

## COSTA RICA

### CCPR A/35/40 (1980)

334. At its 235<sup>th</sup>, 236<sup>th</sup> and 240<sup>th</sup> meetings on 24 and 28 July 1980, the Committee considered the initial report (CCPR/C/1/Add.46) submitted by Costa Rica (CCPR/C/SR.235, 236 and 240).

335. The report was introduced by the representative of Costa Rica who gave a historical account of the social and economic factors which had given rise to the development and establishment of democracy in Costa Rica. His country's limited resources had led to the establishment of small subsistence farms and the development of a rural democracy, its people being homogenic, frugal and hard working and without class distinctions. He pointed out that his country possessed no army and that a police force preserved public order. Although Costa Rican society had been influenced by the Roman Catholic Church, the Church had never been allowed to interfere with State affairs. He stressed that in keeping with its legislation, Costa Rica has been able to live a history devoid of the phenomenon of violations of human rights.

336. The representative cited a number of fundamental provisions contained in the Constitution of Costa Rica relating to the structure of the State and drew the attention of the Committee to article 7 of the Constitution which had been amended in 1968 so as to make all treaties, international agreements and concordats duly ratified by the State prevail over domestic law. He referred to article 140 of the Constitution which, he stressed, was of special importance in that it provided that if the rights and guarantees referred to in the Constitution were suspended, the Assembly had to confirm the measure by a two-thirds majority vote of its entire membership in default of which the guarantees had to be considered as re-established. He had no recollection of any time since 1949, when the present Constitution had been adopted, during the which the constitutional guarantees had been suspended.

337. Members of the Committee commended the Government of Costa Rica for its comprehensive report which complied with the general guidelines set up by the Committee. It was observed, however, that although the report gave a very detailed picture of the legal machinery that existed in Costa Rica to implement human rights, the report did not sufficiently give detailed information on the actual enjoyment of Covenant rights in Costa Rica. It was asked whether the report had been published and disseminated among the population and whether it was publicly debated and commented on. Members of the Committee recalled that Costa Rica had been the first State to ratify the Covenant and the Optional Protocol and had actively participated in international efforts to strengthen the machinery for the protection of human rights. They pointed out that Costa Rica's record in promoting human rights on the international scene was matched only by its record, one of few in Latin America, in its efforts to apply the rule of law under democratic institutions and it was wondered whether Costa Rica might not consider being the first country in that part of the world of taking up the challenge of making the declaration under article 41 of the Covenant. Members also noted that Costa Rica, which had no army and no military expenditure, was allocating most of its budget to public education and welfare and that a country like Costa Rica which was not totally

developed was nevertheless capable of making noteworthy achievements in the field of human rights.

338. With reference to article 1 of the Covenant, it was observed in the report that Costa Rica had considered the right to self-determination as an indivisible right which ought to be applied to all peoples. The representative was asked whether he agreed that article 1 of the Covenant required States parties to take concrete action to help all peoples in their struggle to achieve their right to self-determination; how his Government could explain the fact that its embassy in Israel had been established not in Tel-Aviv but in Jerusalem, contrary to United Nations resolutions under which it would not be considered permissible to recognize Jerusalem as the capital of Israel; and what his country's position was regarding the right of the Palestinian people to self-determination and to the establishment of their own independent and sovereign State.

339. As regards article 2 of the Covenant, members of the Committee noted that, in accordance with article 7 of the Constitution, as amended in 1968, the Covenant prevailed over domestic law; that it had direct applicability in the country; and that the Government of Costa Rica recognized that, in order to give effect to the rights recognized in the Covenant, it was not enough to have the Covenant integrated in domestic law but that supplementary legislative acts were required to achieve that end. It was asked whether the representative could inform the Committee of any such acts as may have been enacted in this respect; whether the courts have had the occasion to interpret the Covenant; and whether the provisions of the Covenant had, in practice, prevailed over domestic law. In this connection, it was asked whether administrative remedies had existed alongside the judicial remedies; and what steps had been taken to ensure the wide publicity of the provisions of the Covenant among the people, including the national minorities and in the languages used by them.

340. In relation to article 3 of the Covenant, members of the Committee requested information on the extent to which the principle of equality between men and women had been respected and applied with regard to women's participation in the social, political and economic life of the country; on the extent to which the principle of equal pay for equal work was applied to women; and on their right to education at all levels.

341. In connection with article 8 of the Covenant, reference was made to an article in the Constitution of Costa Rica stipulating that no one under the protection of its laws could be a slave and it was asked what that provision meant since, normally, all the inhabitants were supposed to be placed under the protection of the law without any distinction between them. Reference was also made to an article in the Penal Code giving a convicted person the option of paying off a fine imposed on him by working without remuneration for municipal authorities, the public administration and even private enterprise, and it was asked how this provision could be reconciled with article 8 (3) (a) which stated that no one shall be required to perform forced or compulsory labour, especially since it was difficult to establish the consent of the detainee under the circumstances.

342. Commenting on article 9 of the Covenant, it was asked what legislative and procedural measures applied to the deprivation of liberty in the case of persons other than those subjected to penal justice, such as internment for psychiatric reasons and detention of foreigners pending expulsion. Noting that abuse of power had often existed at the level of the police, members asked

whether a person's right to be assisted by a lawyer of his choice could be exercised during the preliminary investigations; for how long a person could be detained before he was brought to trial; and whether anyone who had been the victim of unlawful arrest or detention had a right to compensation

343. With regard to article 12 of the Covenant, information was sought on the restrictions imposed on the right to leave Costa Rica and on any legislation providing for the deprivation of nationality.

344. In connection with article 13 of the Covenant, it was asked whether expulsion of foreigners was a matter totally left to the discretion of the Executive or, whether it was regulated by law as required by the Covenant and what remedies were available to a foreigner threatened with expulsion.

345. Commenting on article 14 of the Covenant, it was asked whether the independence of judges was ensured at all levels; what guarantees they had; and what concrete measures were available to the judiciary to ensure the application of its decisions, especially when made against the Executive. It was also asked whether court hearing were held in public; whether everyone's right to be presumed innocent until proved guilty according to law was applied only in criminal proceedings before a court of law or was a general principle observed by public authorities, whether judicial or non-judicial; and whether an accused had the free assistance of an interpreter if he could not understand or speak the language used in court. Noting from the report, that the Code of Criminal Procedure established some sentences against which there was no appeal, members of the Committee wondered how that provision could be reconciled with article 14, paragraph 5, of the Covenant, especially in the light of another statement in the report to the effect that the Covenant had been integrated in domestic law and prevailed over other Costa Rican legislation. Noting also that, according to the Code of Criminal Procedure, preventive measures for two or more years could be imposed when it was considered that serving the sentence had not been effective in rehabilitating convicted persons, members of the Committee wondered whether that mean that, if he had not been rehabilitated, the convicted person was liable to the imposition of a further sentence and, if so, how the provision could be reconciled with the provisions of article 14, paragraph 7, of the Covenant.

