

Committee on Economic, Social and Cultural Rights

Report on the forty-fourth and forty-fifth sessions

(3–21 May 2010, 1–19 November 2010)

Economic and Social Council

Official Records, 2011

Supplement No. 2



United Nations

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Note

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

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Contents

<i>Chapter</i>	<i>Paragraphs</i>	<i>Page</i>
I. Organizational and other matters	1–18	1
A. States parties to the Covenant.....	1	1
B. Sessions and agenda	2–4	1
C. Membership and attendance	5–9	1
D. Pre-sessional working group	10–12	3
E. Organization of work.....	13–16	3
F. Next sessions	17	4
G. States parties' reports scheduled for consideration by the Committee at its upcoming sessions	18	5
II. Overview of the present working methods of the Committee.....	19–59	5
A. General reporting guidelines	21	5
B. Examination of States parties' reports.....	22–35	6
C. Follow-up procedure in relation to the consideration of reports.....	36–39	8
D. Procedure in response to non-submitted and considerably overdue reports	40–41	9
E. Consolidation of reports	42	10
F. Action by the Committee with regard to information on economic social and cultural rights received from sources other than the States parties.....	43–48	10
G. Day of general discussion.....	49	11
H. Other consultations	50–51	12
I. Participation of non-governmental organizations in the work of the Committee	52–54	12
J. General comments	55–58	13
K. Statements adopted by the Committee	59	13
III. Submission of reports by States parties under articles 16 and 17 of the Covenant	60–62	14
IV. Consideration of reports submitted by States parties under articles 16 and 17 of the Covenant	63–452	14
<i>Forty-fourth session</i>		
Afghanistan	66–117	15
Algeria	118–143	25
Colombia.....	144–178	30
Kazakhstan.....	179–223	38
Mauritius.....	224–260	46

<i>Forty-fifth session</i>		
Dominican Republic	261–299	53
Netherlands (Kingdom of)	300–342	62
Sri Lanka	343–382	70
Switzerland	383–417	80
Uruguay	418–452	87
V. Substantive issues arising in the implementation of the International Covenant on Economic, Social and Cultural Rights	453–459	93
A. Day of general discussion on the right to sexual and reproductive health	453–456	93
B. Statement on the right to sanitation	457	95
C. Briefing session on indicators, benchmarking, scoping and assessment in relation to economic, social and cultural rights	458–459	96
VI. Additional decisions adopted and matters discussed by the Committee at its forty-fourth and forty-fifth sessions	460–469	96
A. Participation in intersessional meetings.....	460	96
B. Rules of procedure for the Optional Protocol to the Covenant.....	461	97
C. Future statements.....	462	97
D. Cooperation with specialized agencies.....	463	97
E. Working methods of the Committee.....	464–469	97
VII. Other activities of the Committee in 2010	470–472	98
A. Informal consultations on climate change and human rights.....	470	98
B. Maternal mortality: an interactive briefing for the Committee.....	471	98
C. Lunch briefing on clarifying and promoting extraterritorial human rights obligations — the new Maastricht Principles	472	98
VIII. Adoption of the report.....	473	99
Annexes		
I. Members of the Committee on Economic, Social and Cultural Rights.....		100
II. A. Agenda of the forty-fourth session of the Committee on Economic, Social and Cultural Rights (3–21 May 2010).....		101
B. Agenda of the forty-fifth session of the Committee on Economic, Social and Cultural Rights (1–19 November 2010).....		101
III. List of general comments adopted by the Committee on Economic, Social and Cultural Rights		103
IV. List of statements adopted by the Committee on Economic, Social and Cultural Rights		105
V. Days of general discussion held by the Committee on Economic, Social and Cultural Rights		107
VI. Statement on the right to sanitation.....		109
VII. A. List of documents of the Committee at its forty-fourth session.....		111
B. List of documents of the Committee at its forty-fifth session		113

Chapter I

Organizational and other matters

A. States parties to the Covenant

1. As of 19 November 2010, the closing date of the forty-fifth session of the Committee on Economic, Social and Cultural Rights, with the ratification by Bahamas, 160 States were parties to the International Covenant on Economic, Social and Cultural Rights. The Covenant was adopted by the General Assembly in resolution 2200 A (XXI) of 16 December 1966 and opened for signature and ratification in New York on 19 December 1966. It entered into force on 3 January 1976 in accordance with the provisions of its article 27.

B. Sessions and agenda

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

3. In 2010, the Committee held its forty-fourth session from 3 to 21 May, and its forty-fifth session from 1 to 19 November. Both sessions were held at the United Nations Office at Geneva. The agenda for each session is displayed in annex II to the present report.

4. An account of the Committee's deliberations at its forty-fourth and forty-fifth sessions is contained in the relevant summary records (E/C.12/2010/SR.1–17 and 27 and E/C.12/2009/SR.29–46, 49–50 and 55, respectively).

C. Membership and attendance

5. One new member of the Committee was welcomed at the start of the forty-fourth session: Mr. Aslan Abashidze was elected to replace Mr. Yuri Kolosov who resigned from the Committee on 1 August 2009. All members of the Committee attended the forty-fourth session (see list of members, annex I to the present report). Another new member was welcomed at the forty-fifth session: Ms. Jun Cong was elected to replace Mr. Daode Zhan who resigned from the Committee on 26 July 2010. All members of the Committee attended the forty-fifth session (see list of members, annex I to the present report).

6. The newly elected members of the Committee made their solemn declaration on 3 May 2010 and 9 November 2010, respectively, in accordance with rule 13 of the Committee's rules of procedure.

7. The following specialized agencies and United Nations organs and departments were invited to be represented by observers at the forty-fourth and forty-fifth sessions: the Division for the Advancement of Women (DAW), the Food and Agriculture Organization (FAO), the International Labour Organization (ILO), the International Monetary Fund (IMF), the Joint United Nations Programme on HIV/AIDS (UNAIDS), the United Nations Conference on Trade and Development (UNCTAD), the United Nations Development Programme (UNDP), United Nations Environment Programme (UNEP), United Nations Educational, Scientific and Cultural Organization (UNESCO), the United Nations Population Fund (UNFPA), the United Nations Human Settlements Programme (UN-

Habitat), the Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Children's Fund (UNICEF), United Nations Development Fund for Women (UNIFEM), the World Health Organization (WHO), the World Intellectual Property Organization (WIPO) and the World Bank.

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

At the forty-fourth session:

General consultative status: Centre Europe-Tiers Monde (CETIM); Helpage International

Special consultative status: Amnesty International (Swiss section); Association of the Prevention of Torture (APT); Center for Reproductive Rights; Latin American and Caribbean Committee for the Defence of Women's Rights (CLADEM); Colombian Commission of Jurists (CCJ-Colombia); Conscience and Peace Tax International (CPTI); European Region of the International Lesbian and Gay Association (ILGA); International Federation of Human Rights Leagues (FIDH); International Federation Terre des Hommes (IFTDH-France); International Institute Mary Auxiliatrice (IIMA); International Harm Reduction Association (IHRA); International Organization for the Right to Education and Freedom of Education (OIDEF); International Service for Human Rights (ISHR); International Volunteerism Organization for Women, Education and Development (VIDES); Lutheran World Federation; Minority Rights Group; Bischöfliches Hilfswerk Misereor E.V. (MISEREOR); Women's International League for Peace and Freedom (WILPF); 3D – Trade Human Rights Equitable Economy

Roster: Association of World Citizens; International Federation of Rural Adult Catholic Movements (FIMARC); Asia Pacific Forum on Women, Law and Development (APWLD); FIAN International (Foodfirst Information and action Network)

At the forty-fifth session:

Special consultative status: CLADEM; Geneva for Human Rights; International Commission of Jurists (ICJ); International Catholic Child Bureau; Defence for Children International (DCI); ESCR-NET; OIDEF; World Association Against Torture (OMCT); 3D – Trade Human Rights Equitable Economy

Roster: World Association for the School as an Instrument of Peace (EIP)

9. The following other national and international non-governmental organizations and coalitions of national non-governmental organizations were represented by observers at either or both of the forty-fourth and forty-fifth sessions: Afghan Women's Network;

Association Points Coeur; Consejo Nacional de Mujeres Comunidad Indigena Pueblo Capelo (Ecuador); East and Horn of Africa Human Rights Defenders; Eswela Nacional Sindical, Proceso Organizativo del Pueblo Rom – Gitano de Colombia; Human Rights and Development Foundation; Minority Rights Group International; ICJ; FIDH; Foundation for Marist Solidarity International (FMSI); Inter-American Platform for Human Rights, Democracy and Development; International Disability Alliance; Intersexuelle Menschen E.V.; Latin American and Caribbean Committee for the Defence of Women's Rights; Netherlands Platform for Human Rights Education; Seeds Group-Corporación Grupo Semillas (Colombia); Tamazgha; Society Against Sexual Orientation Discrimination (SASOD); Stop Suicide; West Africa Human Rights Defenders Network; Young Lawyers Association "Amparo".

D. Pre-sessional working group

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

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

Prior to the forty-fifth session:

Mr. Mohammed Abdel-Moneim
Ms. Rocio Barahona Riera
Mr. Eibe Riedel
Mr. Zdzislaw Kedzia
Mr. Waleed Sadi

Prior to the forty-sixth session:

Mr. Aslan Abashidze
Mr. Clement Atangana
Ms. Rocio Barahona Riera
Ms. Virginia Bonoan Dandan
Ms. Maria Virginia Bras Gomes

12. The pre-sessional working group held its meetings at the United Nations Office at Geneva from 25 to 28 May 2010 and from 22 to 26 November 2010. All designated members of the working group attended the meetings. The working group identified issues that might most usefully be discussed with the representatives of the reporting States and lists of such questions were transmitted to the permanent missions of the States concerned. The pre-sessional working group will hold its meetings for 2011 from 23 to 27 May 2011 and from 5 to 9 December 2011.

