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**International Covenant on Civil
and Political Rights**

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8 November 1996

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Human Rights Committee

**CONSIDERATION OF REPORTS SUBMITTED BY STATES
PARTIES UNDER ARTICLE 40 OF THE COVENANT**

Concluding Observations of the Human Rights Committee

DENMARK

1. The Committee considered the third periodic report of Denmark (CCPR/C/64/Add.11) at its 1533 and 1534 meetings, held on 22 October 1996 and adopted¹ the following comments:

A. Introduction

2. The Committee expresses its appreciation to the State party for its elaborate and comprehensive report, which has eventually been prepared in accordance with the Committee's guidelines, and for engaging through a delegation with first hand knowledge of the different subjects under discussion, in an extremely constructive dialogue with the Committee.
3. It notes with satisfaction that the information submitted in the report and

¹ At its 1556th meeting (58th session), held on 6 November 1996.

that provided by the delegation in reply to both written and oral questions, enabled the Committee to obtain a thorough view of Denmark's actual compliance with the obligations undertaken under the International Covenant on Civil and Political Rights and the improvements implemented since the consideration of the second periodic report. The Committee regrets, however, that the third periodic report, which was due in 1990, was considerably delayed in its submission.

B. Positive aspects

4. The Committee notes, with appreciation, the high level of achievement in the respect for human rights in Denmark. Among the positive developments that have been realized since the consideration of the second periodic report in 1987, the Committee notes, the ratification of the Second Optional Protocol to the Covenant on the abolition of the death penalty, the revision of various legislative texts, the increased jurisdiction recently granted to the Ombudsman and the establishment at a national level of a number of human rights institutions - namely the Danish Centre for Human Rights, the Equal Status Council and the Racial Equality Board - with a view to reinforcing protection of civil and political rights and to promoting greater public awareness of the provisions of the Covenant and the Optional Protocols.
5. The publication by the Ministry of Justice of a new periodical on EU law and human rights with a view to ensure a wider knowledge of the interpretation and application of human rights provisions of international treaties in the Danish courts is welcomed. The organization, on a standing basis, of human rights training courses for members of the police and other law enforcement officials is also a positive development.
6. The Committee notes with satisfaction the measures adopted by the Danish Government in order to ensure that ethnic and linguistic minorities enjoy the rights set forth in the Covenant without discrimination.
7. The Committee commends the introduction of a new system to investigate complaints against the police and the increased funding for its operation. It looks forward to receiving the results of the new jurisdiction.
8. The Committee takes note of the declaration by the delegation to the effect that the text of the Covenant would be shortly translated into Greenlandic.

9. The Committee commends the legal and administrative measures taken to promote equal enjoyment of women's rights.

C. Factors and difficulties impeding the application of the Covenant

10. The Committee finds that there are no particular factors or difficulties which may impede the effective implementation of the Covenant's provisions by the Kingdom of Denmark, except for the continued maintenance of Denmark's reservations to certain provisions of the Covenant.

D. Principal subjects of concern

11. The Committee is concerned at the fact that the Covenant, unlike the European Convention on Human Rights and Fundamental Freedoms, has not yet been given the status of domestic legislation, considering in particular that the Covenant guarantees a number of human rights which are not protected under the European convention and that permissible restrictions are less broadly based.
12. The Committee notes that the reservations entered by Denmark upon ratification of the Covenant with respect to a number of provisions have an adverse effect on the full implementation of the Covenant. Consideration ought to be given to the withdrawal of some, or all, of these reservations.
13. The Committee further notes that the requirements referred to in article 9, paragraph 3, of the Covenant, are not fully met.
14. The Committee also expresses its concern with the methods of crowd control employed by the police forces, including the use of dogs, against participants in various demonstrations or gatherings which, on certain occasions, have resulted in the serious injuries to persons in the crowds, including bystanders.
15. The Committee is concerned at the long delay in resolving the dispute arising from the claim for compensation by the members of the indigenous minority of Greenland in respect of their displacement from their lands and loss of traditional hunting rights on account of the construction of the military base at Thule. It is also concerned that the people of Greenland are not able to enjoy fully certain Covenant rights and freedoms, including those provided for in article 12.

16. The Committee regrets the paucity of information about the Covenant and its implementation in the Faroe Islands.

E. Suggestions and recommendations

17. The Committee recommends that the State party take appropriate measures to ensure the direct application of the provisions of the Covenant into domestic law.
18. The Committee also recommends that the Government review the continuing need for any reservation, with a view to withdrawing them.
19. The Committee suggests that further consideration and amendments be made to the regulations, last reviewed in 1992, concerning residence and other conditions for reunification of families both of alien immigrants and refugees so as more fully to give effect to articles 23 and 24 of the Covenant.
20. The Committee further recommends that consideration be given to the revision of the existing regulations concerning the length of the pre-trial detention and that of solitary confinement in accordance with the Committee's General Comment No. 8(16) and its jurisprudence.
21. The Committee urges the Government of the State party to further the training of the police forces in methods of crowd control and of handling offenders, including those suffering from mental disorder; and to keep these issues constantly under review. The Committee recommends that the authorities reconsider the use of dogs in crowd control.
22. The Committee emphasizes that further measures should be taken to ensure that the provisions of the Covenant are more widely disseminated, particularly among the legal profession and members of the judiciary.
23. The Committee strongly recommends that the reporting obligations of the State party under article 40 of the Covenant be strictly observed and that the fourth periodic report be submitted within the time-limit to be determined by the Committee.

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Human Rights Committee

**CONSIDERATION OF REPORTS SUBMITTED BY STATES
PARTIES UNDER ARTICLE 40 OF THE COVENANT**

Concluding Observations of the Human Rights Committee

GABON

1. The Committee considered the initial report of Gabon (CCPR/C/31/Add.4) at its 1541st to 1543rd meetings, on 28 and 29 October 1996, and adopted¹ the following observations.

A. Introduction

2. The Committee welcomes the opportunity to initiate its dialogue with the Government of Gabon while regretting that this follows a lapse of over 12 years in the submission of the report by the State party. While the Committee regrets the scarcity of information contained in the written report, it expresses its appreciation for the high-level delegation, as well as for the detailed and updated additional information provided for by the delegation in response to the questions posed by the Committee.

¹ At its 1556th meeting, held on 6 November 1996.

B. Factors and difficulties affecting the application of the Covenant

3. The Committee notes the existence in the State party of customs and traditions, particularly in the area of equality between men and women, which may impede the full observance of relevant provisions of the Covenant.

C. Positive aspects

4. The Committee welcomes the positive political evolution of Gabon towards a multi-party and pluralistic democracy since the entry into force of the 1991 Constitution and its amendment of 18 March 1994. It notes with satisfaction the establishment in 1987 of a Ministry of Communication, Culture, Art and Human Rights, which includes human rights among the subjects for which it has responsibility. The Committee appreciates the statement made by the delegation to the effect that the Government intends to establish, as a statutory, autonomous body, a National Human Rights Commission for the promotion and protection of human rights.
5. The Committee welcomes Gabon's accession without any reservation to various international human rights instruments.
6. The Committee notes with satisfaction that pursuant to the introduction of the multi-party system, 20 political parties have been created and that, further to the promulgation of the 1994 Labour Code and of the 1993 Act on trade-union organizations of public servants, the previous trade union monopoly system has been removed.
7. The Committee appreciates the statement by the delegation that information on international human rights instruments and in particular of the provisions of the Covenant would be disseminated among the public.

D. Principal subjects of concern

8. The Committee regrets that the opportunity was not taken by the drafters of the Constitution to include in the 1994 Constitution, which refers to other international human rights instruments, a specific reference to the Covenant and its legal relationship with the domestic legal order. It further regrets that all rights provided for in the Covenant are not incorporated into domestic law and that effective remedies are not

provided in all cases of violation of rights protected under the Covenant.

9. The Committee is concerned that the non-discrimination clauses in the Covenant, as laid down in its articles 2, 3 and 26 are not fully reflected in the Constitution. Particular concern is expressed at the prevailing discriminatory attitudes in society towards women and at the insufficiency and lack of effectiveness of measures adopted to prevent them.
10. The Committee is concerned about the lack of safeguards and effective remedies available to individuals during a state of emergency and particularly regrets the lack of information on the situation of non-derogable rights in such circumstances.
11. The Committee regrets that despite the Government's declared policy of not applying the death penalty, no legal steps have yet been taken to abolish it.
12. The Committee is concerned that the guarantees contained in articles 7, 9 and 10 of the Covenant are not fully complied with either in law or in practice. In particular, it is seriously concerned about the length of time that individuals may have to spend in police custody and pre-trial detention.
13. The Committee is concerned about the practice of imprisonment for civil debt, in contravention of article 11 of the Covenant.
14. The Committee is also concerned about the "dilapidated state of jail cells" and notes that insufficient measures have been taken to provide law enforcement officials with appropriate training in the field of human rights, and to inform arrested persons and detainees of their rights. The Committee further deplores the fact that the police force is a component of the country's military forces and, as such, is subject to the military command of the Ministry of Defence.
15. The Committee is concerned about the lack of information on measures to ensure the independence and impartiality of the judiciary in conformity with article 14 of the Covenant.
16. With regard to the rights of non-Gabonese citizens and refugees living in Gabon, the Committee is concerned about legal impediments to their freedom of movement within the country as well as by the requirement of an exit visa for foreign workers, which run counter to

the provisions in article 12 of the Covenant. It is particularly worried by the appalling conditions prevailing in refugee centres, including at the Libreville Detention Camp, which led to the death of a number of persons through suffocation and dehydration.

17. The Committee is concerned about the lack of measures taken to implement the rights of persons belonging to minorities, as set forth in article 27 of the Covenant.

E. Suggestions and recommendations

18. The Committee recommends that the Covenant be incorporated in the domestic legal order and that its provisions be made directly applicable before the courts. In this connection, the Committee emphasizes the importance of establishing a National Commission on Human Rights as a permanent and independent mechanism to monitor the effective implementation of the Covenant and to provide training to law enforcement officials and appropriate information to the public.
19. The Committee recommends that all grounds on which discrimination is prohibited, as provided for in articles 2 and 26 of the Covenant, be incorporated in the relevant provisions of the Constitution. It further recommends that article 2 of the Constitution be amended to ensure its compatibility with articles 2 (1), 3 and 26 of the Covenant and that affirmative measures be taken to strengthen the participation of women in the political, economic and social life of the country and to overcome the discriminatory effects of customary laws.
20. The Committee recommends that the State party urgently adopt and incorporate all relevant provisions of article 4 of the Covenant into the Constitution.
21. The Committee recommends that the State party consider the abolition of the death penalty and accession to the Second Optional Protocol to the Covenant.
22. The Committee recommends that all legal provisions or executive orders be reviewed to ensure their compatibility with articles 7, 9 and 10 of the Covenant and their effective implementation in practice. Urgent steps should be taken to review the duration of police custody and preventive detention and to ensure the independent investigation of all allegations of ill-treatment by police and prison officers.