346. As regards article 17 of the Covenant, it was asked whether Costa Rican law authorized the tapping of telephone conversations by the police and, if so, under what conditions such a measure could be authorized. Information was requested on the provisions regulating the search of homes by police officers.

347. In connection with article 18 in conjunction with article 2, of the Covenant, some members wondered whether the article in the Constitution providing that Catholicism was the official religion of the State had conceded a privileged position to the adherents of Catholicism in relation to the adherents of other religions, and thus contravening the letter and spirit of article 18, paragraph 1, and article 2, paragraph 1, of the Covenant. Questions were asked on what form State aid to the Church took; whether the right not to profess any religion was guaranteed by law and, if so, what oath an atheist was required to take upon his appointment as a public official, considering the constitution oath cited in article 194 of the Constitution. Noting that the Constitution guaranteed the free exercise of other worship that was not opposed to "universal morality or good customs", one member expressed concern at the possible abuse of such a vague term since morality was subjective by nature and universal morality could not be precisely defined.

348. In relation to articles 19, 21 and 22 of the Covenant, clarification was requested on the rules in the Electoral Code relating to the publication of political propaganda and on the limitation imposed on the freedom of expression, including the prohibition imposed on the clergy not to get involved in political activities. Noting that aliens were prohibited from interfering in the political affairs of the country, one member indicated that this prohibition could be interpreted as a curtailment of the rights conferred under articles 21 and 22 of the Covenant and that although restrictions had to be placed on aliens with regard to many forms of political activity, they should have the right to express themselves in such cases as where an amendment to the aliens act was being discussed and to participate in union activities as a means of protecting their personal economic and social status in the country. Information was requested on the economic and political role of trade unions of both employers and employees and on the draft law concerning trade union rights of plantation workers which seemed to be opposed by the employers concerned.

349. With reference to article 20 of the Covenant, it was noted that the absence in the Costa Rican legislation of any penalty for the violation of the prohibition of war propaganda provided for in the Covenant rendered the Covenant inoperative in this respect, notwithstanding that it had been integrated into the legal system of the country.

350. In connection with articles 23 and 24 of the Covenant, information was requested on the steps taken to provide protection and assistance to mothers of several children, on the rules and measures designed to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution, particularly with regard to property, paternal authority, heritage, divorce and alimony; and on the status of natural and adulterine children and on their inheritance rights as compared with those of children born in wedlock. Noting with satisfaction that the law had ensured to all Costa Ricans equality of the sexes regarding transference of nationality, one member asked what the law was in the case of a child born in Costa Rica of stateless parents.

351. As regards article 25 of the Covenant, it was asked whether the provisions of the Constitution stipulating that suffrage was a compulsory civil function, that, in order to be a deputy, a naturalized Costa Rican had to have acquired his nationality for at least 10 years and that political parties registered for national elections which had not received 5 per cent of the votes would have no right to a State contribution for the costs incurred during campaigns, did not involve a discriminatory element to the detriment of new political movements.

352. With reference to article 27 of the Covenant, information was sought on the national minorities existing in Costa Rica, particularly the Indians and on their numbers; whether they possessed an independent juridical status; on the steps taken to preserve their culture, language and land; on the guarantees for their representation as stipulated in the Constitution; and on the measures applied to ensure their active participation in public affairs. Questions were also asked on whether current legislation was effective in protecting lands belonging to the Indians and preventing those lands from being transferred to other people. In this connection, reference was made to the China Kika reserve which the Indians had reportedly completely lost and to the reported sale by the ITCO (Instituto de tierras y colonización) of lands in the Boroca Reserve to other people.

353. The representative of the State party commented on the questions put to him by members of the Committee as summarized in the preceding paragraphs. He informed the Committee that the

Covenant had been published in the official journal and disseminated nation-wide over the radio at the time when it was being considered by the Legislative Assembly. The Covenant had not been translated into any indigenous language but everyone in Costa Rica spoke Spanish.

354. In connection with comments made under article 1 of the Covenant, he pointed out that Costa Rica voted in favour of several resolutions as adopted by the United Nations in 1979 concerning the situation in Palestine and the Middle East and that Costa Rica exercised its sovereign rights in establishing diplomatic relations with Israel. That did not imply, however, any denial of the rights of any people to self-determination.

355. In relation to article 2 of the Covenant, the representative drew a comparison between the text of article 7 of the Costa Rican Constitution as amended in 1968 and the relevant articles contained in the constitutions of some other States with a view to stressing the clarity of the fact that the Covenant prevailed in his country over domestic law. He pointed out that supplementary legislative measures were enacted in his country in order to give effect to the provisions of the Covenant and promised to supply concrete information on the matter at a later date. He was not aware of any case where the Convention prevailed in practice over domestic law, since that was only possible in case of conflict between both laws, which, to his knowledge, had not yet occurred. He also informed the Committee that the report of his country will be published early in 1981 as a part of the annual report of the Legislative Assembly.

356. As regards article 3 of the Covenant, the representatives stressed that Costa Rican legislation had not established any distinction between the sexes with regard to the right of equal pay for equal work, access to public office, the legislative assembly or education; that several women held ministerial and ambassadorial posts and that many of them were deputies. The Committee will be provided at a future date with statistics concerning the percentage of women exercising functions at the executive, legislative and judicial level as well as on the percentage of enrolment in educational institutions.

357. As regards article 8 of the Covenant, he stated that the provision in the penal code, giving a convicted person the option of paying off a fine imposed on him by working without remuneration, *inter alia*, for private enterprise, was meant to help the person concerned in case he was unable to pay the fine imposed on him. There was no question that private enterprise was given free labour, since it was required to pay the corresponding wage as a partial payment of the fine.

358. In connection with a question put to him under article 9 of the Covenant, the representative stated that the law defined the security measures applied to certain categories of persons who could be interned in psychiatric hospitals or establishments designed for special treatment or education, as well as in agricultural settlements or labour establishments in which those persons were subjected to a certain measure of supervision. He stressed that no one could be detained without evidence of his involvement in a crime and without the written order of a judge or any authorized person in charge of public order, unless in the case of escape or in connection with a serious crime, but that such a detainee had to be brought before a competent judge within not more than 24 hours.

