questions relating to reports of what actually happens in practice were not answered.

3. The Committee also welcomes the presence of a significant number of non-governmental organizations from Hong Kong. The information provided by these non-governmental organizations greatly assisted the Committee in its understanding of the human rights situation in Hong Kong.

A. Positive aspects

4. The Committee notes with satisfaction that both the Sino-British Joint Declaration and the Basic Law affirm that the Covenant will continue to apply to Hong Kong after the resumption of sovereignty over the territory by the People's Republic of China as at 1 July 1997.
5. The Committee notes that the Government of Hong Kong has established conditions for a high level of economic prosperity.
6. The Committee welcomes the fact that non-governmental organizations, members of the Legislative Council and other interested parties have had an opportunity to contribute their comments on topics included in the report. The Committee lauds efforts made by the Hong Kong Government to promote public awareness of the Covenant, and to make available to the public at large a substantial number of copies of the report, in English and Chinese, both in printed form and on the Internet.
7. The Committee welcomes the enactment of the Sex Discrimination Ordinance and the Disability Discrimination Ordinance, in July and August 1995, respectively. It also notes with interest the establishment of the Equal Opportunity Commission in May 1996.

8. The Committee notes that the housing policy of the Government of Hong Kong endeavours to elaborate a long-term programme for public housing construction and to encourage private-sector housing construction so that adequate and affordable housing could be available to all residents of Hong Kong.

B. Factors and difficulties impeding the implementation of the Covenant

9. The Committee notes that the uncertainties arising from the resumption of sovereignty over Hong Kong by the People's Republic of China have clearly caused some difficulties on the part of the Hong Kong Government, in undertaking measures to its maximum capacity, towards the protection and promotion of the economic, social and cultural rights of its constituents.
10. The Committee notes that constraints arising from limited habitable land in Hong Kong and from the significant influx of immigrants into its territory, may result in difficulties in implementing certain articles of the Covenant. However it is also noted that Hong Kong has considerable resources at its disposal to overcome most problems posed by these obstacles.
11. The Committee notes that while the Government of Hong Kong has established conditions for a high level of economic prosperity, while the latest figures on the Gross Domestic Product per capita in Hong Kong show a figure of US\$ 23,500 which is the fourth highest in the world, and while the Hong Kong Government has accommodated reserves, as of March 1996, of US\$ 20 billion, Hong Kong has one of the most uneven distributions of income in the world, where 20 per cent of the population take up 50 per cent of the national wealth, but 250,000 households, i.e. 11 percent of the population, live in absolute poverty, and 850,000 citizens live under the poverty line.

C. Principal subjects of concern

12. The Committee deeply regrets that the recommendations expressed in its concluding observations in 1994 have largely been ignored by the Hong Kong Government.
13. The Committee is concerned that the modalities for the continued submission of reports by Hong Kong after the resumption of sovereignty

by the People's Republic of China are still at the stage of negotiation and have not been resolved to date.

14. The Committee expresses its disappointment that the principal subjects of concern listed in its concluding observations in 1994 remain unresolved. The Committee reiterates its serious concern on the following issues.
 - (a) The provisions of the International Covenant on Economic, Social and Cultural Rights continue to be excluded from the domestic law of Hong Kong, which already contains the provisions of the International Covenant on Civil and Political Rights.
 - (b) The low level of awareness among the judiciary of international human rights law in general and of the International Covenant on Economic, Social and Cultural Rights in particular.
 - (c) The Hong Kong Government continues to object to the establishment of a human rights commission.
 - (d) The number of split families continues to grow at an alarming rate.
 - (e) The repressive and discriminatory treatment of Vietnamese refugees in Hong Kong, particularly those who refuse repatriation to Vietnam.
 - (f) The "two-week rule" imposed upon foreign domestic helpers upon expiration of their contract continues to hinder their enjoyment of economic, social and cultural rights.
 - (g) The phenomenon of sub-human cage-homes remains a blight in the housing situation in Hong Kong.
 - (h) The level of social security payments available to the elderly does not allow them to enjoy their rights under the Covenant.
15. The Committee is concerned that the Sex Discrimination Ordinance does not protect those individuals whose right to work is violated by inappropriate account being taken of their private sexual lives. The Committee further considers it a serious matter that women above the age of 30 suffer discrimination in employment.
16. The Committee regrets the "step-by-step" approach according to which legislation for the protection of vulnerable minorities is adopted primarily on the basis of public opinion surveys, that is, based on majority views.
17. The Committee is concerned that the principle of equal pay for work of equal value as elaborated in the non-binding Code of Practice of the Sex Discrimination Ordinance, has not been reflected in Hong Kong labour law, thus giving rise to discrimination against women.
18. The Committee expresses its concern over the unfavourable status of Hong

Kong residents who possess British Overseas reside, but who are not entitled to citizenship in any British territory after 1997, although allowed to reside in Hong Kong under Chinese law even if they are not Chinese citizens.