23. The Committee recommends that prison conditions should be brought into compliance with article 10 of the Covenant and with the United Nations Standards Minimum Rules for the Treatment of Prisoners and to make these standards accessible to the police, armed forces, prison personnel and others persons responsible for holding interrogations as well as to persons deprived of their liberty.
24. The Committee urgently recommends the abolition of imprisonment for civil debt, in compliance with article 11 of the Covenant.
25. The Committee strongly recommends that the State party take the necessary measures to ensure that the police be transformed into a civilian force not subject to the military command of the Ministry of Defence. The Committee also recommends that the State party include in its second periodic report information on measures to ensure the independence and impartiality of the judiciary.
26. Existing provisions such as article 1 paragraph 3 of the Constitution limiting or restricting the exercise of the right to freedom of movement for non-Gabonese citizens, including the requirement of exit visas should be reviewed to bring the legislation fully in conformity with article 12 of the Covenant. The Committee further recommends that the State party consider adopting measures to improve refugee status and living conditions in refugee centres.
27. The Committee recommends that the Government of Gabon develop information and awareness programmes on the principles and provisions of the Covenant in the various languages spoken in Gabon. Additionally, the Committee recommends that human rights education be provided at all levels in schools and 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. In this regard, the Committee suggests that the State party avail itself of the technical cooperation services of the High Commissioner/Centre for Human Rights.
28. The Committee encourages the State party to disseminate widely the State party's report and the concluding observations adopted by the Committee following its consideration of the report.
29. The Committee recommends that full and comprehensive information on the implementation of the provisions of the Covenant, in law and in practice, be incorporated in the State party's next periodic report.

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**CONSIDERATION OF REPORTS SUBMITTED BY STATES
PARTIES UNDER ARTICLE 40 OF THE COVENANT**

Concluding Observations of the Human Rights Committee

GERMANY

1. The Committee considered the fourth periodic report of Germany (CCPR/C/84/Add.5) at its 1551st to 1553rd meetings, held on 4 and 5 November 1996 (CCPR/C/SR.1551-1553), and adopted¹ the following observations:

A. Introduction

2. The Committee welcomes the presence of a high level delegation. It expresses its appreciation for the quality of the report, and the detailed, frank and competent manner in which the delegation answered written and oral questions. The Committee notes with satisfaction that this information enabled it to engage in a highly constructive and fruitful dialogue with the State party.

¹ At its 1558th meeting, held on 7 November 1996..

B. Factors and difficulties impeding the implementation of the Covenant

3. The Committee notes that the process of reunification of Germany has posed particular problems for the uniform application of the Covenant throughout the territory of Germany. The extension of the political, economic, and social system of the western part of the State to the territory of the former German Democratic Republic (GDR) has posed novel, difficult and sensitive questions.

C. Positive aspects

4. The Committee welcomes the fact that the reunification of Germany has enabled people of the former GDR to enjoy many of the rights and freedoms protected by the Covenant which were formerly denied to them.
5. The Committee notes with satisfaction that Germany has acceded to both Optional Protocols to the Covenant.
6. The Committee greatly appreciates the role of the Federal Constitutional Court's role in protecting individuals against the violation of their rights as established by the Basic Law and ensuring conformity of legislation with the Basic Law.
7. The Committee welcomes the adoption of the Second Equal Treatment Act to advance the interests of women in the federal public administration, and the modification of the EC adaption law to ensure that the ban on discrimination is more effectively applied.
8. The Committee appreciates the measures adopted for granting compensation and providing rehabilitation to those who suffered injustice at the hands of the Socialist Unity Party (SED) regime in the former GDR.
9. The Committee welcomes the efforts made by the State party to counter racism, anti-Semitism and xenophobia, though it regrets that this phenomenon is still persisting.
10. The Committee appreciates that Germany has provided temporary residence to a very large number of refugees from Bosnia and Herzegovina. The Committee welcomes the assurance given by the delegation that the return of these refugees will be primarily through voluntary repatriation

and if any involuntary repatriation is made, it will be only in coordination with the Government of Bosnia and Herzegovina and the Office of the United Nations High Commissioner for Refugees, and will be subject to challenge by judicial review. The Committee appreciates the assurance that no repatriation will take place to minority areas in Bosnia and Herzegovina or to majority areas which are not considered safe.

D. Principal subjects of concern and suggestions and recommendations

11. The Committee expresses its concern that there exist instances of ill-treatment of persons by the police, including foreigners and particularly members of ethnic minorities and asylum seekers. In this regard, it is concerned that there is no truly independent mechanism for investigating complaints of ill-treatment by the police. The Committee therefore recommends the establishment of independent bodies throughout the territory of the State party for the investigation of complaints of ill-treatment by the police.
12. Though the Committee finds that programmes of education of young people and training of police officers concerning racism, anti-Semitism and xenophobic attitudes have been started, it regrets that a broader educational and training programme in human rights values does not appear to have received the same level of support. The Committee also expresses its concern that despite significant efforts by the Government, racism, xenophobia and anti-Semitism still persist among certain segments of the population. The Committee thus recommends that efforts to educate the youth and train the police that racism and xenophobia are violative of basic human dignity, contrary to fundamental values and constitutionally and legally impermissible, should be intensified and urges that such education and training should be placed in the wider context of human rights education and training. The Committee urges the Federal and Länder Governments to introduce courses in human rights in schools, colleges and universities and also in police and defence academies with a view to strengthening a culture of human rights.
13. The Committee is concerned that the definition of minorities as “ethnic or linguistic groups who have a traditional area of settlement in particular regions”, as stated in para. 244 of the report, is much too restrictive in terms of article 27 of the Covenant. The Committee is of the view that article 27 applies to all persons belonging to minorities whether linguistic, religious, ethnic or otherwise including those who

are not concentrated or settled in a particular area or a particular region or who are immigrants or who have been given asylum in Germany.

14. The Committee regrets that Germany has made a reservation excluding the competence of the Committee under the Optional Protocol with regard to violation of rights as protected by article 26 of the Covenant.
15. The Committee expresses its concern that solitary confinement can be imposed for a period of up to three months and can be further extended by court order.
16. The Committee is concerned that membership in certain religious sects as such may in some Länder of the State party disqualify individuals from obtaining employment in the public service, which may in certain circumstances, violate the rights guaranteed in articles 18 and 25 of the Covenant. The Committee thus recommends the State party to discontinue the holding of "sensitizing" sessions for judges against the practices of certain designated sects.
17. The Committee expresses its concern that the criteria used to evaluate for retaining or dismissing former GDR public servants, including judges and teachers, are vague and leave open the possibility for deprivation of employment on the basis of political opinions held or expressed. The Committee therefore suggests that the criteria for dismissing public servants of the former GDR be made more precise so that no public servant will be dismissed on the ground of political opinion held or expressed by him or her.
18. The Committee is concerned that there is an absolute ban on strikes by public servants who are not exercising authority in the name of the State and are not engaged in essential services, which may violate article 22 of the Covenant.
19. The Committee is concerned that the State party has not provided information in respect of the right to form and join trade unions (article 22 of the Covenant) or on aspects of the rights of children (article 24 of the Covenant) on the ground that information had been provided to another treaty body. In this regard, the Committee reminds the State party that reports under article 40 of the Covenant should provide information in respect of all Covenant rights.

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**CONSIDERATION OF REPORTS SUBMITTED BY STATES
PARTIES UNDER ARTICLE 40 OF THE COVENANT**

Concluding Observations of the Human Rights Committee

GUATEMALA

1. The Committee considered the initial report of Guatemala (CCPR/C/81/Add.7 and HRI/CORE/1/Add.47) at its 146th, 1488th and 1489th meetings, on 26 and 28 March 1996 (see CCPR/C/SR.1486, 1488 and 1489). Subsequently, at its 1499th meeting, on 3 April 1996, the Committee adopted the following comments:

A. Introduction

2. The Committee welcomes the initial report submitted by the State party and also welcomes the delegation's willingness to engage in a frank and fruitful dialogue with the Committee. The Committee regrets, however, that although the report provides information on general legislative norms in Guatemala, it largely fails to deal with the actual state of implementation of the Covenant in practice and the difficulties encountered in the course of implementation which the delegation frankly admitted, a fact

which the Committee appreciates. The Committee appreciated the presence of a competent delegation which provided helpful information to the Committee in addressing its questions and thus allowed it to obtain a clearer view of the overall human rights situation in the State party.

B. Factors and difficulties affecting the implementation of the Covenant

3. The Committee notes that Guatemala continues to suffer from a long civil war, which has devastated the country for more than four decades. In the context of such conflict, gross and massive human rights violations have occurred and, although some steps have been taken in recent years to achieve peace, the conflicting parties have not yet negotiated an end to the war. The situation of armed conflict which has prevailed since Guatemala ratified the Covenant has given rise to serious violations of human rights. The armed conflict has also subjected civilian governmental authority to the power of the military, which is incompatible with the legitimate functions of freely elected authorities and the purpose of elections.
4. The Committee also notes that various segments of the population, particularly persons who are or were members of the armed forces or government officials, or who hold economic power, continue to take advantage of a climate of impunity resulting in the most serious human rights violations and has been an obstacle to the rule of law in the State party.
5. The Committee further notes that social and economic disparities are all-pervasive in the country. High levels of poverty and illiteracy, lack of opportunities, and discrimination against the indigenous population, women and the poor contribute to widespread violation of human rights.

C. Positive aspects

6. The Committee expresses its satisfaction with positive changes for the protection of human rights since the signing of the Central American Peace Accords on 7 August 1987. It notes that some progress has been made towards entering a dialogue that would hopefully put an end to the situation of armed conflict and lead to the establishment of the rule of law. In that connection, the Committee notes the signing on 29 March 1994 of the Comprehensive Agreement on Human Rights, and consequently the establishment of the United Nations Mission in

Guatemala (MINUGUA) and of its human rights component, as well as the conclusion of the Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict on 23 June 1994.