359. Replying to a question under article 12 of the Covenant, he stated that restrictions imposed on the right to leave Costa Rica applied to both Costa Ricans and foreigners and only where they had

to pay alimony or where a conditional release by a court order was involved.

360. In relation to article 13 of the Covenant, the representative told the Committee that foreigners may be expelled from the country in accordance with the law. Foreigners residing legally in the country had the right to appeal to the courts against any expulsion orders.

361. As regards article 14 of the Covenant, the representative indicated that the Constitution and the laws in force provided for the election of judges, for the guarantees required for their independence and for the criminal and civil responsibility of public officials who failed within the prescribed time-limit to put into force judicial decisions taken against the State. The Costa Rican law did not provide for the mandatory assistance of interpreters at court hearings, but Costa Rican courts had established a practice in this respect. The details would be submitted to the Committee at a later date. Replying to another question, he stressed that judges had no power to impose a heavier penalty than had already been decided but that they could impose security measures if they felt that the penalty imposed had not helped in the rehabilitation of the convicted person. As to the question relating to those sentences against which, according to the Code of Criminal Procedure, there was no appeal, he stated that that was enacted in order not to overburden the courts but that more information would be forwarded on the matter. Anyone who was a victim of the miscarriage of justice was entitled to compensation provided that he was not responsible for the miscarriage.

362. As regards article 17, he stated that tapping telephone conversations and interference with the privacy of correspondence were prohibited by law which provided for penalties for any violation of the law or abuse of authority in this respect.

363. In connection with article 18 of the Covenant, the representative pointed out that there was not really a separation between the State and the Church but that only a secular person could be elected as President of the Republic or as a Minister. As to the swearing of the oath by State Officials who were non-believers, he stated that such cases were obviously not foreseen. As to the statement in the report concerning the norms of the universal morality as recognized by civilized nations, he pointed out that, because of their vague character, they were usually left for the courts to interpret at the national or international levels. The State contributed to the Catholic Church without prejudice to the recognized rights of other confessions, the adherents of which could freely practice their religions provided that they did not offend public morals.

364. Replying to questions under articles 19, 21 and 22, the representative stated that freedom of expression was guaranteed for all. Foreigners enjoyed the same freedom provided that they did not interfere in the political affairs of the country. Political parties had the right to conduct electoral campaigns, but demonstrations were not allowed except during the two months preceding elections. As from the date of the convocation of elections, radio, television stations and publishing houses were required to register with the Supreme Electoral Court in order to be able to undertake electoral propaganda activities. He stressed that this measure was designed to prevent the dissemination of erroneous information during the period that preceded the elections. He pointed out that the Constitution prohibited foreigners from taking part only in the management of trade unions, but that they were free to join any trade union and maintained that the law in this respect was more liberal than the relevant provision in the Covenant which imposed certain restrictions on the right to the freedom of association. As to the question concerning the right of plantation workers to freedom

of association, he indicated that their rights were guaranteed but that certain practical difficulties were encountered when some of them intended to arrange their meetings at places which were considered under the Constitution to be inviolable property. In connection with the relations between organizations of employers and of employees, he invited the Committee to consult the relevant ILO documents of the International Labour Organization and pointed out that all trade unions of employers and employees were exclusively established for the purpose of improving and protecting their common economic and social interests.

365. As to the question concerning the prohibition of war propaganda under article 20 of the Covenant, the representative stated that Costa Rican law did not provide for such prohibition for the simple reason that war was unimaginable in his country. However, anyone who by conducting hostile acts or provoking the imminent danger of a declaration of war against the nation, exposed the inhabitants of the country to reprisals directed against their person or property or endangered the friendly relations of the Costa Rican Government with foreign Governments would be subject to imprisonment for up to six years.

366. As regards articles 23 and 24 of the Covenant, the representative informed the Committee that his Government provided aid and protection to poor families as well as to mothers of numerous children. He stressed that, in Costa Rica, spouses had equal rights and responsibilities during marriage and at its dissolution. Court judgements were not influenced by the sex of the plaintiff in this respect. The law provided for no distinction between spouses as regards paternal authority, property, alimony or inheritance. Children born in Costa Rica to stateless persons were considered to be Costa Rican citizens if they were registered while minors or if they declared their desire to become citizens before the age of 25. Natural children had the same inheritance rights as those of their brothers and sisters born in wedlock provided that their parentage was proved or recognized.

367. Replying to questions under article 25 of the Covenant, the representative maintained that States parties were not prohibited from making obligatory by law a right that was provided for in the Covenant and that the provision of the Costa Rican Constitution that suffrage was a compulsory civil function did not contradict with the Covenant and that voting did not preclude the possibility of abstention. As to the question concerning the State contribution to political parties registered for national elections, he indicated that the rule was designed to protect democratic institutions from being corrupted by the proliferation of small political parties.

368. Replying to questions under article 27 of the Covenant, the representative gave an account of the ethnic minorities of his country and pointed out that their right to education was guaranteed and that in the regions where such minorities constituted a high percentage of the population education was given in Spanish and in the language of the minority concerned. Costa Rica applied no particular policy of assimilation of minorities. Various legislative measures and regulations were taken with a view to protecting the property of the indigenous population. Participation of minorities in public affairs was guaranteed in the same way as it was in relation to other Costa Ricans. There were no religious minorities in Costa Rica in the sense of article 27 although the majority of the population adhered to the Catholic Church.

369. The representative of the State party finally expressed his Government's readiness to submit further information and to reply to questions which could not be covered in his comments on the

questions raised by members of the Committee.



## CCPR A/45/40 (1990)

282. The Committee considered the second periodic report of Costa Rica (CCPR/C/37/Add.10) at its 958<sup>th</sup> to 960<sup>th</sup> meetings, held on 22 and 23 March 1990 (CCPR/C/SR.958-SR.960).

283. The report was introduced by the representative of the State party, who drew the Committee's attention to certain developments that had occurred since the submission of the report. The rights to which individuals could refer to under the remedy of amparo had been extended to those provided for under international human rights instruments applicable in Costa Rica. A Constitutional Court had also been established as part of the Supreme Court of Justice with competence to deal with cases of unconstitutionality and the remedies of habeas corpus and amparo. As a result of those reforms, international human rights instruments had reached an equal rank with constitutional norms. The representative added that the remedy of amparo could be exercised not only against State authorities but also against private individuals acting in an official capacity or exercising power, against which normal remedies were inadequate for guaranteeing fundamental rights and freedoms. Equality of rights between men and women had also been made an obligation of the State and an Office for the Protection of Human Rights had been established with a view to strengthening real equality and eliminating social discrimination. In February 1990 Costa Rica had held free elections for the twelfth time since 1948. All of those elections had been democratic and uncriticized and had resulted in a peaceful transfer of power from one Government to another.