E. Organization of work

Forty-fourth session

13. The Committee considered its organization of work at its first meeting on 3 May 2010. In connection with this item, the Committee had before it the following documents:

(a) Provisional agenda and tentative programme of work for the forty-fourth session, prepared by the Secretary-General in consultation with the Chairperson of the Committee (E/C.12/44/1);

(b) Reports of the Committee on the work of its previous sessions:¹ first (E/1987/28-E/C.12/1987/5), second (E/1988/14-E/C.12/1988/4), third (E/1989/22-E/C.12/1989/5), fourth (E/1990/23-E/C.12/1990/3 and Corr.1), fifth (E/1991/23-E/C.12/1990/8 and Corr.1), sixth (E/1992/23-E/C.12/1991/4 and Add.1), seventh (E/1993/22-E/C.12/1992/2), eighth and ninth (E/1994/23-E/C.12/1993/19), tenth and eleventh (E/1995/22-E/C.12/1994/20 and Corr.1), twelfth and thirteenth (E/1996/22-E/C.12/1995/18), fourteenth and fifteenth (E/1997/22-E/C.12/1996/6), sixteenth and seventeenth (E/1998/22-E/C.12/1997/10), eighteenth and nineteenth (E/1999/22-E/C.12/1998/26), twentieth and twenty-first (E/2000/22-E/C.12/1999/11 and Corr.1), twenty-second, twenty-third and twenty-fourth (E/2001/22-E/C.12/2000/21), twenty-fifth, twenty-sixth and twenty-seventh (E/2002/22-E/C.12/2001/17), twenty-eighth and twenty-ninth (E/2003/22-E/C.12/2002/13), thirtieth and thirty-first (E/2004/22-E/C.12/2003/14), thirty-second and thirty-third (E/2005/22-E/C.12/2004/9), thirty-fourth and thirty-fifth (E/2006/22-E/C.12/2005/5), thirty-sixth and thirty-seventh (E/2007/22-E/C.12/2006/11), thirty-eighth and thirty-ninth (E/2008/22-E/C.12/2007/3) and fortieth and forty-first (E/2009/22-E/C.12/2008/3 and forty-second and forty-third (E/2010/22-E/C.12/2009/3).

14. In accordance with rule 8 of its rules of procedure, the Committee, at the same meeting, considered the provisional agenda and tentative programme of work for its forty-fourth session and approved them, as amended during consideration.

Forty-fifth session

15. The Committee considered its organization of work at its 29th meeting on 1 November 2010. In connection with this item, the Committee had before it the following documents:

(a) Provisional agenda and tentative programme of work for the forty-fifth session, prepared by the Secretary-General in consultation with the Chairperson of the Committee (E/C.12/45/1);

(b) Reports of the Committee on the work of its previous sessions (see paragraph 13 (b) above).

16. In accordance with rule 8 of its rules of procedure, the Committee, at the same meeting, considered the provisional agenda and tentative programme of work for its forty-fifth session and approved them, as amended during consideration.

F. Next sessions

17. In accordance with the established schedule, the forty-sixth and forty-seventh sessions will take place at the United Nations Office at Geneva from 2 to 20 May 2011 and from 14 November to 2 December 2011, respectively.

¹ Published as *Official Records of the Economic and Social Council*.

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

18. In accordance with rule 61, paragraph 2, of the Committee's rules of procedure, the reports submitted by States parties under article 16 of the Covenant are scheduled for consideration in the order in which they have been received by the Secretary-General. The Committee received as at 20 November 2010, closing date of the forty-fifth session, the following reports, which it decided to consider at its forty-sixth and forty-seventh sessions in 2011:

Forty-sixth session (2–20 May 2011)

Germany	Fifth	E/C.12/DEU/5
Republic of Moldova	Second	E/C.12/MDA/2
Russian Federation	Fifth	E/C.12/RUS/5
Turkey	Initial	E/C.12/TUR/1
Yemen	Second	E/C.12/YEM/2

Forty-seventh session (14 November–2 December 2011)

Argentina	Third	E/C.12/ARG/3
Cameroon	Second and third	E/C.12/CMR/2-3
Estonia	Second	E/C.12/EST/2
Israel	Third	E/C.12/ISR/3
Turkmenistan	Initial	E/C.12/TKM/1

Chapter II

Overview of the present working methods of the Committee

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

20. Since its first session, in 1987, the Committee has made a concerted effort to devise appropriate working methods that adequately reflect the nature of the tasks with which it has been entrusted. In the course of its 45 sessions it has sought to modify and develop these methods in the light of its experience. These methods will continue to evolve.

A. General reporting guidelines

21. The Committee attaches major importance to the need to structure the reporting process and the dialogue with each State party's representatives in such a way as to ensure that the issues of principal concern to it are dealt with in a methodical and informative manner. For this purpose, in 2008 the Committee has adopted revised reporting guidelines on treaty-specific documents to be submitted by States parties under articles 16 and 17 of

the Covenant,² with a view to assisting States in the reporting process and improving the effectiveness of the monitoring system as a whole.

B. Examination of States parties' reports

1. Work of the pre-sessional working group

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

23. The principal purpose of the working group is to identify in advance the questions that will constitute the principal focus of the dialogue with the representatives of the reporting States. The aim is to improve the efficiency of the system and to ease the task of States' representatives by facilitating more focused preparations for the discussion.³

24. It is generally accepted that the complex nature and diverse range of many of the issues raised in connection with the implementation of the Covenant constitute a strong argument in favour of providing States parties with the possibility of preparing in advance to answer some of the principal questions arising out of their reports. Such an arrangement also enhances the likelihood that the State party will be able to provide precise and detailed information.

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

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

27. The lists of issues drawn up by the working group are sent to the State party concerned, with a note stating the following:

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

² *Official Records of the Economic and Social Council, 2009, Supplement No. 4 (E/2009/22-E/C.12/2008/3), annex VIII.*

³ *Ibid., 1998, Supplement No. 4 (E/1988/14-E/C.12/1988/4), chap. IV, para. 361.*

and to do so sufficiently in advance of the session at which its report will be considered to enable the replies to be translated and made available to all members of the Committee.

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

2. Consideration of the reports

29. In accordance with the established practice of each of the United Nations human rights treaty monitoring bodies, representatives of the reporting States should be present at the meetings of the Committee when their reports are examined in order to ensure a constructive dialogue with the Committee. The following procedure is generally observed: the representative of the State party is invited to introduce the report by making brief introductory comments and providing any new information that may be relevant to the dialogue. The Committee then considers the report by clusters of articles (usually articles 1–5, 6–9, 10–12 and 13–15), taking particular account of the replies furnished in response to the list of issues. The Chairperson will normally invite questions or comments from Committee members in relation to each issue and then invite the State party representatives to reply immediately to questions that do not require further reflection or research. Any remaining questions are taken up at a subsequent meeting or, if necessary, may be the subject of additional information provided to the Committee in writing. Members of the Committee are free to pursue specific issues in the light of the replies thus provided, although the Committee has urged them not to (a) raise issues outside the scope of the Covenant; (b) repeat questions already posed or answered; (c) add unduly to an already long list on a particular issue; or (d) speak for more than five minutes in any one intervention.

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

31. The concluding observations, once formally adopted, are generally made public on the final day of the session. They are forwarded as soon as possible to the State party concerned and included in the Committee's report. If it so wishes, the State party may address any of the Committee's concluding observations in the context of any additional information that it provides to the Committee.

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

3. Comments by States parties on concluding observations

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

34. During the reporting period, the Committee received comments from the Netherlands on the concluding observations that the Committee adopted at its forty-fifth session in relation to the combined fourth and fifth periodic report submitted by the Netherlands (E/CN.12/NLD/4-5).

4. Postponement of the consideration of reports

35. Last-minute requests by States to postpone the consideration of a report that has been scheduled for examination at a particular session are extremely disruptive for all concerned and have in the past caused major problems for the Committee. Accordingly, the Committee's long-standing policy is not to grant such requests and to proceed with its consideration of all scheduled reports, even in the absence of a representative of the State party concerned.

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

36. At its twenty-first session,⁴ the Committee decided that:

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

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

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

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

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

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

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

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

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

⁴ On 1 December 1999 (53rd meeting).

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

37. In situations in which the Committee considers that it is unable to obtain the information it requires on the basis of the above-mentioned procedures, it may decide to adopt a different approach. In particular, the Committee may request that the State party concerned accept a visit from one or two members of the Committee. The purposes of such an on-site visit would be: (a) to collect the information necessary for the Committee to continue its constructive dialogue with the State party and to enable it to carry out its functions in relation to the Covenant; and (b) to provide a more comprehensive basis upon which the Committee might exercise its functions in relation to articles 22 and 23 of the Covenant concerning technical assistance and advisory services. The Committee would state specifically the issue(s) with respect to which its representative(s) would seek to gather information from all available sources. The representative(s) would also have the task of considering whether the programme of advisory services administered by the Office of the United Nations High Commissioner for Human Rights could be of assistance in connection with the specific issue at hand.