7. The Committee welcomes the current Government's intentions to achieve a firm and lasting peace in Guatemala and its willingness to put an end to serious violations of human rights and to create a better political, constitutional and legal framework towards the full implementation of the rights enshrined in the Covenant. The Committee also welcomes the termination of offensive military actions decreed by the Unidad Revolucionaria Nacional Guatemalteca (URNG) and the cessation of all counter-insurgency operations by the Government decreed by President Arzú. The Committee further welcomes the suppression of the obligatory military service, which will aid in the demilitarization of the country.
8. In that respect, the Committee welcomes positive steps taken by the recently elected Government, such as the dismissal of certain top officials of the armed forces and the reopening of a dialogue with the armed opposition on 22 February 1996. It also welcomes the elimination of the post of the Military Commissioner (Comisionado Militar) and the demobilization of more than 14,000 persons from the security forces.
9. The Committee welcomes Guatemala's ratification of the Covenant in 1992, as well as the adoption by Congress of legislation approving ratification of the Optional Protocol. It welcomes the indication made by the representatives of the State party that Guatemala will deposit its instrument of ratification to the Optional Protocol within the next few days.
10. The Committee welcomes the establishment of the Office of the Human Rights Procurator and the Presidential Commission for Coordinating Executive Policy in the Field of Human Rights (COPREDEH). The Committee also welcomes the legal reform undertaken in some areas, notably constitutional amendments to bring Guatemalan law in conformity with international human rights standards, the adoption of a new Code of Criminal Procedure and the enactment of a new Law on the Prosecutor's Office (*Ley Orgánica del Ministerio Público*), aiming at the investigation and punishment of human rights violations.
11. The Committee welcomes recent legislation making torture, forced disappearances and extra-judicial executions punishable offences in Guatemala.

It also welcomes recent developments to curb the power of military tribunals and to bring cases of human rights violations by members of the army and the security forces under the jurisdiction of civil courts.

12. The Committee welcomes the recent elections and the fact that after a failed coup d'état the authority vested in freely elected officials was strengthened.

D. Principal subjects of concern

13. The Committee is concerned that the absence of a State policy for combating impunity has prevented the identification, trial and punishment if found guilty of those responsible, and the payment of compensation to the victims. The Committee is concerned that the delays and failures of the process of law, and the non-compliance by the police with court decisions and orders has heightened the public perception that justice cannot be obtained.
14. The Committee expresses concern that human rights violations continue to occur in Guatemala, particularly serious and systematic violations of the right to life and liberty and security of the person carried out by paramilitary groups, many of them linked to the State's security forces.
15. The Committee is concerned at the extension of the death penalty in a way which might not be in conformity with the requirements of article 6, paragraph 2, of the Covenant.
16. The Committee notes with alarm the information received of cases of summary executions, disappearances, torture, rape and other inhuman or degrading treatment or punishment, arbitrary arrests and detention of persons by members of the army and security forces, or paramilitary and other armed groups or individuals (notably the Civil Self-Defence Patrols (PACs) and former military commissioners).
17. The Committee is concerned at the cases of violence against the repatriated population, which has resulted in extra-judicial executions, disappearances and torture or ill-treatment. In connection with this, it is concerned at the conduct of PAC members who have availed themselves of their position to harass repatriated persons.
18. The Committee notes with concern that members of various social sectors, particularly members of the judiciary, lawyers, journalists, human rights activists, members of trade unions and members of political

parties are subject to intimidation, death threats and even murder, thus facing serious obstacles in the legitimate performance of their duties. The Committee deplores that effective measures have not yet been taken to prevent the recurrence of such acts.

19. The Committee is concerned that judges are subjected to supervision of an Executive Branch body which may affect their independence.
20. The Committee deplores the situation of street children in Guatemala, who are subjected to serious violations of their human rights under the Covenant, particularly their right to life and not to be subjected to torture and ill-treatment. The Committee is concerned at the intensity of abuse against street children by persons of authority, including the public and private police.
21. The Committee is concerned at customs and traditions prevailing in Guatemala which discriminate against women. It is particularly concerned at the statement by the delegation that State institutions are frequently not in a position to address the problems affecting the female population. The Committee is especially concerned at violence within the family which affects not only women but also children.
22. The Committee expresses concern at the specific impact of the prevailing violence within the country on the enjoyment by members of indigenous groups of their rights under article 27 of the Covenant. In that connection, the Committee is concerned that despite the signing of an accord between the Government and the armed opposition on 31 March 1995 on the identity and rights of the indigenous population, the law on indigenous communities required by article 17 of the Constitution has not yet been enacted.
23. The Committee is concerned at the curtailment of the right of association, especially within the workplace. In this sense, it is concerned at the high levels of violence against trade union members, at the intimidation by agents of offshore operations and at the high number of cases of strikes that are deemed illegal.

E. Suggestions and recommendations

24. The Committee strongly encourages the Government to undertake a thorough review of the legal framework for the protection of human rights in the State party to ensure full conformity with the Covenant.

25. The Committee urges the Guatemalan Government to continue working in the process of national reconciliation which may bring lasting peace to Guatemalan Society. The Guatemalan Government should take all pertinent measures to avoid cases of impunity and, especially, to allow the victims of human rights violations to find out the truth about those acts, to know who the perpetrators of such acts are and to obtain appropriate compensation.
26. The Committee recommends that the State party endeavour to bring to justice perpetrators of human rights abuses, notwithstanding the positions they may have held, in accordance with the Covenant. It urges the State party to investigate allegations of human rights violations, past and present, to act on the findings of its investigations, to bring to justice those suspected, to punish the perpetrators and to compensate the victims of such acts. Persons found guilty of having committed human rights violations should be expelled from the armed or security forces and punished accordingly.
27. The Committee recommends that the Office of the Human Rights Procurator and the presidential Commission for Coordinating Executive Policy in the Field of Human Rights (COPREDEH) be strengthened, with regard both to resources and to jurisdiction, in order to ensure that they may effectively carry out their responsibilities.
28. The Committee recommends that all necessary measures be taken to ensure that human rights are respected by members of the army, the security forces and the police. It urges continuing vigorous action to ensure that persons responsible for human rights abuses not re-enter the police, army or security forces. Immediate steps should be taken to disband paramilitary and other groups, particularly the Civil Self-Defence Patrols (PACs).
29. The Committee recommends that an educational programme be devised so that all segments of the population, in particular members of the army, the security forces and the police, as well as present and former members of the Civil Self-Defence Patrols, develop a culture of tolerance and respect for human rights and human dignity.
30. The Committee urges the Government to take all necessary steps, including protective and pre-emptive measures, to ensure that members of various social sectors, particularly members of the judiciary, lawyers, journalists, human rights activists, members of trade unions and members of political parties, be enabled to perform their duties without intimidation of any sort.

31. The Committee recommends that the independence of the Judiciary be ensured and a law regulating it be enacted.
32. The Committee recommends that appropriate stringent measures be taken to ensure the fullest possible implementation of article 24 of the Covenant, including adequate protection of street children. Stern measures must be taken to punish those found guilty of committing any kind of violence against minors, especially against those who endure hard living conditions.
33. The Committee also urges that violence (especially within the home) and acts of discrimination against women (such as sexual harassment in the workplace) be established as punishable crimes.
34. The Committee recommends that further measures be taken to ensure that members of indigenous groups be protected against the prevailing violence within the country and enjoy fully their rights under article 27 of the Covenant, particularly with regard to preservation of their cultural identity, language and religion. The legislation on indigenous communities should be enacted without delay.
35. The Committee urges that respect for human rights be institutionalized at all levels of the Government and recognized as an essential element of the process of national reconciliation and reconstruction. To that end, the Committee recommends that human rights education be provided in schools at all levels and that the present concluding observations be widely disseminated.
36. The Committee urges the Guatemalan Government to restrict the application of the death penalty to those crimes which might be considered most serious, in accordance with article 6, paragraph 2, of the Covenant.
37. The Committee urges that MINUGUA continue its activities in the country until it certifies that it has fully discharged its mandate relating to human rights.

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**CONSIDERATION OF REPORTS SUBMITTED BY STATES
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Concluding Observations of the Human Rights Committee

MAURITIUS

1. The Committee considered the third periodic report of Mauritius (CCPR/C/64/Add.12 and HRI/CORE/1/Add.60) at its 1476th to 1478th meetings, on 19 and 20 March 1996 (see CCPR/C/SR.1476, 1477 and 1478). At its 1497th meeting, on 2 April 1996, the human Rights Committee adopted the following comments:

A. Introduction

2. The Committee welcomes the third periodic report presented by Mauritius and expresses its appreciation to the State party for the additional information submitted orally and in writing during the consideration of the report by a high-level delegation. The Committee regrets, however, that the report was long overdue. The valuable supplementary information provided by the delegation, both oral and written, provided a sound basis for a frank and fruitful dialogue between the Committee and the State party.

B. Factors and difficulties affecting the implementation of the Covenant

3. The Committee finds no significant factors or difficulties which would prevent the effective implementation of the Covenant in Mauritius.

C. Positive aspects

4. The Committee notes that the harmonious coexistence of the multi-ethnic population of Mauritius and its atmosphere of tolerance strengthen the ability of Mauritius to live up to its obligations under the Covenant.
5. The Committee expresses its appreciation for the adoption of the Abolition of Death Penalty Act 1995 which came into force in December 1995 and provides for the imposition of a sentence of imprisonment for life in place of the death penalty.
6. The Committee welcomes the amendment to section 16 of the Constitution by the enactment of the Constitution of Mauritius (Amendment) Act 1995 which adds sex to the grounds on which discrimination by laws or by public authorities is prohibited. The amendment to the Mauritius Citizenship Act 1968, removing discrimination on grounds of sex, the proposed Bill on Domestic Violence and the full recognition of the equal rights of children born in and out of wedlock are also welcome.
7. The Committee welcomes that the large-scale legislative reform which is being contemplated with a view, *inter alia*, to shortening the length of court proceedings and to reconsidering the system of legal aid.
8. The Committee notes with appreciation the promulgation of the Child Protection Act in 1994.
9. The Committee welcomes the establishment of a Human Rights Unit by the Attorney-General with a view, *inter alia*, to undertaking the preparation of the reports of Mauritius to the various United Nations human rights treaty bodies.
10. The Committee welcomes the initiatives of Mauritius to establish an Indian Ocean Human Rights Institute.
11. The announcement concerning the proposed establishment of an Independent Police Complaints Board is welcomed.