### Constitutional and legal framework within which the Covenant is implemented

284. With regard to that issue, members of the Committee wished to know whether there had been any court decisions where the Covenant had been directly invoked, and whether any persons who had committed indictable offences against human rights established in treaties ratified by Costa Rica had been punished under article 7 of the Penal Code. With specific reference to the recent revision of articles 48 and 10 of the Constitution, members asked how the newly established Constitutional Tribunal proceeded in ruling on the unconstitutionality of a domestic law; and whether it could annul any Costa Rican law that was incompatible with international norms and, if so, whether a case against a particular law could be initiated by individuals. They also wished to receive information concerning the composition, competence and operation of the Supreme Electoral Tribunal; the activities relating to the promotion of greater public awareness of the provisions of the Covenant and the Optional Protocol; the dissemination of information on the Covenant among courts and judges; and the extent to which the public had been made aware of the consideration of the report by the Committee. Further information was also sought concerning factors and difficulties, if any, affecting the implementation of the Covenant and concerning the impact of the social and political crisis in Central America upon the enjoyment of human rights in Costa Rica, particularly in view of the large number of refugees who had fled there.

285. In his reply to questions raised by members of the Committee, the representative of the State party said that on 22 May 1986, the Supreme Court had ruled that, in case of conflict between a treaty and a law, even if the law was subsequent to the treaty, the treaty always prevailed. Thus, international treaties now enjoyed equal footing with the Constitution except that, in cases of conflict between the Constitution and the Covenant, priority would be given to the Constitution.

The norms of the American Convention on Human Rights had been invoked and applied by the Constitutional Court in a number of cases.

286. The Supreme Electoral Tribunal, established under article 99 of the Constitution, had the same rank as the executive, legislative and judicial branches. Its pronouncement was the last word on electoral matters and could not be reversed by the Supreme Court of Justice. In theory, the Supreme Electoral Tribunal could declare an election invalid, but since the preparation and supervision of elections was one of its administrative functions, that had never happened in practice. The Supreme Electoral Tribunal was also the supreme authority on questions of nationality.

287. Referring to activities relating to promotion of greater public awareness of the Covenant, the representative said that courses on constitutional law had been expanded to include study of the Covenant; the Inter-American Institute for Human Rights gave a yearly course on both the Inter-American Convention and United Nations Covenants; all concerned Costa Rican non-governmental organizations had been convened to help in the preparation of the report; and that the public had been made aware through the media of the consideration of the report by the Committee.

288. With regard to factors and difficulties affecting the implementation of the Covenant, the representative said that the Central American human rights crisis had affected Costa Rica because of the large influx of refugees. Official figures showed that from 1978 to 1988 approximately 41,000 refugees had entered Costa Rica. That number, however, included only the refugees who had officially registered with the Office of the United Nations High Commissioner for Refugees. In reality, Costa Rica, with a total population of 2.5 million, was dealing with an influx of from 300,000 to a half million refugees. In view of the difficulties this situation had created, the Costa Rican Government declared after the recent Nicaraguan election that it would refuse to accept any more refugees from that country.

#### State of emergency

289. With regard to that issue, members of the Committee wished to receive detailed information on legal provisions governing the introduction of a public emergency and about their conformity with article 4, paragraph 2, of the Covenant.

290. In his reply, the representative of the State party said that article 121 of the Constitution empowered the Legislative Assembly to suspend certain rights and guarantees provided for by the Constitution. When the Legislative Assembly was in recess, the Executive branch could also order such a suspension. In the latter case, the suspension had to be approved within the following 48 hours by the Assembly by a vote of not less than two thirds of the members of the Assembly. The rights contained in article 21 of the Constitution, regarding the inviolability of human rights, and the right contained in article 33, regarding the equality of all persons before the law, could not be suspended.

#### Non-discrimination and equality of the sexes

291. In connection with that issue, members of the Committee wished to know what the main inequalities were between men and women in respect of political, economic, social and cultural

rights; what was the current status of the Bill that sought to remove or reduce those inequalities; and whether the organization established to protect equal rights for the sexes would be empowered to inquire into and grant relief in cases of discrimination brought before it. Members also requested additional information on women's participation in the political, economic, social and cultural life in the country; the proportion of the sexes in schools and universities; and the work and functions of the National Centre for Women and the Family, particularly, in respect of the Centre's review of the Family, Penal and Labour Codes. Additionally, they wished to know in which respects the rights of aliens were restricted as compared with those of citizens; whether there were any restrictions on the right of foreigners to write and express their opinion freely; and whether naturalized parents had equal rights in transferring nationality to their children.

292. In his reply, the representative said that the Real Equality Act, adopted on 8 March 1990, had established a General Office for the Protection of Human Rights for the specific protection of women, children and consumers. Within that General Office, an Office for the Protection of Women's Rights had been set up to ensure the observance of women's rights. The National Centre for Women and the Family had completed its review of the Family, Penal and Labour Codes. Regarding the status and participation of women, he noted that women accounted for about 20 per cent of the economically active population in Costa Rica. The rate of illiteracy for women was lower than it was for men. In 1986, women had held 30 out of 379 government posts and there were six women out of a total of 57 deputies in the current Legislative Assembly. There was little difference between the number of boys and girls attending elementary school, high school or university.

293. With reference to the treatment of aliens, the representative said that aliens enjoyed civil rights but not political rights and therefore did not have the right to vote. The practice of detaining aliens before their expulsion had been contested by the Constitutional Tribunal. At the time of their naturalization, parents could request that citizenship be also extended to their minor children.

#### Right to life

294. With regard to that issue, members of the Committee wished to know whether there were any plans for early ratification by Costa Rica of the Second Optional Protocol to the Covenant aiming at the abolition of the death penalty; what rules and regulations governed the use of firearms by the police; whether there had been any violations of these rules and regulations and, if so, what measures had been taken to prevent their recurrence; and what measures had been taken by the Government in the field of health care, particularly with a view to reducing infant mortality. Additionally, it was inquired whether there had been any problems arising from confrontation between the police and the large number of refugees in Costa Rica; whether abortion was permitted; and at what point, under Costa Rican law, human life was thought to begin.