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

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

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

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

41. Accordingly, the Committee resolved at its sixth session to begin in due course to consider the situation concerning the implementation of the Covenant in respect of each State party whose reports are very significantly overdue. At its seventh session it resolved to begin scheduling consideration of such reports at its future sessions and to notify the States parties concerned. At its thirty-sixth session, the Committee adopted the following procedure:

- (a) To review three lists of States parties whose reports are overdue:
 - (i) States parties with reports that were due within the past eight years;
 - (ii) States parties with reports that were due from 8 to 12 years ago;
 - (iii) States parties with reports that were due more than 12 years ago;
- (b) To send reminders to States parties as follows:

- (i) The first letter will be sent to all States parties about the dates on which their reports are due; those with overdue reports will be reminded of and requested to submit those reports as soon as possible;
- (ii) A second letter will be sent to States parties with the most outstanding and overdue reports that do not respond to the reminder, informing them that the Committee plans to consider the overdue report(s) at a specific session in the future, and requesting that those reports be submitted in sufficient time to allow a constructive dialogue to take place;
- (iii) A third letter will be sent if no response is received to the second letter, confirming that the Committee will proceed to review the implementation of the Covenant in the State party at the session communicated in the earlier letter in light of all available information;
- (c) In situations where the State party concerned indicates that a report will be provided to the Committee and upon a request from the State party, the Chairperson may decide to defer its consideration of the implementation of the Covenant in the State party for one session.

E. Consolidation of reports

42. At its 55th meeting, held on 22 November 2006 (thirty-seventh session), the Committee reviewed the situation of overdue reports, including recent submissions of several long overdue reports, and decided as follows:

- (a) The Committee will accept from States parties that have never submitted a report under the Covenant, a one-time submission of up to three reports consolidated in a single document, in order to bring them up to date with their reporting obligations;
- (b) A consolidated report should contain a general overview of important developments in relation to the implementation of the Covenant over the entire period covered by the reports submitted and present detailed information on the present situation.

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

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

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

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

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

specifically addressed in concluding observations), the Committee will consider and act upon the information received from sources other than a State party only in cases where such information has been specifically requested in its concluding observations.

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

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

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

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

(b) States parties with long overdue periodic reports.

47. In both cases the States parties' failure to comply with their obligations under the Covenant, and in particular with their reporting obligations, had made it impossible for the Committee to monitor effectively the implementation by those States of the economic, social and cultural rights set forth in the Covenant in accordance with the mandate conferred on the Committee by the Economic and Social Council.

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

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

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

G. Day of general discussion

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

H. Other consultations

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

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

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

52. In order to ensure that the Committee is as well informed as possible, it provides opportunities for non-governmental organizations to submit relevant information to it.⁵ They may do so in writing at any time prior to the consideration of a given State party's report. The Committee's pre-session working group is also open to the submission of information in person or in writing from any non-governmental organization, provided that it relates to matters on the agenda of the working group. In addition, the Committee sets aside part of the first day at each of its sessions to enable representatives of non-governmental organizations to provide oral information. Such information should: (a) focus specifically on the provisions of the International Covenant on Economic, Social and Cultural Rights; (b) be of direct relevance to matters under consideration by the Committee; (c) be credible; (d) not be abusive. The relevant meeting is open and provided with interpretation and press services, but is not covered by summary records.

53. The Committee has requested the secretariat to ensure that written information formally submitted to it by non-governmental organizations in relation to the consideration of a specific State party report is made available as soon as possible to the representatives of the State party concerned. Prior to a session, this is normally done through posting on the website of the Office of the High Commissioner for Human Rights. The Committee therefore assumes that if any of this information is referred to during the dialogue with the State party, the latter will already be aware of the information.

54. In an effort to secure the most effective and widest possible participation of non-governmental organizations in its activities, the Committee adopted, at its twenty-fourth session in 2000, a document that explains the modalities of their participation in the Committee's work and provides detailed guidelines for non-governmental organizations with a view to facilitating their cooperation with the Committee.⁶

⁵ *Official Records of the Economic and Social Council, 2001, Supplement No. 2 (E/2001/22-E/C.12/2000/21)*, annex V: "Non-governmental organization participation in the activities of the Committee on Economic, Social and Cultural Rights".

⁶ *Ibid.*

J. General comments

55. In response to an invitation addressed to it by the Economic and Social Council, the Committee decided to begin, as from its third session, the preparation of general comments based on the various articles and provisions of the Covenant, in particular with a view to assisting the States parties in fulfilling their obligations under the Covenant. As of 19 November 2010, the Committee had adopted 21 general comments (see annex III to the present report).

56. By the end of its forty-fifth session (19 November 2010), the Committee and the governmental expert sessional working group, which existed prior to the creation of the Committee, had examined partial reports concerning rights covered by articles 6–9, 10–12 or 13–15 of the Covenant, and comprehensive reports covering all the substantive articles, submitted by 121 of the 160 States parties to the Covenant. They represented all regions of the world, with different political, legal, socio-economic and cultural systems. The reports submitted to date have illustrated many of the problems that might arise in implementing the Covenant.

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

58. At its twenty-first session, the Committee adopted the outline for drafting general comments on specific rights enshrined in the Covenant.⁷ The Committee agreed that the subject matter of a particular general comment would influence the overall structure of that comment and observed that the outline was not intended to be strictly adhered to. However, the outline provided useful signposts, a checklist of issues to be considered in the process of drafting a general comment. In this respect, the outline would assist in ensuring consistency in the content, format and ambit of general comments to be adopted by the Committee. The Committee emphasized the importance of ensuring that general comments are reader-friendly, of reasonable length and readily understandable to a broad range of readers, primarily States parties to the Covenant. The outline will assist in ensuring consistency and clarity in the structure of the general comments, thus promoting their accessibility, and strengthening the authoritative interpretation of the Covenant provided by the Committee through its general comments.

K. Statements adopted by the Committee

59. With a view to assisting States parties to the Covenant, the Committee adopts statements to clarify and confirm its position with respect to major international developments and issues bearing upon the implementation of the Covenant. As of 19 November 2010, the Committee had adopted 17 statements (see annex IV to the present report).

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

Chapter III

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

60. In accordance with rule 58 of its rules of procedure, the Committee, at its 29th meeting on 1 November 2010, considered the status of submission of reports under articles 16 and 17 of the Covenant.

61. In that connection, the Committee had before it the following document:

(a) Note by the Secretary-General on the revised general guidelines regarding the form and contents of reports to be submitted by States parties (E/C.12/2008/2);⁸

(b) Note of the Secretary-General on the States parties to the Covenant and the status of submission of reports as at 20 August 2010 (E/C.12/45/2).

62. The Secretary-General informed the Committee that, in addition to the reports scheduled for consideration by the Committee at its forty-fourth and forty-fifth sessions (see paragraphs 63 and 64 below), he had received, from 23 November 2009 to 19 November 2010, the following reports submitted under articles 16 and 17 of the Covenant by States parties:

The initial report of Togo (E/C.12/TGO/1); the combined initial and second reports of Djibouti (E/C.12/DJI/1-2); the second periodic reports of Bosnia and Herzegovina (E/C.12/BIH/2), China (E/C.12/CHN/2) (submitted together with the third periodic report of Hong Kong, China (E/C.12/CHN-HKG/3) and the second periodic report of Macao, China (E/C.12/CHN-MAC/2)), the Czech Republic (E/C.12/CZE/2), Kuwait (E/C.12/KWT/2), Lithuania (E/C.12/LTU/2) and Uzbekistan (E/C.12/UZB/2); the combined second and third periodic reports of Albania (E/C.12/ALB/2-3); the combined second, third and fourth periodic reports of Egypt (E/C.12/EGY/2-4) and Rwanda (E/C.12/RWA/2-4); the third periodic report of Japan (E/C.12/JPN/3); the combined third and fourth periodic reports of Jamaica (E/C.12/JAM/3-4); the fourth periodic reports of Austria (E/C.12/AUT/4), Belgium (E/C.12/BEL/4) and Iceland (E/C.12/ISL/4); the combined fourth, fifth and sixth periodic reports of Belarus (E/C.12/BLR/4-6); the fifth periodic reports of Denmark (E/C.12/DNK/5) and Norway (E/C.12/NOR/5).

Chapter IV

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

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

Initial report

Kazakhstan E/C.12/KAZ/1

Second periodic report

Afghanistan (second, third and fourth) E/C.12/AFG/2-4

⁸ See note 1 above.

Initial report

Mauritius (second, third and fourth) E/C.12/MUS/4

Third periodic report

Algeria (third and fourth) E/C.12/DZA/4

Fifth periodic report

Colombia E/C.12/COL/5

64. At its forty-fifth session, the Committee examined the following reports submitted by five States parties under articles 16 and 17 of the Covenant:

Second report

Sri Lanka (second, third and fourth) E/C.12/LKA/2-4

Switzerland (second and third) E/C.12/CHE/2-3

Third periodic report

Dominican Republic E/C.12/DOM/3

Uruguay (third and fourth) E/C.12/URY/3-4

Fourth periodic report

The Kingdom of the Netherlands consisting of the E/C.12/NLD/4-5

Netherlands (fourth and fifth), the Netherlands Antilles E/C.12/NLD/4/Add.1

(fourth) and the Netherlands Aruba E/C.12/NLD/4/Add.2

65. At its eighth session, the Committee had decided to discontinue its practice of including in its annual report summaries of the consideration of country reports. Reference is made, in this regard, to the relevant summary records of the meetings of the Committee at which the reports were considered. In accordance with modified rule 57 of the Committee's rules of procedure, the annual report should include the Committee's concluding observations relating to each State party's report. Accordingly, the following paragraphs, arranged on a country-by-country basis in alphabetical order, contain the concluding observations adopted by the Committee with respect to the States parties' reports considered at its forty-fourth and forty-fifth sessions. In accordance with established Committee practice, members do not take part in either the drawing up or the adoption of the concluding observations relating to their own country's report.