12. The Committee also welcomes the intention of the Government to set up an Independent Broadcasting Authority.

D. Principal subjects of concern

13. The Committee is concerned that the non-incorporation of all the rights guaranteed in the Covenant into domestic law and the existence of non-permissible limitations affect the full implementation of the Covenant in Mauritius and that, accordingly, the legal system of Mauritius does not ensure effective remedies in all cases of violations of rights guaranteed in the Covenant.
14. The Committee is concerned that excepting personal laws and foreigners from the prohibition of discrimination - as set forth in section 16 of the Constitution - results in a violation of article 26 of the Covenant.
15. The Committee notes with concern that the problem of domestic violence has not yet been the object of appropriate measures.
16. The Committee expresses its concern over the provisions in the thus far non-implemented Dangerous Drugs Act 1995 under which an arrested person may be held incommunicado at the discretion of a police officer.
17. The Committee notes with concern that the powers of detention provided for in sections 5 (1) (k) and 5 (4) of the Constitution are incompatible with article 9 (3) and (4) of the Covenant.
18. The Committee is concerned that the legislation of Mauritius has not yet been brought into line with article 11 of the Covenant.
19. The Committee is concerned at the extent of de facto limitation on the freedom of expression, as exemplified by the banning of two recent literary works without legal measures having been taken to that effect, and at penal offences relating to libel and the dissemination of false news. Extra-legal restrictions on freedom of expression are not compatible with the Covenant.
20. The Committee takes note with concern of the requirement that prior notification be made seven days before any public meeting is held in order to obtain permission from the Commissioner of Police.
21. The Committee is concerned by difficulties faced by those working in

the Export Processing Zone in the enjoyment of their rights under article 22 of the Covenant.

E. Suggestions and recommendations

22. The Committee emphasizes the need for a legal machinery enabling individuals to enforce all the rights enshrined in the Covenant before domestic courts.
23. The Committee recommends that all grounds on which discrimination is prohibited, as identified in articles 2 and 26 of the Covenant, be incorporated in the relevant non-discrimination provisions of the Constitution and that the provisions be extended to cover aliens. It further recommends that section 16 (2) and 16 (4) (c) of the Constitution be amended to render them compatible with articles 2 (1), 3 and 26 of the Covenant and that steps be taken to introduce comprehensive anti-discrimination laws to cover all spheres, public or private, protected by the Covenant. It is also recommended that the proposed Equal Opportunity Commission consider whether affirmative action measures, including educational measures, are necessary to overcome remaining obstacles to equality, such as outdated attitudes concerning the role and status of women.
24. Following the abolition of the death penalty, it is recommended that Mauritius consider ratification of the Second Optional Protocol to the Covenant.
25. The Committee expresses the hope that the envisaged Independent Police Complaint Board is established as soon as possible, and that provisions are included in the law to ensure that the Board will enjoy the powers and receive the resources to enable it to investigate allegations of abuse by members of the police.
26. The Committee stresses the need to establish a mechanism to provide legal aid for appeals to the Privy Council.
27. The Committee recommends the reconsideration of the legislation on the publication of false news. If the State party considers it necessary to allow for some restrictions on publications and showing of films, legislation should be introduced establishing criteria consistent with article 19 (3) of the Covenant and providing for judicial review of all decisions to restrict the exercise of freedom of expression. The Committee

expresses the hope that the envisaged Independent Broadcasting Authority is established as soon as possible. It suggests the establishment of a mechanism that would allow for a Press Code of Ethics.

28. The Committee suggests that consideration be given to ensuring that restrictions do not exceed what is necessary in a democratic society, in conformity with article 21 of the Covenant.
29. The Committee expresses the hope that, as part of the planned review of industrial legislation, the Government will consider whether workers in export processing zones (who include a majority of women) need additional legal protection to ensure their full enjoyment of the rights guaranteed by article 22 of the Covenant.
30. The Committee recommends that appropriate steps be taken to ensure that the inhabitants of the islands of Agalega and St. Brandon are able to exercise their right to vote as required by article 25 of the Covenant.
31. Lastly, the Committee suggests that steps be taken to disseminate in all languages spoken in Mauritius information about the Covenant and about the report and the proceedings before the Committee. It also suggests that steps be taken to publish educational material, particularly for children, in the most used vernacular languages.

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Fifty-seventh session

**CONSIDERATION OF REPORTS SUBMITTED BY STATES
PARTIES UNDER ARTICLE 40 OF THE COVENANT**

Concluding Observations of the Human Rights Committee

NIGERIA

1. Following the examination of the initial report of Nigeria insofar as it related to the application of articles 6, 7, 9 and 14 of the Covenant in Nigeria, the Committee, at its 1499th meeting, on 3 April 1996, adopted certain urgent recommendations. These included the abrogation of all decrees establishing special tribunals or revoking normal constitutional guarantees of fundamental rights or the jurisdiction of the normal courts as well as the adoption of urgent steps to ensure that persons facing trial were afforded all guarantees of a fair trial (see document CCPR/C/79/Add.64, paras. 11 to 13).
2. The dialogue with Nigeria continued during the fifty-seventh session. At its 1526th and 1527th meetings (fifty-seventh session), held on 24 July 1996, the Committee adopted the following Concluding Observations:

A. Introduction

3. The Committee welcomes the opportunity to resume the dialogue with the Government of Nigeria through a high ranking delegation that included members of the newly established National Human Rights Commission.

B. Factors and difficulties affecting the implementation of the Covenant

4. The Committee notes that the continuation of the military regime and in particular the suspension of constitutional guarantees of rights by decrees of that regime are an obstacle to the effective implementation of rights protected under the Covenant.
5. The Committee notes also that the failure of the Government to undertake an analysis of laws and procedures, including customary laws to assess the compatibility with the Covenant has prevented the effective implementation of rights protected by the Covenant.
6. Inter-ethnic and inter-religious violence which persist in Nigeria appear to affect adversely the enjoyment of rights and freedoms protected by the Covenant.

C. Positive aspects

7. The Committee notes the measures that have been taken by the Government since the fifty-sixth session to overcome some obstacles to the enjoyment of rights which were identified by the Committee. It appreciates that the newly enacted Civil Disturbances (Special Tribunal) (Amendment) Decree removes military personnel from the Civil Disturbances Tribunal and provides for the right of appeal from its sentences and convictions. It welcomes the repeal of Decree No. 14 of 1994 (which precluded courts from issuing writs of habeas corpus) by the State Security (Detention of persons) (Amendment) (No. 2) (Repeal) Decree, adopted on 7 June 1996. It also notes that a panel has been established to review cases of detention under Decree No. 2 of 1984.
8. The Committee welcomes the fact that municipal elections have been held; that political parties have been registered; that preparations are proceeding for national elections; and that the year for these elections has been announced.

9. The Committee welcomes the adoption of Decree No. 22 of 1995, establishing the National Human Rights Commission which has been given certain responsibilities regarding the promotion and protection of human rights.
10. It further welcomes the establishment of a Ministry of Women's Affairs and Social Welfare. It also welcomes measures taken to promote the participation of women at all levels of the political, economic and social life of the country.
11. The Committee also welcomes the willingness of the Nigerian Government to undertake an analysis of the legal system in the light of its obligations under the Covenant and to seek the technical assistance from the Centre for Human Rights in this process.

D. Principal subjects of concern

12. The Committee notes with deep concern that measures have not been adopted to address all the issues of concern identified by the Committee at its fifty-sixth session and to implement the urgent recommendations in its preliminary concluding observations (see CCPR/C/79/Add.64). In particular, the Committee is concerned that the Government of Nigeria has not abrogated the Decrees establishing special tribunals or those revoking normal constitutional guarantees of fundamental rights as well as the jurisdiction of the normal courts. The Committee deplores the statement of the delegation that the decrees are not to be abrogated because they pre-dated the entry into force of the Covenant in Nigeria and are an essential part of military rule in Nigeria. The Covenant precludes measures derogating from the State party's obligations other than in the limited circumstances provided for by article 4 which have not been applied in the case of Nigeria.
13. The Committee expresses its grave concern that the continuation of Military Government and rule by Presidential decrees which suspend or override constitutional rights and which are not open to review by the courts are incompatible with the effective implementation of the Covenant.
14. The Committee wishes to reiterate that there remain fundamental inconsistencies between the obligations undertaken by Nigeria to respect and ensure rights guaranteed under the Covenant and the implementation of those rights in Nigeria. It is further concerned that

there is no legal protection of rights in Nigeria, as a consequence of the non applicability of the 1989 Constitution and the adoption of Decree No. 107 of 1993 that re-established the 1979 Constitution, while excluding the application of the section dealing with basic rights. Another concern of the Committee is the number of decrees suspending or restoring previous laws, with exceptions in some cases. The result appears to be uncertainty as to which rights may be invoked and which are suspended.

15. The Committee must repeat its earlier expression of serious concern in relation to the establishment by decree of special tribunals which operate without observing the requirements of fair trial as required by article 14 of the Covenant.
16. The Committee is concerned that, under Nigerian law, the death penalty may be imposed for crimes which do not constitute “the most serious offences” as required by article 6 of the Covenant and that the number of death sentences passed and actually carried out is very high. The fact that sentences of death are passed without the safeguard of fair trial violates the provisions of articles 14 (1) and 6 of the Covenant. Public executions are also incompatible with human dignity.
17. The Committee notes with concern that, following the introduction of measures to overcome certain specific violations of rights in regard to the composition of special tribunals and the right of appeal no compensation has been offered to victims of the human rights abuses which had already occurred under the previous measures.
18. The Committee is deeply concerned by the high number of extra-judicial and summary executions, disappearances, cases of torture, ill-treatment, and arbitrary arrest and detention by members of the army and security forces and by the failure of the Government to investigate fully these cases, to prosecute alleged offences, to punish those found guilty and provide compensation to the victims or their families. The resulting state of impunity encourages further violations of Covenant rights.
19. The Committee is disturbed at the poor conditions in places of detention that include severe overcrowding, lack of sanitation, lack of adequate food, clear water and health care, all of which contribute to a high level of death in custody. The Committee emphasizes that it is incompatible with the Covenant to hold prisoners under conditions which do not meet the basic guarantees provided in article 10 of the Covenant as well as in the United Nations Standard Minimum Rules

for the Treatment of Prisoners, despite its adoption of prison regulations, contained in Chapter 366 of the Prisons Act (1990).