295. In his reply, the representative of the State party said that his country had abolished the death penalty in 1882 and that, although there was no opposition to it, it would take some time before the Second Optional Protocol to the Covenant could be ratified. Regulations governing the use of firearms by the police were the same as those for all citizens in the country, which means that firearms could be used only in cases of self-defence. Between 1982 and 1986 there had been a marked decrease in the number of civilians killed by the police and, in general, the use of firearms

by the police did not constitute a problem. The quality of health care was comparable to that in some developed countries and the infant mortality rate was only 17 per thousand inhabitants. Under Costa Rican law, human life began at conception and abortion was permitted only for medical reasons. All birth control methods were generally available. There had been no incidents involving confrontation between the police and refugee groups in Costa Rica.

#### Liberty and security of the person and treatment of prisoners and other detainees

296. With reference to that issue, members of the Committee wished to know that sanctions and remedies were provided under the law against torture or cruel, inhuman or degrading treatment; how quickly after arrest a person could contact a lawyer and how soon his family was notified of the arrest; what the average period of pre-trial detention was; and what had been the outcome of efforts to amend article 108 of the Penal Code. They also wished to receive information on detention in institutions other than prisons and for reasons unconnected with the commission of a crime and about arrangements for the supervision of prisons and other places of detention, and for receiving and investigating complaints. In the latter regard, they wished to know what the role of the Human Rights Counsel for Prisoners was and asked about the present status of the draft Prison Code. Observing that article 108 of the Penal Code envisaged the possibility of pre-trial detention for more than one year, members wished to know whether there were legal provisions limiting the duration of pre-trial detention and what the criteria were for determining the maximum period of pre-trial detention. Questions were also asked regarding the granting of bail, the circumstances under which a person could be held incommunicado; law and practice relating to corporal punishment and to medical or scientific experimentation; the right to compensation in case of unlawful arrest or detention; the application of article 37 of the Constitution, and about paragraph 38 of the report, according to which there was provision for civil imprisonment for failure to comply with alimony obligations.

297. In his reply, the representative of the State party recalled that article 40 of the Political Constitution provided that no one could be subjected to cruel or degrading treatment or to life imprisonment or to the penalty of confiscation, and that any statement obtained by the use of force was null and void. The Judicial Investigation Board had taken measures to guarantee that any person kept in a detention centre for the duration of an investigation was given a medical examination. As a result of complaints of alleged mistreatment of detainees accused to terrorism, the Board had instituted a general system of medical care to safeguard the health of prisoners.

298. Under article 37 of the Constitution, no one could be detained without substantiated evidence of having committed an offence or without a written order from the judge or authority charged with the maintenance of public order. In all cases, he had to be placed at the disposition of a competent court within a peremptory period of 24 hours. Any detention in excess of 24 hours gave rise to an appeal of habeas corpus, which referred not only to the requirement that a detained person should be presented to a judicial authority but also involved an examination of the legality of the arrest order itself. No distinction was made in the foregoing regard between nationals and aliens. Detainees could contact their lawyer immediately after arrest and were usually given immediate access to a telephone to contact their families. A person could be held incommunicado for a maximum of 10 days, if so ordered by the judicial authorities and if required to complete the investigation. There had been no cases of detention in psychiatric institutions in Costa Rica but

there was a section for prisoners with psychiatric problems in the main penitentiary. The number of prisoners exceeded the capacity of the prison system by 23 per cent. The Human Rights Counsel for Prisoners ensured that the rights of prisoners were not violated.

299. Referring to questions regarding extended periods of pre-trial detention, the representative explained that Costa Rican law provided for a bail system. Judges could deny bail, however, particularly if the release of the detained person could jeopardize an investigation. Indictment and the preparation of cases were regulated under the Code of Criminal Procedure and one month was usually the maximum period allowed for declaring grounds for proceeding to prosecution.

300. Article 10 of the Penal Code provided for civil reparations in cases of slander or false accusation, and the secondary liability of the State in cases where the accused had been found innocent on appeal or where he had been acquitted after having been in pre-trial detention for more than one year. Criminal charges could be brought by private persons only in a very limited number of cases and the liability mentioned as applying to private persons had to be seen as separate from the rest of the article.

301. The General Law of Health prohibited scientific or medical experimentation of any type without the consent of the person concerned. Imprisonment was still possible for failure to pay alimony or support for an ex-spouse or offspring but, in practice, criminal intent had to be demonstrated in order to bring such an action. All other forms of civil imprisonment had been eliminated under the Constitutional Jurisdiction Act of 1989.

#### Right to a fair trial

302. With regard to that issue, members of the Committee wished to receive detailed information concerning the current status and prospects of enactment of the Bill proposing the establishment of a higher criminal court of cassation. They also wished to know whether there was any free legal aid and advisory scheme and, if so, how that scheme operated; whether judgements were always made public; whether there were administrative remedies for abuse of power by administrative authorities; and whether habeas corpus hearings could proceed without the presence of the accused. Further information was also sought concerning appeals in case of short-term sentences; the requirements for magistrates set forth in article 159 of the Constitution; legal provisions relating to the punishment of terrorism; and the right to have the free assistance of an interpreter.

303. In his reply, the representative of the State party explained that the Inter-American Commission on Human Rights had considered Costa Rica to be in violation of both the Covenant and the American Convention on Human Rights in that the existing remedy of cassation applied only to sentences which were longer than six months. Accordingly, the Government had proposed the creation of a Chamber of penal review for sentences of less than six months. The proposal was currently being considered by the Legislative Assembly. The Public Defender's Office offered free services for persons without sufficient means anywhere in Costa Rican territory and a public defender could be requested by a detainee at any time after he was deprived of his liberty. Several other entities provided free legal aid and advisory services in matters not related to criminal proceedings. In all criminal proceedings, the judgement had to be read out at the time of sentencing and, in non-criminal cases, the judgement was made available to the parties concerned.

304. Under article 49 of the Constitution, an administrative litigation jurisdiction had been established for the protection of individuals in the exercise of their administrative rights. Tribunals could suspend the execution of administrative acts until they had passed judgement on the facts of the case. Magistrates were obliged to post a bond as a guarantee in case the victim of abuse of functions might be awarded compensation. Cases of terrorism were tried in the criminal courts under the same procedures as applied in other criminal cases. The Code of Criminal procedure provided for the appointment of an interpreter in cases where the accused did not understand Spanish. Habeas Corpus could be invoked in writing by anyone, not just the detainee, and was given priority over all other matters before the court.

#### Freedom of movement and expulsion of aliens

305. With reference to that issue, members of the Committee wished to know what legal provision governed the expulsion of aliens, whether an appeal against an expulsion order had suspensive effect; how well the Government's strategy to deal with the large influx of refugees had been working out in practice; and how effectively the Esquipulas Agreement relating to voluntary repatriation of asylum seekers had been carried out. Clarification was also requested of article 19 of the Constitution, according to which aliens did not have recourse to diplomatic protection except as provided in international agreements.