Forty-fourth session

Afghanistan

66. The Committee on Economic, Social and Cultural Rights considered the combined second to fourth periodic reports of Afghanistan on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/AFG/2-4) at its 15th, 16th and 17th meetings, held on 12 and 14 May 2010 (E/C.12/2010/SR.15, 16 and 17) and adopted, at its 26th and 27th meetings, held on 21 May 2010, the concluding observations as set out below.

A. Introduction

67. The Committee welcomes the submission of the combined second to fourth periodic reports of Afghanistan and the written replies to its list of issues (E/C.12/AFG/Q/2-4/Add.1). The Committee appreciates the frank and constructive dialogue with the delegation of the State party, which included representatives from various ministries with expertise on the subjects covered by the Covenant.

68. The Committee notes with appreciation the contribution of the Afghanistan Independent Human Rights Commission to the reporting process.

B. Positive aspects

69. The Committee welcomes the major legislative and institutional changes that have been introduced in the State party with a view to promoting and protecting human rights, including economic, social and cultural rights, as well as its efforts to establish new programmes and policies in line with its obligations under the Covenant and the Millennium Development Goals.

70. The Committee welcomes the adoption of the New Constitution in 2004, which extensively addresses the areas covered by international human rights standards, including economic, social and cultural rights and the principle of non-discrimination.

71. The Committee notes with satisfaction the ratification by the State party of various international human rights instruments, including: (a) the Convention on the Elimination of All Forms of Discrimination against Women (in 2003); and the two Optional Protocols to the Convention on the Rights of the Child, namely, on the involvement of children in armed conflict (in 2003) and on the sale of children, child prostitution and child pornography (in 2002).

72. The Committee notes with satisfaction the suppression of inhuman practices discriminating against women, as well as the adoption of the Elimination of Violence against Women Act in 2009; the establishment of the 10-year National Action Plan for the Women of Afghanistan, which pays due attention to economic, social and cultural rights; and the creation of the Ministry of Women's Affairs in 2008.

73. The Committee notes with satisfaction the adoption of Presidential Decree No. 297 (2006) on Dignified Return and the Regulation on Afghan Workers Abroad.

74. The Committee takes note with satisfaction of the efforts made by the State party to improve the health system, including the establishment of mobile health teams aimed at providing health services in the rural areas.

75. The Committee welcomes the rejection of previous restrictions on female education and the efforts deployed by the State party to guarantee free and compulsory basic education, which have resulted in an increase in school enrolment.

76. The Committee notes with satisfaction the establishment of the Mine Action Coordination Centre of Afghanistan and the ongoing demining activities carried out by the Centre.

C. Factors and difficulties impeding the implementation of the Covenant

77. The Committee acknowledges that Afghanistan is a country in transition that faces a wide range of challenges, and that has been ravaged by armed conflicts for over three decades, in which it has experienced destruction of institutions and infrastructure that is seriously impeding the implementation of the rights enshrined in the Covenant.

D Principal subjects of concern and recommendations

78. The Committee, while noting that according to article 7 of the new Constitution the State party shall observe the international human rights treaties, remains concerned at the fact that the Covenant has not yet been fully incorporated into domestic law and that the Covenant rights have not been invoked before, or directly enforced by, domestic courts, tribunals or administrative authorities.

The Committee recommends that the State party accord the Covenant a legal status that would enable it to be invoked directly within the domestic legal system. In this regard, the Committee refers to its general comment No. 9 (1998) on the domestic application of the Covenant. The Committee requests the State party to include detailed information on decisions of national courts, tribunals or administrative authorities giving effect to Covenant rights in its next periodic report.

79. The Committee notes with concern that, although the Afghanistan National Development Strategy contains benchmarks that have human rights relevance, they are not planned as legal entitlements and integrate only some elements of various economic, social and cultural rights, while civil and political rights are given priority.

The Committee strongly recommends that the State party take measures to ensure that a holistic human rights-based approach is put into practice in the implementation of the Afghanistan National Development Strategy, explicitly recognizing the international human rights framework that includes economic, social and cultural rights.

80. The Committee notes with concern that the State party has not adopted effective measures to combat widespread corruption and impunity. It regrets the lack of concrete information regarding the cases of civil servants, judges and other officials having been prosecuted and sentenced on charges of corruption.

The Committee recommends that the State party: (a) adopt a legal framework to combat corruption and impunity, in conformity with the international standards; (b) train lawmakers, national and local civil servants and law enforcement officers on the economic and social costs of corruption; (c) take measures to prosecute cases of corruption; (d) ensure the transparency of the conduct of public authorities, in law and in practice, and establish an independent monitoring mechanism to this end; (e) elaborate, in cooperation with relevant organizations and institutions, guidelines and a code of ethics; and (f) conduct awareness-raising campaigns. The Committee requests the State party to provide detailed information in its next periodic report about the progress made in combating corruption and impunity and any obstacles encountered.

81. The Committee notes with concern that the traditional dispute resolution mechanisms, which absorb more cases of dispute than the formal judicial system, are not compatible with human rights standards, including the Covenant rights. The Committee regrets the fact that the rights of women and children, as well as those of nomadic tribes and the poorest sectors of society, are particularly affected by the lack of access to formal justice mechanisms.

The Committee urges the State party to take effective measures to guarantee that the traditional dispute resolution mechanisms are fully compatible with international human rights standards, including the Covenant rights. The Committee recommends that the State party intensify its efforts to ensure access for the population to the formal judicial system and take adequate measures to build the trust of the population in the formal judicial system.

82. The Committee, while taking note of the adoption of the 2008 Afghanistan National Disability Action Plan, regrets that the report does not accurately reflect the current situation of persons with disabilities and characterizes disability mainly as a matter of charity and a medical concern. The Committee is concerned at the lack of sufficient measures to implement the Action Plan (art. 2).

The Committee recommends that the State party take concrete steps to implement the 2008 Afghanistan National Disability Action Plan without discrimination and, in this regard, consider ratifying the Convention on the Rights of Persons with Disabilities and its Optional Protocol.

83. The Committee is concerned at the fact that women continue to face discrimination in many domains, due to the pervasive social, political and economic discrimination against women, the insecurity in the country and the persistence of stereotypes and customary practices that marginalize them, despite the efforts made by the State party to promote gender equality. The Committee regrets the discrepancy between the legal framework and the inequality in practice in sectors such as work, public life, education and health. It is particularly concerned at the fact that some provisions of the Shia Personal Status Law remain discriminatory against women, including with regard to guardianship, inheritance, underage marriages, and limitations on movements outside the home (arts. 2 and 3).

The Committee requests the State party to take more stringent and effective legal and practical measures, including through the use of the media and education, to address the historical discrimination and inequality, cultural barriers and patriarchal attitudes in order to counter inequality between the sexes and discrimination against women, as required by article 2, paragraph 2, and article 3 of the Covenant. In this regard, it urges the State party to fully harmonize the domestic law, including the Shia Personal Status Law, with international human rights standards. In this regard, the Committee draws the State party's attention to its general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights. The Committee also recommends that the State party develop and implement a national public awareness campaign, aimed at both women and men, including community leaders.

84. The Committee, while noting that the State party has introduced a temporary quota in favour of women for the Parliament and Provincial Council, remains concerned at the low level of women's representation in decision-making positions in Afghanistan (art. 3).

The Committee recommends that the State party promote the equal participation of women in decision-making processes, in particular peacebuilding and reconciliation processes, and take temporary special measures to redress gender imbalance in society in line with article 3 of the Covenant.

85. The Committee notes with concern that persons have been subjected to forced or compulsory labour in the State party as a punishment for holding or expressing political or ideological views (art. 6).

The Committee urges the State party to take the adequate measures, including a review of the Penal Code, to ensure that forced or compulsory labour is not used as a penalty.

86. The Committee is concerned at the fact that the unemployment situation in the State party is difficult to quantify due to the lack of relevant and reliable labour statistics and labour market information (art. 6).

87. The Committee is concerned at the lack of employment opportunities for young people, returnees and internally displaced persons (IDPs), in particular in the agricultural sector (art. 6).

The Committee recommends that the State party adopt adequate mechanisms to measure the level of unemployment within its territory in order to take efficient measures to address this problem. It recommends that the State party seek formal technical assistance from the International Labour Organization in this regard.

The Committee urges the State party to adopt and implement action plans for employment that will progressively reduce unemployment in the informal sector, in particular in the agricultural sector.

88. The Committee regrets that the minimum wage set by the State party is not sufficient to provide workers and their families with an adequate standard of living (art. 7).

The Committee urges the State party to take appropriate measures to raise the minimum wage and thus enable workers and their families to meet their essential needs.

89. The Committee notes with concern that the principle of equal remuneration for men and women workers for work of equal value is not guaranteed in the State party (art. 7).

The Committee urges the State party to increase its efforts to ensure equal remuneration for work of equal value, in accordance with the Covenant, and to reduce the wage gap between men and women. In particular, the Committee recommends that the State party establish a mechanism to monitor the implementation of the rights of workers, including equal pay for work of equal value, and conduct awareness-raising campaigns in this respect.

90. The Committee, while noting that the Labour Code incorporates many of the Covenant provisions, regrets that it still contains many deficiencies, such as not addressing the right to strike and dispute resolution. The Committee is concerned at the lack of an adequate mechanism to monitor the implementation of the Labour Code, as well as the low impact of the National Skills Programme (art. 8).