20. The Committee is concerned at the large number of persons detained without charge, and the lengthy periods of pre-trial detention which are incompatible with article 9 of the Covenant. It is particularly concerned that incommunicado detention is commonly ordered and often for indefinite periods and without access to judicial review, in violation of article 9 of the Covenant.
21. The Committee is seriously concerned at violations of the right to freedom of expression, as exemplified by the adoption of a number of decrees suspending newspapers, as well as the arbitrary arrest, detention and harassment of editors or journalists.
22. The Committee notes with concern the extent of restrictions to the freedom of association and assembly in law and in practice. The Committee is concerned by numerous reports it received according to which members of unions were harassed and intimidated, sometimes even arrested and detained, that the dissolution of certain unions has been ordered by the Government.
23. The Committee is concerned by the arrest and detention of officers of human rights organizations, involving violations of articles 9 and 22 of the Covenant and interfering with the free exercise of the significant role played by such organizations in the protection of human rights.
24. The Committee takes note of allegations by a Nigerian non-governmental organization (Civil Liberty Organization) that two of its officials were prevented by the State Security Service from attending the fifty-sixth session of the Committee and had their passports impounded. It regrets that despite a letter by the Chairman giving details of these allegations, an investigation was not completed before the fifty-seventh session and that no information could be provided about the circumstances alleged. Preventing persons from leaving their country violates article 12 (2) of the Covenant and is incompatible with the State's obligation to cooperate with the Committee to prevent them from leaving in order to attend meetings of the Committee.
25. The Committee expresses its concern about the situation of women in Nigeria, particularly as regards their low level of participation in public life and the continued application of marriage regimes which permit polygamy and do not fully respect the equal rights of women. It

expresses particular concern about the widespread practices of forced marriage and of genital mutilation of girls.

E. Suggestions and recommendations

26. The Committee recommends that immediate steps be taken to restore democracy and full constitutional rights in Nigeria without delay.
27. As already recommended by the Committee, all decrees revoking or limiting guarantees of fundamental rights and freedoms should be abrogated. All courts and tribunals must comply with all standards of fair trial and guarantees of justice prescribed by article 14 of the Covenant.
28. The Committee recommends that a review of the legal framework for the protection of human rights in Nigeria be undertaken in order to ensure that the principles of the Covenant are incorporated into the legal system and that effective remedies are provided in case of violations of rights.
29. The Committee also recommends that Decree No 107 of 1993 and any other measures which abrogate or suspend the application of the basic rights enshrined in the 1979 Constitution, be abrogated, so that the legal protection of these rights is restored in Nigeria. The Committee recommends that the State party ensure that there is no such abrogation or derogation in future other than in strict compliance with article 4, in time of public emergency which threatens the life of the nation and which is officially proclaimed and communicated to the Secretary General of the United Nations.
30. The Committee requests the State party to take effective measures to implement the full and equal enjoyment by women of rights and freedoms protected by the Covenant. These measures should ensure the equal participation by women at all levels of the political, social and economic life of the country. The Committee recommends that steps should be taken, in particular through education, to overcome certain traditions and customs, such as female genital mutilation and forced marriages which are incompatible with the equality rights of women.
31. The Committee recommends that the State party consider the abolition of the death penalty. Until its abolition the State party must ensure that the application of the death penalty be strictly limited to the most

serious crimes as required by article 6 (2), of the Covenant, and that the number of crimes for which the death penalty is imposed be reduced to the minimum. Urgent steps should be taken to ensure that persons facing trials are afforded all the guarantees of a fair trial as explicitly provided for in article 14 (1), (2) and (3) of the Covenant and to have their conviction and sentence reviewed by a higher tribunal in accordance with article 14 (5) of the Covenant.

32. The Committee recommends that the Nigerian authorities take effective measures to prevent arbitrary, extra-judicial and summary executions as well as torture, ill-treatment, and arbitrary arrest and detention by members of the security forces, and to investigate any such cases in order to bring before the courts those suspected of having committed or participated in such crimes, to punish them if found guilty, and to provide compensation to victims or to their families.
33. The Committee recommends that urgent steps be taken to release all persons who have been detained arbitrarily or without charges and to reduce the period of pre-trial detention. The practice of incommunicado detention should cease. Compensation should be provided in the cases indicated by article 9 (5) of the Covenant.
34. The Committee recommends that the State party take all necessary measures to ensure that the conditions of detention of persons deprived of their liberty fully meet article 10 of the Covenant and the United Nations Standard Minimum Rules for the Treatment of Prisoners. The overcrowding of prisons should be reduced by overcoming delays in the trial process, by considering alternative forms of punishment, or by expanding the number of prison places.
35. The Committee recommends that the legislation and the practice relating to the exercise of the freedom of expression be revised and amended in order that they comply with the provisions of article 19 of the Covenant.
36. The Committee also recommends that measures be taken to ensure that the right to form and join trade unions be respected as required by article 22 of the Covenant and that the plan calling for trade union elections in October 1996 be implemented.
37. The Committee recommends that attention be given by the federal and state authorities to the situation of persons belonging to minorities, so that their rights as enshrined in article 27 of the Covenant be fully

protected. In this regard, due consideration should be given to the Committee's General Comment No 23 (50).

38. The Committee wishes to emphasize that the consideration of reports submitted under article 40 of the Covenant takes place in public meetings and in the presence of representatives of the State party concerned. Representatives of non-governmental organizations, whether internationally or locally based, are entitled to attend the meetings at which reports are being considered and to provide information to members of the Committee on an informal basis. The Government of Nigeria should ensure that individuals (including members of non-governmental organizations) are not prevented from leaving Nigeria to attend the Committee's sessions, should conduct immediate investigations into the allegations mentioned in paragraph 24 above, and should inform the Committee of the result of these investigations.
39. The Committee recommends that the Government of Nigeria should ensure that the National Human Rights Commission (or other agency) take steps to inform and educate the community about the rights and freedoms protected by the Covenant and the Constitution and about the remedies available in case of violation of rights. It should seek the assistance of the Technical and Advisory Services of the United Nations Human Rights Centre in this process.

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**CONSIDERATION OF REPORTS SUBMITTED BY STATES
PARTIES UNDER ARTICLE 40 OF THE COVENANT**

Concluding Observations of the Human Rights Committee

PERU

1. The Committee continued its consideration of Peru's third periodic report (CCPR/C/83/Add.1 and HRI/CORE/1/Add.43/Rev.1) at its 1547th and 1548th meetings, on 31 October 1996 (CCPR/C/SR.1547 and 1548), and addressed questions left pending after the initial consideration of the report at its fifty-seventh session, at which urgent issues had been examined. In the light of its further consideration of the report, it adopted the following observations and recommendations at its 1555th meeting (fifty-eighth session), held on 6 November 1996:

A. Introduction

2. The Committee welcomes the State party's third periodic report and is gratified by the continuation of the dialogue initiated with the delegation. However, the Committee regrets that the report does not contain sufficient reliable information on current legal provisions in

Peru relating to a number of the rights covered in the Covenant or on the actual observance of human rights.

B. Factors and difficulties affecting the implementation of the Covenant

3. The Committee is aware that Peru has been affected by terrorist activities, internal disturbances and violence. In the Committee's view, although the State has both the right and the duty to adopt vigorous measures to protect its population against terrorism, such measures must not violate the rights protected by the Covenant.

C. Positive aspects

4. The Committee notes with satisfaction that the Constitutional Court and the Ombudsman's Office have commenced activities and that units specializing in constitutional matters and the rights of women have been set up within the Ombudsman's Office. It also takes a positive view of the establishment of the National Register of Detainees and Persons Sentenced to Custodial Sentences and the organization of training courses for lawyers and administrative personnel with the aim of improving the administration of justice.
5. The Committee also welcomes the establishment of the Standing Commission on the Rights of Women and of other organs designed to foster equality among men and women in Peru. It further notes the announcement of the establishment of the Ministry of Women and Human Development and expresses the hope that the Ministry will make a valuable contribution to ensuring that women in Peru fully enjoy the human rights enshrined in the Covenant. In the same connection, it appreciates Peru's ratification of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women.
6. The Committee welcomes with satisfaction the State party's report on the establishment of offices to provide advice and care in cases of violence and abuse against children and adolescents and the programmes introduced to assist children as part of the measures to solve the problem of displaced persons. In this connection, the Committee commends the establishment of the National Technical Commission on Displaced Populations and the other measures being taken to solve the

problems of displaced persons, and welcomes the fact that, according to the Government, 56 per cent of the peasant population have returned to their places of origin.

D. Principal subjects of concern

7. The Committee regrets that the constitutional status extended to the Covenant by Peru's 1979 Constitution has been substantially diminished, thereby reducing the protection previously enjoyed by individuals in Peru as regards the rights enshrined in the Covenant.
8. The Committee once again deplores the fact that Peru has ignored both the concerns expressed by the Committee in the observations adopted when it concluded its consideration of the first part of Peru's third periodic report and the suggestions and recommendations made in those same observations, arguing that Peru is entitled to give precedence to considerations of security or domestic policy over its obligations under the Covenant. The Committee considers that, in conformity with international law, article 1 of the Covenant does not authorize the State to adopt a new Constitution that may be incompatible with its other obligations under the Covenant. The Constitution is part of the legal order of the State and as such may not be invoked as grounds for exemption from compliance with an international obligation freely entered into by the State.
9. The Committee in particular deplores the fact that the recommendations relating to the amnesty laws (CCPR/C/79/Add.67, para. 20) have not been followed and that no effective remedy is available to allow the victims of human rights violations by State agents to claim compensation. It also regrets the lack of information on the fate of the recommendations made in paragraphs 22, 23 and 26 and the failure to respond to the recommendation made in paragraph 24.
10. The Committee takes note of the measures adopted by Peru to pardon persons convicted of terrorism. Notwithstanding its satisfaction at the release of 69 persons, the Committee considers that the pardon does not provide full redress to the victims of trials conducted without regard for due process of law and repeats the recommendation made in paragraph 21 of its observations, which includes the need to establish an effective mechanism, at the initiative of the State, to revise all the convictions handed down by the military tribunals in treason and terrorism cases.