306. In his reply, the representative of the State party stated that administrative detention of aliens during expulsion proceedings had been declared illegal unless there were criminal grounds to justify it. In addition, any individual subject to an expulsion order had recourse to the remedy of habeas corpus. Costa Rica had established a procedure for repatriation of refugees but all repatriations had to be voluntary and were subject to review. Costa Rica was seeking to assimilate those refugees who had chosen to stay in the country. Article 19 of the Constitution was designed to prevent pressure being exerted by powerful nations against smaller ones.

#### Right to privacy

307. With reference to that issue, members of the Committee wished to receive information concerning the law and practice relating to permissible interference with the right to privacy. Additionally, it was asked whether telephone tapping or bugging by electronic devices were prohibited in all circumstances and whether seized correspondence could be used as evidence in a court procedure.

308. In his reply, the representative of the State party noted that while article 24 of the Constitution affirmed the inviolability of private documents, under certain circumstances the courts could order searches or seizure. The Code of Criminal Procedure provided that a judicial authority could authorize the police to enter a person's home, tap the telephone or interfere with correspondence and in such cases the information obtained could be admitted as evidence. The Penal Code set out penalties for slander, defamation of character, wrongful seizure of correspondence and the publication of confidential information or insulting material.

#### Freedom of religion and expression; prohibition of propaganda for war and incitement to national, racial or religious hatred

309. With regard to that issue, members of the Committee wished to know what procedures existed for legal recognition and authorization of various religious denominations; in which respect the Roman Catholic Church enjoyed privileged treatment as compared with other churches or religious groups; what controls were exercised on the press and mass media under Costa Rican law; whether the law requiring accreditation of journalists was still in force and, if so, what role the National Association of Journalists played in granting accreditation; what the penalty was for engaging in journalism without a license; and whether Decree Law No. 440 had been repealed or amended, particularly in the light of the advisory opinion of the Inter-American Court of Human Rights. Information was also sought regarding the activities of foreign journalists in Costa Rica and the application of article 294 of the Penal Code relating to propaganda against the constitutional order.

310. In his reply, the representative of the State party explained that religious denominations had to be registered with the Ministry of Foreign Affairs and Worship to be recognized, whereupon they were entitled to receive benefits and to build churches and establish schools. The Roman Catholic Church received certain subsidies not granted to other churches. While public schools provided Catholic religious instruction, a pupil could be excused from such instruction if he or she did not wish to receive it. According to article 29 of the Constitution, everyone was permitted to communicate his thoughts and to publish them without prior censorship but they were also responsible for abuses committed in the exercise of that right. Licenses authorizing a person to exercise a particular profession, including journalism, were granted by the relevant professional associations which were free from governmental control. If an application for registration was rejected, the person concerned had recourse to the remedy of amparo and to a court for administrative matters. A person engaged in journalism without a license was doing so illegally and was subject to a fine. The only requirement for foreign correspondents was that they submit an application for accreditation to the Costa Rican Association of Journalists. Costa Rican legislation favoured the establishment of foreign news agencies and exempted them from taxes on their activities carried out in Costa Rica. Ownership of television channels was limited under the law to citizens by birth or naturalization.

311. The Inter-American Commission on Human Rights, having received a complaint, had ruled that there had been no contradiction between Decree Law No. 440, relating to the Costa Rican Association of Journalists, and the American Convention on Human Rights. Subsequently, however, the Inter-American Court of Human Rights had issued an advisory opinion stating that there had been a contradiction between those two texts. Since the binding rule from the Inter-American Commission and the advisory opinion from the Inter-American Court were contradictory, the Government had decided not to seek to amend the organic law.

#### Freedom of assembly and association

312. With regard to that issue, members of the Committee wished to receive information about the number, membership and organization of trade unions in Costa Rica. In addition, it was asked what restrictions were imposed by law on the right of assembly; what the conditions were for meetings in public places; and whether it was true that the solidarista movement of employers was favoured to the detriment of trade unions.

313. In his reply, the representative of the State party said that there were 9,250 trade unions with

175,997 registered members in Costa Rica and that a new Labour Code was being developed to update and improve the collective bargaining system. The decline of the trade union movement was due entirely to internal factors. The Law of Association ensured treatment for the trade unions and the solidarista movement but workers had expressed a clear preference for the latter because the trade unions lacked internal democracy and failed to satisfy their demands. Political meetings in public places had to be authorized and were allowed starting six months before an election. Authorization had to be requested in the locality concerned, with ultimate authority resting with the Supreme Electoral Tribunal.

#### Protection of family and children

314. With regard to that issue, members of the Committee wished to receive additional information concerning the activities of the National Children's Board and about legal provisions enacted pursuant to article 71 of the Constitution relating to the protection of children in respect of employment and of women and children at work. In addition, information was sought regarding the equality of spouses during marriage and at its dissolution; the influence of the Church in family matters; and the conditions under which a marriage could be prohibited.

315. In his reply, the representative of the State party explained that the National Children's Board, which existed since 1930, protected abandoned children, sought temporary homes for them, supervised adoption, ensured financial support from parents and was a legal party to all court cases involving children. Under the Family Code, marriage could be prohibited because of an existing marriage, consanguinity or absence of consent and could be dissolved either by death or divorce, including divorce by mutual consent. The Church had no control over divorce proceeding and spouses enjoyed equal treatment. Custody of children under the age of seven was automatically given to the mother, but with older children custody would be awarded to either parent.

#### Right to participate in the conduct of public affairs; rights of persons belonging to minorities

316. Regarding these issues, members of the Committee wished to know whether members of minority groups had equitable access to public service; how such access was exercised; and what factors and difficulties, if any, had affected the enjoyment by minorities of their rights under the Covenant. Clarification was also sought of the reference in article 91 of the Constitution to the suspension of the exercise of political rights, as well as of article 93 of the Constitution, relating to political propaganda. It was also asked whether a person could be penalized for not participating in an election; whether seats were, in accordance with article 95 of the Constitution, reserved to the representatives of minorities; and whether any laws had been enacted for the purpose of safeguarding the right of the indigenous population to property.

317. In his reply, the representative of the State party explained that Costa Rica had a rather homogeneous population. Its only minorities were persons of African descent from the Caribbean Islands, who accounted for 2 per cent of the population, and the indigenous minority, accounting for 0.5 per cent of the population. Members of the indigenous populations held the most important posts in the National Commission for Indigenous Affairs. There were, at present, no restrictions preventing the indigenous population from exercising its rights under the Covenant. Article 95 of the Constitution referred not to ethnic groups but to political minorities.