The Committee recommends that the State party intensify its efforts to protect the rights of workers, and in this regard, that it revise the Labour Code, in compliance with the requirements of the Covenant, to incorporate the right to form a trade union, the right to collective bargaining and the right to strike. The Committee also recommends that the State party establish a mechanism to improve coordination and communication among the Government agencies in the process of preparing draft laws related to work.

91. The Committee notes with concern that the State party has not yet put into place a basic social security system and that therefore a large number of disadvantaged and marginalized individuals and groups, including older persons, self-employed persons, women, in particular single mothers, IDPs, returnees and refugees are not entitled to any protection (art. 9).

The Committee recommends that the State party design a national plan for social security and progressively supplement a social security scheme to ensure the protection of disadvantaged and marginalized groups. In this regard, the Committee encourages the State party to explore the possibilities of international cooperation in line with article 2, paragraph 1, of the Covenant and the Committee's general comment No. 19 (2007) on the right to social security.

92. The Committee is concerned that many of the poorest families are excluded from various poverty reduction programmes (art. 9).

The Committee recommends that the State party, in collaboration with non-governmental organizations, review the eligibility criteria for poverty reduction programmes in order to ensure that the poorest families are included in such programmes.

Given the fact that older persons are in a particularly difficult situation, either because they have no families or because their families are no longer able to support them, the Committee suggests that protection of older persons be addressed as a priority concern within the national plan for social security.

93. The Committee, while taking note of the National Strategy for Children at Risk adopted in 2006, remains concerned at the extent of violence against children, including forced and child marriage. It regrets that a high number of children, having a living parent, remain unnecessarily in care institutions (art. 10).

The Committee recommends that the State party: (a) intensify its efforts to combat violence against children and to prohibit corporal punishment of children in all settings; and (b) adopt and implement social protection programmes to enable the most disadvantaged and marginalized families to meet their basic needs and to care for their children. The Committee requests the State party to provide further information in its next periodic report on the system of institutional care for children, regulatory mechanisms, the updated number and qualifications of orphanage staff, and admission policies. The Committee would also appreciate receiving updated information on the results of the implementation of the National Strategy for Children at Risk.

94. The Committee notes with concern that child labour is a serious problem in the State party and that many children are vulnerable to all the worst forms of child labour, including forced or bonded child labour and commercial sexual exploitation (art. 10).

The Committee urges the State party to intensify its efforts to combat child labour and protect children from all forms of sexual and economic exploitation, including the worst forms of child labour, inter alia, by: (a) strengthening its national legislation prohibiting child labour in accordance with international standards; (b) increasing the number of labour inspections in order to monitor compliance with its national legislation prohibiting child labour; (c) strictly enforcing the imposition of fines and criminal sanctions against persons making use of illegal child labour; (d) organizing mandatory training for law enforcement officials, prosecutors and judges; and (e) adopting appropriate measures to facilitate access to educational opportunities for former child workers. The State party is invited to conduct a comprehensive survey on the extent of child labour, if necessary by seeking international cooperation and assistance.

95. The Committee notes with concern that children are recruited by armed groups and forces, including by the Afghan National Security Forces (art. 10).

The Committee recommends that the State party take firm measures to put a stop to all recruitment of child soldiers by armed groups and forces. To this end, a monitoring system should be instituted to prevent any further recruitment of minors. The Committee also recommends that the State party step up its efforts to assist and reintegrate children who have been recruited in armed groups and forces.

96. The Committee is deeply concerned at the alarming levels of violence against women, in particular domestic violence and so-called honour killings, despite the adoption of the Law to Eliminate Violence against Women in 2009. The Committee is also concerned at the fact that perpetrators of such crimes remain unpunished (art. 10).

The Committee recommends that the State party: (a) take effective measures to eradicate practices that are harmful to women and girls by enacting legislation and policies, in line with article 54 of the Constitution; (b) review all national legislation, including the Penal Code, the Civil Code and the Marriage Act to ensure compliance with the Constitution and international human rights law; (c) ensure that women are able to register complaints with the police without fear of reprisals, that all cases are duly prosecuted without delay, and that perpetrators of violence against women are sanctioned; and (d) launch awareness-raising campaigns to combat harmful traditional practices against women, and educate parents, particularly mothers and children, as well as the community leaders.

97. The Committee notes with concern that the State party is a source, transit point and destination country for human trafficking and that women and girls are kidnapped, lured by fraudulent marriage or job proposals, or sold into marriage or commercial sexual exploitation, despite the efforts made by the State party (art. 10).

The Committee recommends that the State party intensify its efforts to eradicate human trafficking, including by imposing appropriate sanctions on the perpetrators.

98. The Committee notes with concern that drug trafficking persists in Afghanistan, and that the State party is a major processor and exporter of heroine and opium. The Committee is further concerned at the violence and negative effects of drug trafficking in the enjoyment of the rights enshrined in the Covenant, including the right to the enjoyment of the highest attainable standard of physical and mental health.

The Committee urges the State party to adopt a comprehensive strategy to combat drug trafficking, taking into account that counternarcotics efforts should not lead to adverse impacts on the enjoyment of economic, social and cultural rights.

99. The Committee notes with concern that, notwithstanding the Afghanistan National Development Strategy, a large proportion of Afghans live in poverty or extreme poverty, in particular the inhabitants of rural and deprived urban areas, landless persons, children, families and households headed by women, persons with disabilities, IDPs and refugees (art. 11).

The Committee recommends that the State party take measures to ensure that the Afghanistan National Development Strategy fully integrates economic, social and cultural rights, in line with the Committee's statement on poverty and the International Covenant on Economic, Social and Cultural Rights (E/2002/22-E.12/2001/17, annex VII). The Committee recommends that the State party adopt measures to assess the impact and identify the weaknesses of the National Development Strategy. It requests the State party to include in its next periodic report comparative data, disaggregated by sex, age and rural/urban populations, together with figures showing the number of persons living in extreme poverty and indicators on the progress made in combating poverty.

100. The Committee notes with concern that a high percentage of the population in Afghanistan lack basic services such as drinking water, waste removal, sanitary facilities and electricity, and that due to the lack of sewage systems, water sources are contaminated and unsafe, thus causing serious health problems (art. 11).

The Committee urges the State party to provide rural and urban communities with appropriate systems for ensuring access to drinking water and to adequate sanitation infrastructure, in line with the Committee's general comment No. 15 (2002) on the right to water, in particular for low-income, disadvantaged and marginalized individuals and groups, if necessary by seeking international cooperation and assistance.

101. The Committee notes with concern the persistence of illegal land seizures in Afghanistan as well as the numerous cases of land disputes, which undermine the rule of law and the enjoyment of the Covenant rights. It regrets that, due to the lack of trust in the formal judicial system, many land-dispute issues have been left to informal dispute resolution mechanisms, and that discriminatory practices have provided certain ethnic groups with preferential access to land to the detriment, in particular, of the Kuchis. The Committee notes that the deteriorating security situation and landlessness are factors that prevent the reintegration of IDPs and returnees, as well as the return of refugees (art. 11).

The Committee recommends that the State party: (a) adopt a coherent and comprehensive legal framework as well as policies and administrative measures to resolve the land-related disputes; (b) revise the Land Allocation Scheme of 2005 and harmonize it with the Covenant rights and international human rights standards; (c) strengthen the programmes related to landlessness, with particular focus on returnees and IDPs; (d) set out a monitoring mechanism to mitigate the risk of corruption in the Land Allocation Scheme; and (e) take effective measures to prevent discrimination against women in cases of land disputes.

102. The Committee notes with concern the high level of malnutrition and hunger in the State party, as well as the numerous persons who face food insecurity. It regrets the little support received by the agricultural sector and the significant decline in accessibility to food in rural areas since 2006, due to a growing disparity between food prices and income (art. 11).

The Committee recommends that the State party revise its existing policies, strategies and programmes, including the Food Security for All programme, with a view to adequately addressing the food insecurity and nutritional needs of the population, and ensuring the right to food of everyone, in particular the most disadvantaged and marginalized individuals and groups in Afghanistan. An inter-ministerial policy and strategy to ensure a more comprehensive approach to address food security and malnutrition effectively should be envisaged.

103. The Committee is deeply concerned about the acute shortage of adequate housing in the State party, including sound housing units, especially in the densely populated urban areas where the disadvantaged and marginalized individuals and groups, such as poor families, IDPs, older persons and people with disabilities, live in informal settlements, shelters and camps which lack basic infrastructure and basic facilities and services.

104. The Committee is concerned about the forced eviction and demolition of tenements that take place in the State party, without due process of law or sufficient notice and without adequate compensation or alternative accommodation.

The Committee urges the State party to impose a moratorium on all forced evictions, pursuant to the recommendation made by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living in the 2004 report on his mission to Afghanistan (E/CN.4/2004/48/Add.2, para. 73) until it adopts and implements a proper legal framework to ensure that persons forcibly evicted are provided with adequate compensation and/or relocation that is in line with the guidelines adopted by the Committee in its general comment No. 7 (1997) on forced evictions. The Committee requests that the State party provide detailed information on any progress made in this regard. The Committee also reiterates its request to the State party to provide updated information on the extent of homelessness in the State party and the measures taken to address this problem in its next periodic report.

105. The Committee, while taking note of the efforts undertaken by the State party to promote the right to health, through Basic Package of Health Services coverage, remains concerned about the high maternal, infant and child morbidity and mortality rates, as well

as the failure of the health system to respond adequately to the needs of women, and the lack of a gender-sensitive approach in health services provision. The Committee also notes that the harmful practices and barriers (for example, women cannot be examined by a male doctor without a chaperone) have detrimental impacts on the women's health, and regrets the lack of sufficient female nurses and doctors in the hospitals (art. 12).