11. The Committee regrets the fact that Peru has not only failed to take measures in response to the recommendation made in paragraph 25 of the observations, but has on the contrary extended, only a few days before the second part of the report was considered, the system of "faceless judges". The Committee expresses its profound concern at this situation, which undermines the judicial system and will again lead to the conviction of innocent persons without a proper trial.
12. The Committee appreciates the information provided by the State on communications Nos. 201/1986, 203/1986, 263/1987 and 309/1988, which are still pending, but regrets that the State's efforts have not led to proper redress for the victims. At the same time, the Committee deplores the lack of information on the observance of Act No. 23.506, ordering immediate compliance with the Committee's observations through the procedure employed to enforce judgements handed down by national courts against the State.
13. The Committee regrets the lack of full and precise information on the legal status of women and on their enjoyment of the rights enshrined in the Covenant, particularly as regards their legal capacity, the frequency of violence and sexual abuse against female detainees or prisoners, legal and practical restrictions in the labour sphere and the impact of recent laws and programmes designed to solve the problem of violence against women.
14. The Committee expresses its concern about the existence of a number of provisions of the Civil Code that discriminate against women, such as the difference in the minimum age required for matrimony and the fact that single mothers aged under 16 lack legal capacity to recognize their children. This gives rise to problems of compatibility between Peruvian legislation and articles 3, 23, 24 and 26 of the Covenant.
15. The Committee notes with concern that the law still contains a provision exempting a rapist from punishment if he marries his victim and another which classifies rape as an offence prosecutable privately. The Committee is also concerned that abortion gives rise to a criminal penalty even if a woman is pregnant as a result of rape and that clandestine abortions are the main cause of maternal mortality. These provisions not only mean that women are subject to inhumane treatment but are possibly incompatible with articles 3, 6 and 7 of the Covenant.
16. The Committee notes with concern that when cases that might lead to a divorce are heard (physical or mental ill-treatment, serious injury and

dishonourable conduct), the law instructs judges to take into consideration the education, habits and conduct of both spouses, a requirement that might easily lead to discrimination against women from the lower socio-economic strata.

17. In the same connection, the Committee is concerned that in Peru socio-economic criteria are used to group convicted and unconvicted prisoners and deplores the lack of information on the exact significance of this policy, as well as the lack, in general, of detailed information on conditions of detention, to enable it to assess their compatibility with article 10 of the Covenant.
18. The Committee remains deeply concerned about the power of the police to decide to hold a person *incommunicado* for up to two weeks.

E. Suggestions and recommendations

19. The Committee recommends that the necessary legal measures should be taken to ensure compliance with the obligations to respect and guarantee the rights recognized in the Covenant, in conformity with its article 2, paragraph 1.
20. The Committee reiterates the need for Peru to consider adopting effective measures in the fields referred to by the recommendations made in paragraphs 21, 22, 23, 24, 25 and 26 of the observations made on completion of the consideration of the first part of the State party's third periodic report.
21. Regarding communications Nos. 202/1986, 203/1986, 263/1987 and 309/1988, the Committee again draws Peru's attention to the fact that, by according to the Optional Protocol, the State party has recognized the competence of the Committee to determine whether there has been a violation of the Covenant and that, in accordance with the provisions of article 2 of the Covenant, the State party undertakes to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant and to provide an effective and applicable remedy if a violation is found to have occurred; accordingly, the Committee requests the State to submit to it within 90 days information on the measures adopted to implement the Committee's decisions.
22. The Committee recommends that the provisions of the Civil and Penal Codes should be revised in the light of the obligations laid down in the

Covenant, and in particular in its articles 3 and 26. Peru must ensure that laws relating to rape, sexual abuse and violence against women provide women with effective protection and must take the necessary measures to ensure that women do not risk their life because of the existence of restrictive legal provisions on abortion.

23. The Committee recommends that the Government should adopt the legislation necessary to allow political parties to operate effectively and democratically and fully to implement the rights protected by articles 22 and 25 of the Covenant.
24. The Committee recommends that education programmes should be established for children and for the community in order to develop a thorough understanding of the principles of respect for human rights and of tolerance and of the role these principles play in the development of a sound and stable democracy.
25. The Committee hopes that, in its next periodic report, Peru will include information on the progress made to extend to women in Peru full enjoyment of the rights enshrined in the Covenant, particularly in the spheres with which the Committee is concerned (see paras. 13, 14, 15 and 16), together with detailed information on how it is complying with the provisions of article 10 of the Covenant.

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**CONSIDERATION OF REPORTS SUBMITTED BY STATES
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Concluding Observations of the Human Rights Committee

SPAIN

1. The Committee considered the fourth periodic report of Spain (CCPR/C/95/Add.1 and HRI/CORE/1/Add.2/Rev.2) at its 1479th, 1480th and 1481st meetings, on 20 and 21 March 1996 (see CCPR/C/SR.1479, 1480 and 1481). At its 1498th meeting, on 3 April 1996, the Committee adopted the following comments:

A. Introduction

2. The Committee thanks the State party for submitting, within the allotted time, a report which is in conformity with the Committee's guidelines and for engaging, through its highly qualified delegation, in a constructive dialogue. It notes with satisfaction that the information provided in the report and submitted orally by the delegation has given the Committee an appreciation of the manner in which Spain is acquitting itself of its obligation under the Covenant.

B. Factors and difficulties affecting the implementation of the Covenant

3. The Committee notes with concern that terrorist groups continue to perpetrate bloody attacks which result in loss of human life and affect the application of the Covenant in Spain. It also notes the re-emergence of racist and xenophobic theories and behaviour.

C. Positive aspects

4. The Committee notes with satisfaction that Spain has come a long way in the promotion of and respect for human rights. In this connection it welcomes the accession of Spain, on 22 March 1991, to the Second Optional Protocol aiming at the abolition of the death penalty.
5. The Committee welcomes the fact that efforts have been made to disseminate human rights in schools as well as information on the report to the general public.
6. The Committee notes that the new law of 15 January 1996 concerning the status of minors should contribute to the application in Spain of the Convention on the Rights of the Child and the relevant provisions of the Covenant, particularly article 23.
7. The Committee welcomes the progress made by the State party in promoting equal opportunity for women in all sectors of public and professional life.
8. The Committee notes with satisfaction that the Penal Code drawn up in 1995 includes provisions establishing penalties for acts of racial discrimination and xenophobia.
9. Finally, the Committee notes that many decisions in the national courts refer to the Covenant as the legal basis, in conformity with articles 10 and 96 of the Constitution.

D. Principal subjects of concern

10. The Committee is concerned at the numerous reports it has received of ill-treatment and even torture inflicted on persons suspected of acts of terrorism by members of the security forces. It notes with concern, in

that regard, that investigations are not always systematically carried out by the public authorities and that when members of the security forces are found guilty of such acts and sentenced to deprivation of liberty, they are often pardoned or released early, or simply do not serve the sentence. Moreover, those who perpetrate such deeds are seldom suspended from their functions for any length of time.

11. The Committee is concerned that proofs obtained under duress are not systematically rejected by courts.
12. The Committee expresses concern at the maintenance on a continuous basis of special legislation under which persons suspected of belonging to or collaborating with armed groups may be detained incommunicado for up to five days, may not have a lawyer of their own choosing and are judged by the Audiencia Nacional without possibility of appeal. The Committee emphasizes that these provisions are not in conformity with articles 9 and 14 of the Covenant. Again in regard to those two articles of the Covenant, the Committee notes with concern that the duration of pre-trial detention can continue for several years and that the maximum duration of such detention is determined according to the applicable penalty.
13. With regard to the increase in the number of asylum-seekers, the Committee notes that anyone whose application for asylum or for refugee status is denied can be held for seven days prior to being expelled.
14. The Committee deplores the poor prison conditions that exist in most prisons, generally resulting from overcrowding, which deprives those detained of the rights guaranteed in article 10 of the Covenant.
15. Finally, the Committee is greatly concerned to hear that individuals cannot claim the status of conscientious objectors once they have entered the armed forces, since that does not seem to be consistent with the requirements of article 18 of the Covenant as pointed out in general comment No. 22 (48).

E. Suggestions and recommendations

16. The Committee invites the State party to take the necessary steps, including educational measures and information campaigns, to avert racist and xenophobic tendencies.

17. The Committee recommends that the State party establish transparent and equitable procedures for conducting independent investigations into complaints of ill-treatment and torture involving the security forces, and urges it to bring to court and prosecute officials who are found to have committed such deeds and to punish them appropriately. The Committee suggests that comprehensive human rights training should be provided to law-enforcement officials and prison personnel.
18. The Committee recommends that the legislative provisions, which state that persons accused of acts of terrorism or suspected of collaborating with such persons may not choose their lawyer, should be rescinded. It urges the State party to abandon the use of incommunicado detention and invites it to reduce the duration of pre-trial detention and to stop using duration of the applicable penalty as a criterion for determining the maximum duration of pre-trial detention.
19. The State party is strongly urged to institute a right of appeal against decisions of the Audiencia Nacional in order to meet the requirements of article 14, paragraph 5, of the Covenant.
20. The Committee urges the State party to amend its legislation on conscientious objection so that any individual who wishes to claim the status of conscientious objector may do so at any time, either before or after entering the armed forces.

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**CONSIDERATION OF REPORTS SUBMITTED BY STATES
PARTIES UNDER ARTICLE 40 OF THE COVENANT**

Concluding Observations of the Human Rights Committee

SWITZERLAND

1. The Human Rights Committee considered the initial report of Switzerland (CCPR/C/81/Add.8) at its 1537th, 1538th and 1539th meetings (see CCPR/C/SR.1537-1539), on 24 and 25 October 1996, and adopted¹ the following observations.

A. Introduction

2. The Committee expresses its satisfaction to the State party for its detailed and comprehensive initial report and wishes to emphasize the quality of that report. It thanks the delegation for having given particularly clear, detailed and frank replies to the written and oral questions it asked; this made possible a fruitful and constructive dialogue between the Committee and the delegation. The Committee thanks the State party for having

¹ At its 1557th meeting, held on 7 November 1996.

transmitted to it, following the consideration of the report, written replies to the questions which the delegation was unable to answer orally.

B. Factors and difficulties affecting the implementation of the Covenant

3. The Committee notes that there are no particular factors or difficulties that might prevent the effective implementation of the provisions of the Covenant in Switzerland, with the exception of the maintenance by Switzerland of its reservations to certain articles.