318. Under the Penal Code there were certain offences for which the right to vote and to stand for election could be suspended. While voting was compulsory, failure to do so was no longer punishable under the law. The Supreme Electoral Tribunal was responsible for monitoring all political propaganda. The constitutional provisions concerning the suspension of the exercise of political rights by members of the Catholic clergy reflected the political and cultural attitudes prevalent when the Constitution had been drafted.

#### General observations

319. Members of the Committee thanked the State party's delegation for having engaged in an excellent and constructive dialogue with the Committee. Members noted with particular satisfaction that Costa Rica, while not economically powerful, had such a strong tradition of respect for human rights. The efforts undertaken to review and extend human rights showed how serious Costa Rica's legislature was in removing inconsistencies with the Covenant and were in conformity with the country's long history of judicial independence and tolerance. Members welcomed, in particular, the establishment of a Constitutional Tribunal that placed the Covenant on a par with the Constitution. Noting that the report had not been prepared in full conformity with the Committee's guidelines regarding the form and contents of reports from States parties under article 40 of the Covenant (CCPR/C/20), members expressed the hope that Costa Rica's third periodic report would give more information on the evolving practice in the country. It was also noted that some of the concerns expressed by members of the Committee had not been fully allayed, particularly in respect of certain problems relating to the implementation of article 14, paragraph 5, of the Covenant; the length of pre-trial detention; equality of the sexes; the treatment of journalists without a license; and the protection of minorities.

320. In concluding consideration of the second periodic report of Costa Rica, the Chairman said that the Committee had greatly valued the efforts of the Costa Rican delegation, which had made possible a very fruitful dialogue.

## CCPR A/49/40 (1994)

150. The Committee considered the third periodic report of Costa Rica (CCPR/C/70/Add.4) at its 1298<sup>th</sup> to 1300<sup>th</sup> meetings, held on 24 and 25 March 1994 (see CCPR/C/SR.1298-1300), and adopted 25/ the following comments:

### 1. Introduction

151. The Committee welcomes the opportunity to continue its dialogue with the State party but notes with regret that its report did not contain sufficient information on the implementation in practice of the Covenant. The Committee notes that the delegation provided useful information on several points not covered in the report.

152. The Committee expresses its concern over the inadequate steps taken by the State party properly to discharge its reporting obligations under article 40 of the Covenant. In this regard, the Committee regrets that its observations at the consideration of the second periodic report were not taken into account during the preparation of the third periodic report. Furthermore, the third periodic report did not at all conform to the reporting guidelines established by the Committee. The Committee is also concerned that the report was neither adequately publicized in Costa Rica nor available to the public or human rights organizations in Costa Rica in advance of its consideration by the Committee.

### 2. Factors and difficulties affecting the application of the Covenant

153. The Committee notes that there was no indication in the report concerning factors and difficulties affecting the application of the Covenant.

154. The Committee understands that a rising crime rate has considerably increased the workload of the judiciary.

### 3. Positive aspects

155. The Committee takes note with appreciation of the level of achievement in the enjoyment of human rights in Costa Rica. It notes with satisfaction the measures undertaken by the Government to protect human rights at the national level, such as those offices established for the protection of human rights of women, children and detainees and the recently established Office of the Defender of the Inhabitants. In particular, the Committee expresses its satisfaction with the goodwill demonstrated by the Government to achieve effective protection of human rights and the progressive approach it has adopted to incorporate international human rights standards into the domestic legal order. The Committee expresses its appreciation for the major contribution by Costa Rica aimed at strengthening international efforts to promote and protect human rights.

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25/ At its 1315<sup>th</sup> meeting (fiftieth session), held on 6 April 1994.

#### 4. Principal subjects of concern

156. The Committee notes with concern that, in view of the inadequate information that has been provided by the State party, it is unclear to what extent the rights of detainees are protected in actual practice, particularly the right to liberty and security of person and the right of appeal. In that connection, concern is expressed at the present level of protection for detainees regarding lengthy pre-trial detention. Concern is also expressed at the inadequacy of training on human rights standards, particularly the provisions of the Covenant, provided to the police and security forces and the extent to which their activities are monitored.

157. The Committee notes with concern that many labour regulations, particularly those relating to freedom of association as protected under article 22 of the Covenant, are not in conformity with international standards. In particular, the Committee further notes that the rights of workers employed by small agricultural businesses, especially those who wish to form unions in coffee and sugar cane plantations, may not be protected under the current legal regime. Additionally, there is concern that the system of “solidarity” organizations (asociaciones solidaristas) may prevent the effective enjoyment of those rights in general.

158. With respect to article 18 of the Covenant, the Committee is concerned at the pre-eminent position accorded to the Roman Catholic Church. The Committee also notes with concern that certain provisions of Costa Rican legislation (inter alia, the Lev de Carrera Docente) confer on the National Episcopal Conference the power to effectively impede the teaching of religions other than Catholicism in public schools and the power to bar non-Catholics from teaching religion in the public school curricula.

159. The Committee notes with concern that many laws aimed at promoting gender equality have not had their intended effect and that there is still much progress to be made in this regard.

#### 5. Suggestions and recommendations

160. The Committee recommends that existing measures to protect the rights of detainees be strengthened. In this connection, the Committee emphasizes the importance of closely monitoring pre-trial detention and the need for prompt investigation into reports of abuse. The Committee stresses the importance of adequate training for the police and other security forces and prison personnel with respect to the relevant provisions of the Covenant as well as other applicable international human rights standards, including the Standard Minimum Rules for the Treatment of Prisoners.

161. The Committee suggests that the Government consider steps to review and, where necessary, reform labour legislation to ensure that freedom of association, as guaranteed under article 22 of the Covenant, is enjoyed by all workers in Costa Rica and, in particular, that workers in small agricultural enterprises are free to organize.

162. The Committee recommends that the State party take steps to ensure that there is no discrimination in the exercise of the right to religious education, particularly with respect to access to religious teachings other than Catholicism. Current practices which make the selection of

religious instructors subject to the authorization of the National Episcopal Conference are not in conformity with the Covenant.

163. The Committee recommends that further measures be taken to combat gender inequality and to improve the situation of women in Costa Rica.