The Committee urges the State party to take appropriate steps to meet the basic health needs of the population, including by improving basic health services and increasing public spending on health. To this end, the Committee refers to the State party's attention its general comment No. 14 (2000) on the right to the highest attainable standard of health. The Committee recommends that the State party train and recruit female medical staff, in particular midwives, nurses, obstetricians and gynaecologists, especially in rural areas. The Committee further recommends that the State party intensify its efforts to implement the Basic Package of Health Services, in particular by increasing the number of mobile health teams to reach a larger proportion of the population.

106. The Committee notes with concern the lack of reproductive health services for women in the State party.

The Committee recommends that the State party put in place reproductive health services for women and implement education programmes on sexual and reproductive health.

107. The Committee is concerned that over two million Afghans are affected by mental health problems due to the long period of armed conflict (art. 12).

The Committee recommends that the State party take adequate measures to address the health problems of Afghans who suffer from war-related traumatic disorders, if necessary by seeking international cooperation and assistance.

108. The Committee, while noticing the efforts made by the State party to improve and promote access to education and reduce gender disparities, notes with concern and in particular that the right to education is not guaranteed in the State party without discrimination, and is also concerned at the poor situation of education in Afghanistan. In particular, the Committee is deeply concerned about the increase in the number of child victims of attacks against schools by insurgents and the throwing of acid to prevent girls and female teachers from going to school (arts. 13 and 14).

The Committee recommends that the State party, in implementing its National Education Strategy Plan, take into account the Committee's general comments No. 11 (1999) on plans of action for primary education and No. 13 (1999) on the right to education and establish an effective monitoring mechanism for the plan. In particular, the Committee recommends that the State party take adequate steps to encourage the school enrolment of girls, including by providing facilities in schools (for example separate toilets for girls), and by training and recruiting female teachers, in particular in rural areas. The State party should improve security for children in school as well as on their way to and from school, and increase awareness of the value of girls' education. The State party is also encouraged to continue seeking technical advice and assistance from the United Nations Educational, Scientific and Cultural Organization (UNESCO) for improving access to education.

109. The Committee, while acknowledging the efforts of the State party to allow the re-emergence of the arts in Afghanistan, notes with concern that, over the past several decades, many areas and elements of the cultural heritage of the State party were illegally excavated, vandalized, looted, deliberately destroyed or simply allowed to deteriorate

without protection. The Committee also regrets the lack of adequate measures to protect the linguistic diversity of the State party (art. 15).

The Committee recommends that the State party adopt a comprehensive national cultural policy that ensures respect for cultural and linguistic cultural heritage and diversity. The Committee also recommends that the State party enhance its current practice with regard to the registration and protection of historical monuments and archaeological sites and pursue its efforts to facilitate the return of the objects illegally exported from Afghanistan. The Committee also recommends that the State party establish mechanisms to coordinate the activities of Government agencies and ministries in regard to illicit excavation and export of cultural property.

The Committee recommends that the State party take the necessary steps to ensure that the Afghanistan Independent Human Rights Commission receives adequate funds to perform all the functions set out in its mandates, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles, General Assembly resolution 48/134).

110. The Committee recommends that the State party provide students at all levels with education on economic, social and cultural rights, and conduct extensive human rights training for members of all professions and sectors with a direct role in the promotion and protection of human rights, including judges, lawyers, civil servants, teachers, law enforcement officers, immigration officers, community leaders, the police and the military.

111. The Committee strongly recommends that the State party draw on the technical assistance offered by the Office of the United Nations High Commissioner for Human Rights and the relevant United Nations specialized agencies and programmes in its efforts to realize economic, social and cultural rights in accordance with its international legal obligations under the Covenant and when preparing and submitting its next report and implementing the present concluding observations.

112. The Committee encourages the State party to consider signing and ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

113. The Committee recommends that the State party consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Convention on the Rights of Persons with Disabilities and its Optional Protocol.

114. The Committee recommends that the State party consider ratifying the following International Labour Organization Conventions: No. 2 concerning Unemployment; No. 102 concerning Minimum Standards of Social Security; No. 117 concerning Basic Aims and Standards of Social Policy; No. 118 concerning Equality of Treatment of Nationals and Non-Nationals in Social Security; No. 122 concerning Employment Policy; No. 160 concerning Labour Statistics; No. 169 concerning Indigenous and Tribal Peoples in Independent Countries; and No. 174 concerning the Prevention of Major Industrial Accidents.

115. The Committee requests the State party to disseminate the present concluding observations widely at all levels of society, in particular among State officials, members of the judiciary, community leaders and civil society organizations, and to inform the Committee in its next periodic report of the steps taken to implement them. It also encourages the State party to include non-governmental organizations and other members of civil society in the national discussions that are held prior to the submission of its next periodic report.

116. The Committee invites the State party to update its core document in accordance with the requirements of the common core document in the harmonized guidelines on reporting.

117. The Committee requests the State party to submit its fifth periodic report, prepared in accordance with the revised reporting guidelines of the Committee, adopted in 2008 (E/C.12/2008/2), by 30 June 2014.

Algeria

118. The Committee on Economic, Social and Cultural Rights considered the combined third and fourth periodic reports of Algeria on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/DZA/4) at its 6th, 7th and 8th meetings, held on 5 and 6 May 2010 (E/C.12/2010/SR.6, 7 and 8), and adopted, at its 20th meeting held on 17 May 2010, the following concluding observations.

A. Introduction

119. The Committee welcomes the submission of the combined third and fourth periodic reports of Algeria and the written replies to its list of issues. The Committee appreciates the frank and constructive dialogue with the delegation of the State party that included representatives from various ministries with expertise on the subjects covered by the Covenant. It also takes note that the combined third and fourth periodic reports of Algeria were submitted five years late.

B. Positive aspects

120. The Committee welcomes the progress achieved in the following matters:

(a) The ratification, on 8 March 2004, of the Convention on the Political Rights of Women;

(b) The reduction of the poverty ratio by half since 2000 (from 12.1 per cent in 2000 to 5.7 per cent in 2005), maintenance of extreme poverty at a marginal level, including through direct and indirect financial assistance, such as price support measures and subsidies to the health sector and social welfare institutions;

(c) The adoption in 2008 of the Plan of Action for the Promotion of Employment;

(d) The implementation of a farmer debt relief programme that reduced the credit burden of farmers during the global financial crisis;

(e) The significant increase in national enrolment rates in primary education (98 per cent in 2007);

(f) The enrolment of children of foreign nationals residing in Algeria, depending on their choice and circumstances, in Algerian schools;

(g) The creation of the National Training and Linguistic Centre for the Teaching of Tamazight (CNPLET) by Executive Decree No. 03-470 of 2 December 2003.

C. Factors and difficulties impeding the implementation of the Covenant

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

D. Principal subjects of concerns and recommendations

122. The Committee is concerned that there is an absence of jurisprudence invoking the Covenant provisions, despite the primacy of the Covenant over national law established by article 132 of the Constitution.

The Committee recommends that the State party take effective measures to increase awareness of Covenant rights among the judiciary and the public at large, and to ensure that judicial training take full account of the justiciability of Covenant rights. The Committee draws the attention of the State party to its general comment No. 9 (1998) on the domestic application of the Covenant.

123. The Committee is concerned that the National Advisory Committee for the Promotion and Protection of Human Rights is still not fully in compliance with the Principles relating to the status and functioning of national institutions for protection and promotion of human rights (Paris Principles, General Assembly resolution 48/134 of 20 December 1993), as reflected in its “B” status accorded to it in 2009 by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, despite the recent strengthening of its monitoring role, including through detention visits

The Committee recommends that the State party take steps to strengthen the National Advisory Committee for the Promotion and Protection of Human Rights in order to bring it fully into line with the Paris Principles and ensure its effective and independent functioning, including through regular public annual and thematic human rights reporting, clear and transparent nomination and dismissal procedures and strengthened participation with and within the international human rights system. In this regard, it draws the attention of the State party to general comment No. 10 (1998) on the role of national human rights institutions in the protection of economic, social and cultural rights.

124. The Committee notes with concern that corruption remains widespread, despite recent efforts to curb the phenomenon, including the passing of Act No. 06-01 establishing a national anti-corruption programme (art. 2, para. 1).

The Committee recommends that the State party take immediate steps to establish the National Anti-Corruption Agency, as foreseen in Act No. 06-01 of 6 February 2006, and grant it the appropriate powers and resources to ensure its effectiveness and independent functioning. The Committee also urges the State party to take further steps to fight corruption, including by training law enforcement officers, prosecutors and judges on the application of the anti-corruption legislation, organizing awareness-raising campaigns and ensuring the transparency of the conduct of public authorities.

125. The Committee notes with concern that, despite the amendments to the Constitution through article 31 (bis) of Act No. 08-19 of 15 November 2008, the Family Code and the Nationality Code, de jure and de facto inequalities continue to exist between men and women, in particular, the persistence of stereotypes, attitudes and patriarchal traditions on family and societal roles of men and women. It is also concerned by discrimination against women (in particular regarding inheritance rights), lower representation of women in decision-making and public positions and wages for women that are nearly a third of those for men (art. 3).

The Committee recommends that the State party introduce further legislative amendments to eliminate all forms of discrimination against women and adopt temporary special measures aimed at increasing the representation of women in public office and decision-making positions. The Committee also recommends that the State party take measures to reduce the wage gap between men and women. The

Committee furthermore recommends that the State party increase its efforts to promote equality between women and men at all levels of society, including efforts aimed at eliminating stereotypical attitudes and traditional norms about the responsibilities and roles of women and men in the family and society. It draws the attention of the State party to general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights.