C. Positive aspects

4. The Committee notes with satisfaction that the Covenant forms an integral part of the Swiss legal system, with a status higher than domestic legislation, that its provisions may be directly invoked by private individuals before the courts and that judges may refer to it directly. It notes that the Swiss courts, and notably the Federal Tribunal, have already on numerous occasions referred to the provisions of the Covenant and to the Committee's general comments.
5. The Committee welcomes the withdrawal of the reservation made by Switzerland to article 20, paragraph 2, of the Covenant and notes that the withdrawal of Switzerland's reservations to article 14, paragraphs 1, 3 (d) and (f), and 5, is currently under consideration by the Federal Council. The Committee also notes with satisfaction that the proposal for accession to the Optional Protocol is on the agenda of the Federal Assembly.
6. The Committee notes with satisfaction that the decisions of the Federal Tribunal seem to have remedied the shortcoming of article 4 of the Federal Constitution, whose non-discrimination clauses do not expressly cover all the grounds referred to in articles 2 and 26 of the Covenant.
7. The Committee welcomes the introduction, in January 1995, into the Federal Penal Code of a provision for the punishment of incitement to racial, ethnic or religious discrimination or hatred or to acts of racial, ethnic or religious discrimination, and also the statement of negationist views. It also welcomes the establishment, in September 1995, of a Federal Commission on Racism, whose work, however, started too recently for its effectiveness to be assessed.

8. The Committee welcomes the measures taken by the federal authorities to encourage and promote equality between men and women in all sectors of professional activity, in particular through the Federal Office for Equality between Men and Women and the entry into force, in July 1996, of the Federal Act relating to equality between women and men. The Committee notes with satisfaction that this Act, in particular, permits the shifting of the burden of proof, facilitates legal action by a victim of discrimination or harassment by making the procedure free of charge and provides for the possibility of rescinding a dismissal effected by way of victimization for the making of a complaint of discrimination or harassment.
9. The Committee notes with satisfaction that, although the Federal Constitution does not contain a provision concerning the guarantee of a fair trial, the Federal Tribunal has in its decisions ruled that all necessary guarantees follow from article 4 of the Constitution.
10. The Committee welcomes the entry into force of the Civilian Service Act, which has introduced a civil procedure for determining cases of conscientious objection.

D. Principal subjects of concern

11. The Committee regrets the maintenance of Switzerland's reservation to article 26 of the Covenant, which limits the applicability of the principle of the equality of all persons before the law and of the prohibition of discrimination to only those rights which are contained in the Covenant, whereas article 26 of the Covenant, as interpreted by the Committee, extends it to every area regulated and protected by the public authorities.
12. The Committee notes with concern that in many areas, such as access to higher education, access to posts of responsibility, equal remuneration for work of equal value, and participation in household tasks and in the upbringing of children, equality between men and women has not yet been achieved in practice, particularly in the private sector.
13. The Committee is concerned at the numerous allegations of ill-treatment in the course of arrests or police custody, particularly in respect of foreign nationals or Swiss citizens of foreign origin and, in conjunction with them, reports on the authorities' failure to follow up complaints of ill-treatment by the police and the disproportionate nature, if not absence, of penalties. In this connection, the Committee notes with con-

cern that in the various cantons independent machinery for recording and following up complaints of ill-treatment by the police does not seem to exist and that, on the contrary, complaints must in the first instance be addressed to the superior administrative authority. Furthermore, it regrets that in various cantons detainees may be held incommunicado for periods ranging from 8 to 30 days, or even for indefinite periods in some cases. It also regrets the non-existence in most cantons of legal guarantees, such as the possibility for a detainee to contact a lawyer immediately after his arrest and to be examined by an independent doctor at the commencement of police custody and before he appears before the examining magistrate. The Committee also notes that it seems very difficult in practice for most persons who have been arrested to inform their family or friends as soon as they are arrested.

14. On the question of pre-trial detention, the Committee notes with concern that it often happens that when remand prisons are full, detainees are kept, in some cases for several days, in police cells, where conditions of detention are manifestly inadequate for periods in excess of 24 hours.
15. The Committee notes with concern that the Federal Act relating to coercive measures, which entered into force in January 1995, in some cases permits the administrative detention of foreign nationals without a temporary or permanent residence permit, including asylum-seekers and minors over the age of 15, for three months while the decision on the right of temporary residence is being prepared, and for a further six months, and even one year with the agreement of the judicial authority, pending expulsion. The Committee notes that these time-limits are considerably in excess of what is necessary, particularly in the case of detention pending expulsion, and that the time-limit of 96 hours for the judicial review of the detention decision or the decision to extend detention is also excessive and discriminatory, particularly in the light of the fact that in penal matters this review is guaranteed after 24 or 48 hours depending on the canton concerned.
16. The Committee notes with concern that the obligation established in article 14, paragraph 3 (f), of the Covenant to provide an interpreter for everyone charged with a criminal offence if he cannot understand or speak the language used in court, is not reflected in the criminal legislation of all the cantons.
17. While taking note of the delegation's statement that the provision is no longer enforced, the Committee emphasizes that the Decree of the Federal Council of 1948 concerning political speeches by foreigners restricts

the freedom of expression of foreigners who do not have a permanent residence permit in a manner contrary to article 19 of the Covenant.

18. The Committee also notes that family reunification is not authorized immediately for foreign workers who settle in Switzerland, but only after 18 months, which, in the Committee's view, is too long a period for the foreign worker to be separated from his family.
19. The Committee is concerned at the requirement for persons who adopt a child abroad under the regime of simple adoption to submit an application for full adoption in Switzerland if they wish the adoption to be recognized in Switzerland. This procedure makes permanent adoption subject to a two-year trial period, during which the adoptive parents may decide not to go ahead with the adoption and the child is entitled only to a temporary and renewable foreigner's residence permit. The Committee expresses its concern since these two factors make the child's position very precarious from both the legal and emotional standpoints.
20. The Committee notes that the Federal Constitution contains no provisions reflecting article 27 of the Covenant. The Committee considers that article 27 of the Covenant is not limited to the protection of the various national minorities, but concerns all ethnic, religious or linguistic minorities present on the territory of a State.

E. Suggestions and recommendations

21. The Committee suggests that the authorities should seriously consider withdrawing the reservation made by Switzerland to article 26 of the Covenant, so that the article may be implemented, in the spirit of the Covenant, as an autonomous right guaranteeing non-discrimination in all spheres regulated and protected by the State. The authorities' attention is drawn to general comment No. 18 (37) on non-discrimination and to general comment No. 24 (52) on issues relating to reservations made upon ratification or accession to the Covenant or the Optional Protocols thereto, or in relation to declarations under article 41 of the Covenant.
22. The Committee hopes that favourable consideration will be given to the possibility of acceding to the Optional Protocol to the Covenant.
23. The Committee recommends that measures should be taken by the authorities to combat discrimination against women in practice. In this connection, the Committee emphasizes the importance of educational

campaigns to develop awareness of the problem of discrimination and recommends that all possible measures be taken, in particular at the social infrastructure level, to make it easier for women who wish to work outside the home to do so. The Committee also recommends that the authorities make greater efforts strictly to implement the constitutional and legislative provisions relating to equal pay for men and women for work of equal value, particularly in the private sector.

24. The Committee recommends that the discussions aimed at harmonizing the various cantonal laws on criminal procedure should be intensified, with due respect for the provisions of the Covenant, particularly with regard to fundamental guarantees during police custody or incommunicado detention. The Committee emphasizes in particular the need to allow suspects to contact a lawyer and their family or friends, and to have suspects examined by an independent doctor as soon as they are arrested, after each period of questioning and before they are brought before the examining magistrate or released. The Committee further recommends that independent machinery, subject to public supervision, should be introduced in all cantons to receive complaints against police officers concerning ill-treatment during custody.
25. The Committee recommends that all necessary measures should be taken to ensure that accused persons are not detained for several days in police premises.
26. The Committee recommends that the Act relating to coercive measures should be implemented in a restrictive manner and in the spirit of the Covenant, so as to ensure that the length of detention applicable under the Act is as short as possible and that the judicial review of the detention decision or the decision to extend detention is carried out in less than 96 hours. The Committee also recommends that all possible measures should be taken to ensure that foreigners who are covered by this Act are informed in a language they understand of the remedies available to them and are assisted by counsel.
27. The Committee recommends that measures should be taken to bring the criminal legislation of all the cantons into conformity with article 14, paragraph 3 (f), of the Covenant.
28. The Committee recommends that the Federal Decree of 24 February 1948 concerning political speeches by foreigners should be abrogated, or amended as to bring it into conformity with article 19 of the Covenant relating to freedom of expression.

29. The Committee also recommends that measures should be taken to permit the family reunification of foreign workers resident in Switzerland shortly after they obtain a temporary residence permit.
30. The Committee recommends that the necessary legislative measures should be taken to ensure that children who have been adopted abroad are granted, as soon as they arrive in Switzerland, either Swiss nationality if the parents are Swiss, or a temporary or permanent residence permit if the parents have such a permit, and that the two-year trial period prior to the granting of adoption should not apply to them.
31. The Committee welcomes the publication of Switzerland's report in the official languages and recommends that these concluding observations should be disseminated.

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**CONSIDERATION OF REPORTS SUBMITTED BY STATES
PARTIES UNDER ARTICLE 40 OF THE COVENANT**

Concluding Observations of the Human Rights Committee

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

1. At its 1535th and 1536th meetings, held on 23 October 1996, the Human Rights Committee considered a report submitted by the United Kingdom of Great Britain and Northern Ireland relating to Hong Kong (CCPR/C/117) in compliance with a special decision of the Committee (CCPR/C/79/Add.57). The Committee subsequently adopted¹ the following observations:

A.

2. The Committee welcomes the presence of a high level delegation which included a significant number of officials of the Hong Kong Government. It expresses its appreciation to the representatives of the

¹ At its 1556th meeting (Fifty-eighth session), held on 6 November 1996.

State party for the high quality of the report, and the detailed and frank answers provided by the delegation in response to the written and oral questions. The Committee notes with satisfaction that this information enabled it to engage in a highly constructive dialogue with the State party.

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

B.