164. The Committee strongly urges the Government to prepare its fourth periodic report in compliance with the guidelines for the preparation of State party reports and take into account concerns expressed during the consideration of the third periodic report. The Committee emphasizes that Costa Rica should be prepared to report on, and participate in a dialogue on, each article of the Covenant; and that this obligation is not negated by the fact that Costa Rica believes that it has given some of the relevant material to another treaty body. The fourth periodic report should contain, inter alia, detailed and updated information on the extent to which each of the rights protected under the Covenant, including article 27, are enjoyed in actual practice and on measures taken during the reporting period to further implement the Covenant. The Committee emphasizes that the State party should not underestimate the importance of properly fulfilling its obligations under article 40 of the Covenant. In that connection, attention is drawn to the fact that appropriate advice and training for the submission of reports might be obtained from the Centre for Human Rights.

165. The Committee underlines the importance of involving concerned professional organizations, non-governmental organizations, the media and the general public in efforts to improve the application of the Covenant. To this end, the State party should ensure that its reports under article 40 of the Covenant are publicized and readily accessible in Costa Rica in advance of their consideration by the Committee. Additional measures should be taken with a view to making provisions of the Covenant more widely known among judges, lawyers, teachers and the general public.

## **CCPR A/54/40 (1999)**

270. The Committee considered the fourth report of Costa Rica (CCPR/C/103/Add.6) at its 1745<sup>th</sup> and 1746<sup>th</sup> meetings (CCPR/C/SR.1745-1746), held on 5 April 1999, and adopted the following concluding observations at its 1751<sup>st</sup> meeting (CCPR/C/SR.1751), held on 8 April 1999.

### **1. Introduction**

271. The Committee welcomes the presentation by the delegation of the fourth periodic report of Costa Rica. It also expresses its appreciation for its comprehensive responses to the Committee's written and oral questions.

### **2. Principal positive aspects**

272. The Committee notes with satisfaction that in Costa Rica international human rights treaties have primacy over domestic law.

273. The Committee welcomes the progress made by the Office of the Ombudsman in dealing with violations of human rights.

274. The Committee takes note of measures to enhance equality between men and women and welcomes in this regard the drawing up of affirmative action plans. It also notes that the Labour Code guaranteeing women's rights on the basis of article 33 of the Constitution has helped to secure greater equality for women.

275. The Committee commends the State party for the establishment of a Ministry for Women's Affairs, and for the development of national plans aimed at combating domestic violence.

276. The Committee commends the State party for its ratification of the Second Optional Protocol, aiming at the abolition of the death penalty.

277. The Committee notes with satisfaction the entry into force of a new Code of Criminal Procedure. In particular, it welcomes the provision of alternatives to prison sentences, through fines and payment of damages, community service, re-education and conciliation between offenders and victims. It also takes note of measures which are planned in order to reduce crowding in the prisons.

### **3. Principal areas of concern and recommendations**

278. The Committee regrets that, despite its comments on earlier reports, the fourth periodic report does not sufficiently address, under the appropriate articles, the practical implementation of human rights in Costa Rica since the submission of the State party's third report.

279. The Committee notes that the report is unclear about the scope and effect of the remedy of amparo. The Committee therefore recommends that the State party include in its next periodic report a precise explanation, with examples to illustrate its application in respect of public and private

agencies.

280. The Committee notes with concern the consequences for women of the continuing criminalization of all abortions, including the danger to life involved in clandestine abortions. The Committee recommends that the law be amended to introduce exceptions to the general prohibition of all abortions.

281. The Committee is concerned that violence against women and domestic violence in particular is on the increase in Costa Rica. It recommends that all necessary measures, including the enactment of appropriate legislation, be taken to protect women in these areas.

282. The Committee notes with concern that, although the State party affirms that no cases of torture have occurred in Costa Rica, it has not received adequate information about legislation and other measures designed to prevent and punish torture and other cruel and inhuman acts.

283. The Committee remains concerned that individuals awaiting trial may spend long terms in detention after indictment. The State party should ensure that its law and practice in this matter comply with article 9, paragraph 3, and article 14, paragraphs 2 and 3 (c), of the Covenant.

284. The Committee recommends that further data be provided on alleged cases of discrimination in the public and private sectors, and remedies to deal with such cases.

285. The Committee remains concerned at the fact that religious discrimination in education and other aspects of Costa Rican life continues to be embodied in domestic legislation, as noted in its previous concluding observations. The Committee reiterates the State party's obligation to bring domestic legislation into harmony with the Covenant and requests the State party to report on the implementation of this recommendation.

286. The Committee notes with concern that freedom of association, including the right to collective bargaining, is not adequately respected in conformity with article 22 of the Covenant. It reiterates in particular the concern expressed in its previous concluding observations that workers in small agricultural businesses do not receive adequate protection against reprisals for attempts to form associations and trade unions. The Committee wishes to stress that the State party should guarantee the enjoyment of rights by all individuals and therefore recommends once again that it consider steps to review and, where necessary, reform labour legislation, to introduce measures of protection to ensure that workers have access to speedy and effective remedies, and to ensure that freedom of association, as guaranteed under article 22 of the Covenant, is enjoyed by all workers in Costa Rica.

287. The Committee is deeply concerned at the high incidence of commercial sexual exploitation of children in Costa Rica, apparently often related to tourism. It notes the creation of a National Board for the Protection of the Child and amendments to the Criminal Code to criminalize the sexual exploitation of children. The Committee urges the State party to take further measures to eradicate this phenomenon, in cooperation as appropriate with other States, through the investigation and prosecution of the crimes in question.

288. The Committee further notes with concern an increase in child labour and school drop-outs,

and that no effective remedies are in place.

289. The Committee notes that, despite improvements, laws aimed at gender equality have not had their intended effect, in particular with regard to equal pay, and recommends that the State party take all steps necessary to give effect to its commitments in law, and to bring about the necessary cultural and attitudinal changes that must accompany them, through educational and other programmes.

290. The Committee remains concerned that article 27 of the Covenant is not adequately dealt with by the State party in its fourth periodic report. It reiterates its previous recommendation that future reports should contain, *inter alia*, detailed and updated information on the extent to which each of the rights protected under the Covenant, including article 27, are enjoyed in actual practice by the members of indigenous communities. Although it notes the State party's establishment of CONAI (Comisión Nacional Indígena), and the enactment of a bill to implement the International Convention on the Elimination of All Forms of Racial Discrimination and ILO Convention No. 169 on Indigenous and Tribal Peoples in Independent Countries, it remains concerned at the lack of effective remedies for indigenous people in Costa Rica.

291. The Committee sets the date for the submission of Costa Rica's fifth periodic report at April 2004. It urges the State party to make available to the public the text of its fourth report and the present concluding observations. It also requests that the next periodic report be disseminated to the public and to appropriate non-governmental organizations.