126. The Committee, despite the general decrease in unemployment, notes with concern the high level of unemployment among women (Office of National Statistics 2009 figure: 18.1 per cent) and younger Algerians (official figure: 75 per cent of the unemployed are under 30 years old). The Committee also notes with concern that, in 2008, only 33.7 per cent of the total workforce was in permanent, salaried employment and a significant proportion of new jobs are home-based and of a temporary nature (art. 6).

The Committee recommends that the State party take effective measures to decrease the unemployment rate among women and younger Algerians, including with temporary special measures. The Committee emphasizes the importance of the creation of stable employment opportunities for both groups in the implementation of the 2008 Plan of Action for the Promotion of Employment. The Committee also recommends that the State party establish a national mechanism to monitor the implementation of the plan of action, and that numerical targets and a time frame for its implementation be set. The Committee draws the attention of the State party to its general comment No. 18 (2005) on the right to work.

127. The Committee notes with concern that the current minimum wage, as set by a tripartite social pact in 2009, does not provide a decent standard of living for workers and their families. The Committee is also concerned that the wage levels of public sector employees, in particular in the health and education sectors, place many workers in a precarious situation, often compounded by temporary contracts without maternity leave or sick leave entitlements (art. 7).

The Committee recommends that the State party conduct an urgent review of the current national minimum wage to determine its sufficiency and take the necessary measures to ensure that it provides an adequate standard of living for workers and their families. The Committee also recommends that the State party take immediate steps to address the low wage levels of public sector employees and, in particular, improve the conditions of work and social protection of employees in the health and education sectors.

128. The Committee is concerned that the State party systematically restricts the activities and actions undertaken by autonomous public sector trade unions, through administrative, police and judicial interference. The Committee is also concerned that workers are required to obtain Government authorization to strike and form a trade union, and that autonomous trade unions are excluded from negotiation processes and social dialogue (art. 8).

The Committee recommends that the State party take immediate measures to guarantee the effective and independent functioning of autonomous public sector trade unions, and ensure that the right of everyone to form trade unions and the right of trade unions to establish national federations or confederations is facilitated and respected in practice.

129. The Committee is concerned that, in order to be eligible for unemployment benefit, an employee must, inter alia, have been affiliated with the social security system for a cumulative period of at least three years, and have been a regular employee of the organization concerned before being made redundant (art. 9).

The Committee recommends that the State party extend the eligibility criteria for access to unemployment benefits to include all unemployed persons and ensure that all persons whose applications have been approved promptly receive benefits.

130. The Committee is concerned that the access of families of disappeared persons to social security benefits, including pension and child education benefits, is made conditional upon the family obtaining a court declaration that the disappeared relative has died (art. 9).

The Committee recommends that the State party take measures to ensure that families of disappeared persons have unconditional access to social security, in particular pension and survivor benefits and child benefits. It draws the attention of the State party to its general comment No. 19 (2007) on the right to social security, which refers to the core obligation of a State party to ensure the right of access to social security systems or schemes on a non-discriminatory basis, especially for disadvantaged and marginalized individuals and groups.

131. The Committee is concerned that, despite the amendments to the Family Code in 2005, polygamy is still allowed, that the legal requirement of the institution of the marital guardian is not abolished and that article 30 of the Family Code continues to prohibit marriages of Muslim women to non-Muslims (arts. 10, 3 and 2, para. 2).

The Committee recommends that the State party further revise the Family Code to ensure that polygamy is outlawed, that the legal requirement of the institution of the marital guardian is abolished and that a marriage concluded between a Muslim woman and a non-Muslim man is fully recognized by law without exception.

132. The Committee is concerned that violence against women, including spousal abuse, continues to be a widespread problem in the State party. The Committee is also concerned that domestic legislation does not contain specific provisions prohibiting and criminalizing domestic violence, including marital rape, and that corporal punishment of children within the family and alternative care settings is not prohibited (art. 10).

The Committee recommends that the State party amend legislation, including the Penal Code, to prohibit and criminalize domestic violence, including marital rape, and prohibit corporal punishment of children within the family and alternative care settings.

133. The Committee is concerned about the absence of targeted measures of rehabilitation for victims of sexual violence, especially that perpetrated by armed groups (art. 10).

The Committee recommends that the State party fully recognize the status of victims of sexual violence, especially that perpetrated by armed groups, and adopt urgent measures for their medical, psychological and social rehabilitation.

134. The Committee is concerned about the high rate of child labour in the country, with estimates that approximately 300,000 children under 16 years of age are working (art. 10).

The Committee recommends that the State party intensify efforts to combat child labour, including by employing systematic and effective labour inspections and urgent controls by social services, mandatory training for the police and awareness-raising campaigns for children and parents on the dangers of child labour and the importance of education.

135. The Committee reiterates its deep concern at the acute housing shortage in the State party, the high number of persons living in slums (estimated at some 1.2 million) and vulnerable to forced evictions, the low implementation level of official construction projects and the disproportionately low budget level for housing (in 2010, the budget for the housing sector is 40 times smaller than that for national defence). The Committee is also

deeply concerned by reports of favouritism in relation to the allocation of social housing units, which is not transparent and equitable.

The Committee recommends that the State party urgently address the acute housing shortage by adopting a national strategy and a plan of action on adequate housing; drastically increase its national housing budget to an appropriate level commensurate with the extent of the problem; and ensure that plans to construct new social housing units are fully implemented, especially those intended for disadvantaged and marginalized groups and individuals, including those living in slums. It also recommends that the State party ensure that social housing allocation is transparent and equitable. In this regard, it draws the attention of the State party to its general comment No. 4 (1991) on the right to adequate housing. The Committee also urges the State party to ensure that persons who are forcibly evicted are provided with adequate compensation or alternative accommodation in accordance with a legal framework that complies with the guidelines adopted by the Committee in its general comment No. 7 (1997) on forced evictions. The Committee also reiterates its request to the State party to provide in its next periodic report detailed information on the incidence of forced evictions and extent of homelessness in the State party, as well as the measures taken to address these problems.

136. The Committee is concerned that many internally displaced persons, following the violence between 1992 and 2002, continue to live in slums and that return to their areas of origin is slow due to, among other factors, the inadequate standard of living in those rural areas (art. 11).

The Committee recommends that the State party implement measures to facilitate the return of internally displaced persons to their areas of origin, including by taking steps to increase the standard of living in rural areas, focusing in particular on access to safe drinking water, general infrastructure and access to quality health-care services.

137. The Committee is concerned that people living in rural areas face considerable difficulties in accessing health care, owing to an unequal geographic distribution of care facilities and medical practitioners. The Committee is also concerned about the availability of medicines, the insufficient quality of health care in terms of standards of the upkeep of buildings, hygiene and reception of patients, as well as the poor conditions of work of health-care professionals (art. 12).

The Committee recommends that the State party take urgent measures to ensure universal physical and economic access to primary health care. It recommends that the State party address the low wage levels and conditions of work of health-care professionals and ensure an adequate provision and distribution of medicines and material in public health establishments. The Committee draws the attention of the State party to general comment No. 14 (2000) on the right to the highest attainable standard of health. The Committee also requests the State party to provide in its next periodic report information on policies and measures taken with regard to education in sexual and reproductive health.

138. The Committee is concerned that there are regional disparities in access to education and enrolment rates, that in the most populated *wilayas* the student-to-teacher ratio is very high – sometimes up to 40 students per class, and that the State party's educational system is characterized by a high school dropout rate (less than 50 per cent of primary school students go on to the secondary level, and only 12 per cent of the primary school students obtain a higher educational degree) (arts. 13 and 14).

The Committee recommends that the State party take urgent measures to address regional disparities in access to education and enrolment rates through the creation of

new establishments and the expansion of the school transport system. It also recommends that the State party take steps to increase the number of school teachers at all levels and improve the conditions of work of educational personnel, including by ensuring wage increases. The Committee draws the attention of the State party to its general comment No. 13 (1999) on the right to education.

139. The Committee is concerned that the Amazigh language has not yet been recognized as an official language, despite its recognition in 2002 as a national language, and that the teaching of the Amazigh language is not generally available to all age levels and in all regions (art. 15).

The Committee recommends that the State party recognize the Amazigh language as an official language and further strengthen its current efforts to ensure the teaching of the Amazigh language and culture in all regions and at all education levels, including by increasing the number of qualified Amazigh language teachers. The Committee draws the attention of the State party to its general comment No. 21 (2009) on the right of everyone to take part in cultural life.

140. The Committee recommends that the State party consider, based on the principles of necessity and proportionality, lifting the protracted state of emergency, in place since 1992, insofar as it has a negative effect on the enjoyment of economic, social and cultural rights in the State party (arts. 4 and 5).

141. The Committee encourages the State party to consider signing and ratifying the Optional Protocol to the Covenant.

142. The Committee requests that the State party disseminate the present concluding observations widely among all levels of society, in particular among State officials, the judiciary and civil society organizations, translate and publicize them as far as possible and inform the Committee of the steps taken to implement them in its next periodic report. It also encourages the State party to continue engaging the national human rights institution, non-governmental organizations and other members of civil society in the process of discussion at the national level prior to the submission of its next periodic report.

143. The Committee requests the State party to submit its fifth periodic report, prepared in accordance with the revised reporting guidelines of the Committee, adopted in 2008 (E/C.12/2008/2), by 30 June 2015.