4. At its 1453rd meeting, on 20 October 1995, the Committee² envisaged issues in connection with reporting obligations on the part of Hong Kong after the transfer of sovereignty to the People's Republic of China on 1 July 1997. It recalled that, in dealing with cases of dismemberment of States parties to the International Covenant on Civil and Political Rights, it had taken the view that human rights treaties devolve with territory, and that States continue to be bound by the obligations under the Covenant entered into by the predecessor State. Once the people living in a territory enjoy the protection of the rights under the International Covenant on Civil and Political Rights, such protection cannot be denied to them merely by virtue of dismemberment of that territory or its coming under the sovereignty of another State or of more than one State.³
5. The Committee reiterates that the existence and contents of the Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China make it unnecessary for the Committee to rely solely on the foregoing jurisprudence as far as Hong Kong is concerned. In this regard, the Committee pointed out that the parties to the Joint Declaration have agreed that all provisions of the Covenant as applied to Hong Kong shall remain in force after 1 July 1997. These provisions include reporting procedures under article 40 since the reporting

² Statement by the Chairperson on behalf of the Human Rights Committee (read out by the Chairman at the Committee's 1453rd meeting on 20 October 1995) contained in document CCPR/C/79/Add.57).

³ See document CCPR/C/SR.1178/Add.1, CCPR/C/SR.1200, CCPR/C/SR.1201 and CCPR/C/SR.1202.

requirements under article 40 will thus continue to apply, the Human Rights Committee expects that it will continue to receive and review reports submitted in relation to Hong Kong.

6. Accordingly, the Committee is ready to give effect to the intention of the parties to the Joint Declaration as far as Hong Kong is concerned, and to cooperate fully with the parties to the Joint Declaration to work out the necessary modalities to achieve these objectives.

C. Suggestions and recommendations

7. The Committee urges the United Kingdom of Great Britain and Northern Ireland (Hong Kong) Government to take all necessary steps to ensure effective and continued application of the provisions of the Covenant in the territory of Hong Kong in accordance with the Joint Declaration and the Basic Law.
8. The Committee reminds the United Kingdom of Great Britain and Northern Ireland Government of its continuing responsibility to ensure to the people of Hong Kong the rights protected by the Covenant and to carry out its obligations under the Covenant including in particular article 40; in that regard, it requests the Government of the United Kingdom to report on the human rights situation in the territory of Hong Kong up to 30 June 1997.

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**CONSIDERATION OF REPORTS SUBMITTED BY STATES
PARTIES UNDER ARTICLE 40 OF THE COVENANT**

Concluding Observations of the Human Rights Committee

ZAMBIA

1. The Committee considered the second periodic report of Zambia (CCPR/C/63/Add.3 and HRI/CORE/1/Add.22/Rev.1) at its 1487th to 1489th meetings (see CCPR/C/SR.1487-1489), on 26 and 27 March 1996. At its 1498th meeting on 3 April 1996, the Committee adopted the following comments:

A. Introduction

2. The Committee welcomes the submission of the second periodic report and expresses its appreciation to the State party for the resumption of a constructive dialogue with the Committee. The Committee regrets, however, that although the report provides information on general legislative norms in Zambia, it largely fails to deal with the actual state of implementation of the Covenant in practice and the difficulties encountered in the course of implementation. The Committee appreciates

the presence of a delegation which provided helpful information to the Committee in addressing its questions and thus allowed it to obtain a somewhat clearer view of the overall situation in the State party. Unfortunately, the delegation did not include experts on all the issues dealt with in the report or on issues usually raised by the Committee during the consideration of the reports of States parties.

B. Factors and difficulties affecting the implementation of the Covenant

3. The remnants of certain traditions and customs constitute an obstacle to the effective implementation of the Covenant, particularly with regard to equality between men and women.

C. Positive aspects

4. The Committee recognizes that the State party has begun amending its domestic legislation to bring it into line with the Covenant.
5. The Committee welcomes the introduction of a multi-party system of government as well as efforts undertaken by the State party to strengthen democratic institutions and the multi-party system. In that regard, it takes note of the establishment of a Commission to review the Constitution and of the adoption of measures designed to strengthen the rule of law. It further welcomes the setting up of the Munyama Human Rights Commission.
6. The Committee appreciates the efforts made by the Government to implement views adopted by the Committee under the Optional Protocol.

D. Principal subjects of concern

7. The Committee notes with concern that steps still remain to be taken to harmonize the Constitution with the Covenant and to develop democratic institutions and human rights machinery for better implementation of the Covenant.
8. The Committee also notes with concern that the equality clause in section 11 of the Constitution and the non-discrimination clause

in section 23 do not apply to non-citizens and that there are other exemptions in section 23 which are not compatible with articles 3 and 26 of the Covenant.

9. The Committee expresses its concern over the situation of women who, despite some advances, continue to be de jure and de facto the object of discrimination, particularly as regards education, access to work and participation in the conduct of public affairs. The application of customary laws in matters of personal status, marriage, divorce and inheritance rights reinforces outdated attitudes concerning the role and status of women. The Committee also regrets the lack of measures to adequately address problems raised with regard to violence against women and the high maternal mortality resulting from abortion.
10. Section 43 of the Constitution, which restricts the right of individuals to pursue civil remedies against the President in the courts for anything done in his private capacity, is incompatible with the provisions of article 14 of the Covenant.
11. The Committee regrets that the proclamation of a state of emergency in March 1993 was not notified to the Secretary-General in accordance with article 4, paragraph 3, of the Covenant. The Committee also regrets the lack of clarity of the legal provisions governing the introduction and administration of a state of emergency, particularly sections 31 and 32 of the Constitution, which would permit derogations contravening the State party's obligations under article 4, paragraph 2, of the Covenant. The Committee is also concerned that the derogation of rights permissible under section 25 of the Constitution goes far beyond that permissible under article 4, paragraph 2, of the Covenant.
12. The Committee is concerned that the rights contained in articles 7, 9 and 10 of the Covenant are not fully respected. The Committee is concerned in particular that torture and ill-treatment of persons deprived of their liberty continue to be reported and that abuses allegedly committed by police officers and members of security forces are not duly investigated by an independent body.
13. The Committee welcomes the establishment of the National Committee on Penal Reform. It is, however, greatly concerned at the poor conditions in places of detention and the lack of implementation of guarantees in article 10 of the Covenant as well as in the United Nations Standard Minimum Rules for the Treatment of Prisoners.

14. The Committee is concerned that three journalists were found to be in “gross contempt of the National Assembly” without any of the procedural guarantees of fair trial provided for by articles 9 and 14 or the Covenant and that two of these journalists were held in indefinite detention before release, contrary to the provisions of article 9 of the Covenant and even contrary to section 13 of the Constitution and sections 27 and 28 (3) of The National Assembly (Powers and Privileges) Act.
15. The Committee is also concerned by reports of arrests and charges against journalists for the publication of newspaper articles. Use of the criminal process to ensure accountability of the press for the veracity of its reports is not compatible with article 19 of the Covenant. Robust and even harsh criticism of government figures is an essential part of free speech in a democratic country.
16. The Committee is concerned that the proposals made by the Constitutional Review Committee in regard to appointment of judges of the Supreme Court by the President after their retirement and the removal of Supreme Court judges by the President, subject only to ratification by the National Assembly without any safeguard or inquiry by any independent judicial tribunal, are incompatible with the independence of the judiciary and run counter to article 14 of the Covenant.
17. The Committee is also concerned that no measures are taken that pregnancy or parenthood do not affect the continuous education of children.
18. The requirement to sing the national anthem and salute the flag as a condition of attending a State school, despite conscientious objection, appears to be an unreasonable requirement and to be incompatible with articles 18 and 24 of the Covenant.
19. The Committee is further concerned that provisions in the Penal Code which fix eight years as the age of criminal responsibility and which permit children to be charged jointly with adults to be tried in the ordinary criminal courts appear to be incompatible with articles 14, paragraph 4, and 24 of the Covenant.

E. Suggestions and recommendations

20. The Committee strongly encourages the Government to undertake a thorough review of the legal framework for the protection of human rights in the State party to ensure full conformity with the Covenant. It

recommends that appropriate institutions be set up in order to effectively promote the observance of human rights.

21. The Committee recommends that the State party review its laws and make appropriate amendments, including the abrogation of subsections 23 (4) (c) and (d) of the Constitution, to ensure full legal and de facto equality for women in all aspects of social and economic relationships and, particularly in the laws governing the status of women, women's rights and obligations in marriage. It emphasizes the need for the authorities to increase efforts to prevent and eliminate persisting discriminatory attitudes and prejudices against women. Comprehensive anti-discriminatory laws covering both the private and the public spheres should be introduced as well as, where appropriate, affirmative action measures.
22. The Committee recommends that the authorities adopt legislation to bring the domestic legal regime, including section 25 of the Constitution, into harmony with the State party's obligations under article 4 of the Covenant.
23. The Committee recommends that, in view of the current debate referred to in paragraph 18 of the report and the fact that there have been no executions since 1988, the State party consider taking measures for the abolition of the death penalty and the ratification of or accession to the Second Optional Protocol to the Covenant.
24. The Committee urges the authorities to take the necessary steps to ensure that torture, ill-treatment and illegal detention do not occur and that any such cases are duly investigated by an independent authority in order to bring before the courts those accused of having committed such acts and to punish them if found guilty. The Committee also recommends that the report of the Munyama Human Rights Commission be published as soon as possible and that the State party move for the reform of penal law and practice.
25. The Committee recommends that steps be taken in law and in practice to implement fully the provisions of article 10 of the Covenant as well as United Nations Standard Minimum Rules for the Treatment of Prisoners and to make relevant laws and regulations governing the treatment of persons deprived of their liberty known and accessible to the prisoners themselves as well as the police, armed forces, prison personnel and other persons responsible for holding interrogation. Urgent steps should be taken to reduce the number of prisoners through the review of sentences, by speeding up trials or otherwise.

26. The Committee recommends the abolition of imprisonment for civil debt, in compliance with article 11 of the Covenant.
27. Corporal punishment should be abolished, in accordance with article 7 of the Covenant.
28. The Committee recommends that mere criticism by journalists of government officials should not be made a criminal offence.
29. The Committee welcomes the release under court order of two journalists who were detained after being found to be in contempt of the National Assembly. It trusts that the third journalist censured by Parliament will not be detained. It urges that in future all cases in which people are suspected of contempt of Parliament be dealt with by the courts in a manner consistent with all requirements of the Covenant.
30. The Committee calls upon the State party to prepare its third periodic report in compliance with the Committee's guidelines for the preparation of State party reports (CCPR/20/Rev.1). The report should in particular include detailed information on the extent to which each right is enjoyed in practice, and refer to specific factors and difficulties that might impede its application. In undertaking this obligation, the State party may wish to avail itself of the Advisory Services and Technical Assistance Programme of the United Nations Centre for Human Rights.