19. The Committee is concerned that in the field of employment, the Sex Discrimination Ordinance provides relatively insufficient remedies due to the absence of provisions on reinstatement and full recovery compensation, while both of these remedies are foreseen in the Disability Discrimination Ordinance.
20. The Committee expresses its concern about the extent of unemployment or underemployment as a result of rapid economic restructuring. In this connection, the Committee is particularly concerned about the significant numbers of women who are thereby forced out of the labour force and must sometimes resort to precarious activities.
21. The Committee is concerned that Hong Kong labour legislation does not provide protection against unfair dismissal, nor does it provide for a limitation on hours of work, for a paid weekly rest period and compulsory overtime pay. This situation is a major hindrance to the enjoyment of just and favourable conditions of work.
22. The Committee expresses its concern that trade union rights are unduly restricted in Hong Kong. In particular, the Committee is of the view that restrictions applied to affiliation with international trade union organizations, the prohibition on the formation of confederations of trade unions from different industries, as well as the legal right of employers to dismiss persons involved in strike activities, are incompatible with the Covenant.
23. The Committee expresses its deep concern that there is no comprehensive mandatory old-age social security scheme in Hong Kong and that approximately sixty per cent of the population is not protected by any public or private pension plans.
24. The Committee expresses its concern that large numbers of individuals and families who are eligible for comprehensive social security assistance (CSSA) do not apply for it, either because they are not aware of the CSSA, because they fear the cultural stigma attached to the concept of welfare assistance, or because they are discouraged from applying by certain practices of the authorities which are not in conformity with Hong Kong law, like the requirement of children's consent before parents may receive CSSA benefits.

25. The Committee is concerned that CSSA recipients are not granted reimbursement for expenses for traditional medicine, given the fact Hong Kong residents frequently use traditional medicine and that Hong Kong courts grant such reimbursements in civil liability actions.
26. The Committee reiterates its deep concern over the growing numbers of split families in Hong Kong. The Committee is of the view that the Hong Kong Government has an obligation to ensure that the criteria applied in deciding on those eligible for legal migration into Hong Kong, are consistent with the provisions of the Covenant.
27. The Committee expresses its concern at the absence of a holistic child policy for the protection of children from all forms of abuse.
28. The Committee is deeply concerned that the standard of living of elderly singletons in the lowest twenty per cent income group who are not receiving CSSA, is lower than that of the CSSA recipients. The Committee notes that many of these singletons live in substandard accommodation.
29. The Committee regrets that the Hong Kong Government has not given any clear indication of a time frame within which it expects to eradicate the deplorable phenomenon of cage homes. The Committee is particularly concerned over the inadequate housing conditions extended by the Hong Kong Government to new immigrants from China resulting in many of them living in deplorable conditions.
30. The Committee expresses its concern over the inadequate care and protection of the mentally ill and disabled in Hong Kong. In particular the Committee notes with concern the apparent lack of initiative on the part of the Hong Kong Government to undertake public education to combat discrimination against those with mental disabilities.
31. The Committee takes note with concern that, while the Hong Kong Government has adopted an educational policy in relation to children of immigrant families from China, it has not undertaken sufficient efforts to ensure school placements for these children and to protect them from discrimination.

D. Suggestions and recommendations

32. In the light of the terms of the Sino-British Joint Declaration and of the recent practice of UN human rights treaty bodies, the Committee is of

the firm view that, following the resumption of sovereignty over Hong Kong by the People's Republic of China, the People's Republic of China is under an obligation not only to ensure the enjoyment in the Hong Kong Special Administrative Region of the rights guaranteed by the Covenant but also to submit reports pursuant to Article 16 of the Covenant. The Committee therefore considers that it is competent to examine the implementation of the Covenant after 1 July 1997, on the basis of reports or such other material as will be before the Committee, and reiterates its willingness to receive reports in respect of the Hong Kong Special Administrative Region from the People's Republic of China or, if the authorities so decide, directly from the Hong Kong Special Administrative Region. The Committee encourages all parties concerned to work out as soon as possible the modalities of submitting such reports and to inform the Committee of these modalities. The Committee is convinced, however, that the best way to resolve this particular issue would be for the People's Republic of China herself to become a party to the International Covenant on Economic, Social and Cultural Rights.

33. The Committee urges the Hong Kong Government to consider with the utmost care the Committee's suggestions and recommendations embodied in its concluding observations of 1994, as well as those that follow, and to undertake whatever relevant concrete measures may be necessary.
34. The Committee strongly urges the Hong Kong Government to take every possible measure to develop a fair and open one-way permit approval mechanism, in order to facilitate the rapid family reunification.
35. The Committee recommends that the Government should undertake more effective measures for the retraining of those who have lost employment or are underemployed as a result of economic restructuring.
36. The Committee urges the amendment of the Sex Discrimination Ordinance to include provisions on reinstatement in employment as well as the removal of the current maximum amount for recovery compensation.
37. The Committee recommends the Government to lift repressive provisions and limitations in relation to trade union federations including the prohibition to establish international affiliation.
38. The Committee recommends a review of government policy in relation to unfair dismissal, minimum wages, paid weekly rest time, maximum

hours of work and overtime pay rates, with the end in mind to bring such policy into conformity with the Government's obligations set forth in the Covenant.

39. The Committee strongly recommends that the Hong Kong Government should reconsider the adoption of a universal, comprehensive retirement protection scheme which seeks to ensure that disadvantaged groups are accorded full access to social security.
40. The Committee reiterates in the strongest possible terms its recommendation that the Hong Kong Government should undertake as a matter of high priority the total eradication of cage-homes.
41. The Committee urges the Hong Kong Government to review the 7-year residence rule applied before providing housing to immigrant families from China, with a view to ensuring their right to adequate housing.
42. The Committee requests that, within 45 days it receive a comprehensive response to its inquiry regarding three Vietnamese refugees who were denied medical and dental treatment, mainly for refusing to voluntarily return to Vietnam.
43. The Committee strongly recommends that the Hong Kong Government review the situation concerning persons with mental illness and disability and to ensure that their rights under the Covenant are fully protected.
44. The Committee recommends that measures to integrate children of immigrant families from China, into the general education system be implemented with maximum possible attention from government authorities.
45. The Committee recommends that these concluding observations be made widely available in English and Chinese within Hong Kong and that copies be provided by the Government to all members of the judiciary and to the relevant echelons of the public service.