Colombia

144. The Committee considered the fifth periodic report of Colombia on the implementation of the Covenant (E/C.12/COL/5) at its 3rd, 4th and 5th meetings, held on 4 and 5 May 2010 (see E/C.12/2010/SR.3, 4 and 5), and adopted, at its 23rd, 24th and 25th meetings, held on 19 and 20 May 2010, the following concluding observations.

A. Introduction

145. The Committee welcomes the submission of the fifth report of the State party and the presence of the delegation which included a number of representatives from different ministries that allowed for a frank and open dialogue. The Committee also welcomes the written replies to the list of issues, as well as the responses orally provided by the State party, and additional information received.

B. Positive aspects

146. The Committee welcomes the ratification by the State party of the Rome Statute on the International Criminal Court, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

147. The Committee also welcomes the enactments by the State party of:

(a) Act No. 581 of 2000 on effective participation of women at the decision-making levels;

(b) Act No. 823 of 2003 on equality of opportunities for women;

(c) Act No. 599 of 2000 (Criminal Code) which criminalizes violation of the freedom to work.

148. The Committee further welcomes decisions taken by the Constitutional Court, namely:

(a) Decision No. C-169/01 on positive discrimination, on the basis of the constitutional principle in favour of vulnerable people who do not stand on an equal footing with the rest of the country's population;

(b) Decision No. C-1064/01 which establishes criteria for determining the legal minimum wage, the right to fair remuneration and maintenance of purchasing power;

(c) Decision No. C-355/06 decriminalizing abortion by declaring article 122 of Act No. 599 of 2000 (Penal Code) constitutional.

C. Factors and difficulties impeding the implementation of the Covenant

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

D. Principal subjects of concern and recommendations

150. The Committee is deeply alarmed about the consequences of the long-standing internal armed conflict in the State party. The Committee regrets the lack of sufficiently detailed information regarding the actual implementation by the State party of its obligations under the Covenant, in relation to the civilian populations, in the areas affected by the internal armed conflict.

The Committee urges the State party to take immediate and effective measures to implement the plans described in the report to address the ongoing armed violence. In this regard, the Committee requests the State party, in its next periodic report, to provide detailed information on the implementation of its obligations, as required by the Covenant, in relation to all economic, social and cultural rights of the civilian populations affected by the internal armed conflict. The Committee reminds the State party that it is precisely in situations of crisis, that the Covenant requires the protection and promotion of all economic, social and cultural rights, in particular of the most marginalized and disadvantaged groups of the society, to the best of its ability under the prevailing adverse conditions.

151. The Committee regrets that the report of the State party does not contain sufficiently updated information and detailed statistics that would enable it to fully assess whether and how the rights set out in the Covenant are being implemented in the State party.

The Committee recommends that the State party provide updated information in its next periodic report on the practical application of the Covenant, including through disaggregated data and relevant statistics on a comparative annual basis, regarding

the implementation of its laws and the practical results of plans, programmes and strategies carried out in relation to the various rights enshrined in the Covenant.

152. The Committee is concerned that infrastructure, development and mining mega-projects are being carried out in the State party without the free, prior and informed consent of the affected indigenous and Afro-Colombian communities. The Committee is also concerned that, according to the Constitutional Court, the legitimate representatives of the Afro-Colombian communities did not participate in the process of consultation and the authorities did not provide accurate information on the scope and the impact of the mining mega-project of Chocò and Antioquia. The Committee is further concerned that the Presidential Directive No. 001 aimed at establishing a general framework for prior consultation may not be sufficient and that indigenous and Afro-Colombian peoples were not consulted regarding the draft bill elaborated by the Working Party on Prior Consultation of the Ministry of the Interior that, therefore, does not create the adequate framework for the process of genuine consultation (art. 1).

The Committee recommends that the State party take practical measures to review the processes concerning infrastructure, development and mining projects and fully implement decisions of the Constitutional Court in this regard. The Committee also recommends that the State party review the Presidential Directive No. 001 and the draft bill elaborated by the Working Party on Prior Consultation of the Ministry of the Interior. The Committee further recommends that the State party adopt legislation in consultation with and the participation of indigenous and Afro-Colombian people, that clearly establishes the right to free, prior and informed consent in conformity with International Labour Organization Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries, as well as the relevant decisions of the Constitutional Court.

153. The Committee is concerned that bilateral and multilateral trade agreements signed by the State party may affect the enjoyment of economic, social and cultural rights, in particular of disadvantaged and marginalized groups, such as indigenous and Afro-Colombian peoples and persons living in rural areas. The Committee is also concerned that the free trade agreement signed between the State party and the United States of America contains provisions on intellectual property that may result in increase of prices of medicines and negatively impact on the enjoyment of the right to health, in particular of those with low income (arts. 1, 12).

The Committee recommends that the State party take effective measures to ensure that economic, social and cultural rights are taken into account in all free trade and bilateral and multilateral trade agreements, and develop effective policies to protect the rights of the population, in particular the marginalized and disadvantaged groups, against the negative impact of such agreements. In this regard, the Committee recommends that the State party consider revising the intellectual property provisions of the free trade agreement signed with the United States, in order to ensure protection against the increase of the price of medicines, in particular for those with low income.

154. The Committee is concerned that unemployment remains high in the State party, in particular in rural areas and among young persons, women, indigenous and Afro-Colombian peoples. The Committee is also concerned that the creation of employment opportunities is taking place primarily in the informal economy (60 per cent) with a negative impact on access to social security. The Committee is further concerned about the working conditions in the informal economy and rural areas where wages remain very low (arts. 6, 7).

The Committee recommends that the State party:

- (a) **Take effective measures to reduce the high rate of unemployment;**
- (b) **Design specific policies and strategies aimed at creating employment opportunities for young persons, women, indigenous and Afro-Colombian peoples;**
- (c) **Continue the vocational training programmes for young persons, as well as incentives already adopted.**

The Committee strongly recommends that the State party promote employment opportunities while improving the working conditions in the informal economy and rural areas, in particular with regard to low wages and social security benefits.

155. The Committee is alarmed at the murders of trade unionists in the State party and that they continue to be victims of various forms of threats and violence. The Committee remains concerned that, despite the implementation of the National Programme of Protection that covers trade unionists and the creation of sub-unit within the Human Rights Unit in the Attorney General's Office to deal with murders against trade unionists, only a small number of acts of violence against trade unionists were investigated (art. 8).

The Committee urges the State party to strengthen its efforts to protect trade unionists, by enhancing the National Programme of Protection, and to reinforce the sub-unit which deals with murders and murder attempts against trade unionists in the Attorney General's Office. It also urges the State party to firmly combat impunity, by investigating all cases, prosecuting and sentencing those responsible, and to compensate victims or their families under the Victims Compensation Fund.

156. The Committee is concerned that persons working on temporary contracts or earning a minimum salary do not enjoy equal treatment within the health system — since they contribute more than persons with formal contracts for health services — and that they are not generally recognized as being eligible for health subsidies (art. 9).

The Committee recommends that the State party take necessary measures to ensure that persons working on temporary contracts or earning a minimum salary have equal access to health-care services and are eligible for health subsidies.

157. The Committee is concerned at the wide inequalities in the distribution of income in the State party in the context of poverty. It is particularly concerned that the taxation system is regressive and more favourable to persons from the highest income groups (art. 9).

The Committee recommends that the State party review its taxation system, so as to reduce inequalities between different groups of the population with a view to poverty eradication. The Committee also recommends that the State party adopt a fiscal system based on progressive income-related taxes.

158. The Committee is deeply concerned at the large number of women and girls that continue to be raped and killed in the State party, and that violence against women and girls, in particular sexual violence is perpetrated by illegal armed groups and army forces, despite the legislative and policy measures taken by the State party to combat violence against women. The Committee remains concerned at the fact that perpetrators of such violence remain unpunished. The Committee is particularly concerned by violence against women in situation of forced displacement due to the armed conflict (art. 10).

The Committee urges the State party to strengthen its efforts aimed at preventing and eliminating violence against women by effectively implementing its programmes to provide integral assistance to protect and rehabilitate victims; facilitating access of women to justice; prosecuting perpetrators of such violence; and compensating the victims. The Committee also recommends that the State party take measures to

prevent and protect women in situation of forced displacement due to the armed conflict from violence by:

- (a) Adopting and implementing the programme “Protection of the Rights of Indigenous Internally Displaced Women”;
- (b) Implementing, through Acción Social, the 12 specific programmes of protection ordered by the Constitutional Court;
- (c) Conducting investigation on sexual violence cases concerning displaced women in the State party;
- (d) Prosecuting and sentencing perpetrators; and
- (e) Providing compensation to victims.

The State party should also adequately support the Attorney General’s Office and the special group set up in its Human Rights and Humanitarian Law Unit, by providing sufficient resources, and give full effect to the Act No. 1257 of 2008 on measures to raise awareness, prevent and punish all forms of violence and discrimination against women.

159. The Committee is deeply concerned that children continue to be forcibly recruited by illegal armed groups, notably by FARC-EP and ELN, including through recruitment campaigns in schools, as well as by new paramilitary groups, thus preventing them from enjoying their economic, social and cultural rights. The Committee is also deeply concerned that a large number of children are killed during assaults, by homicides, landmines or as victims of cross-fire between the army and illegal armed groups (art. 10).

The Committee urges the State party to take all necessary measures to:

- (a) Fully implement its Directive No. 500-2 of 2005 aimed at developing strategies to prevent child recruitment by armed forces;
- (b) Prevent the recruitment of children by illegal armed groups;
- (c) Pursue demobilization, reintegration and rehabilitation programs in compliance with its legislation;
- (d) Prosecute and sentence those responsible.

160. The Committee is concerned at the large number of children that continue to be victims of sexual exploitation, in particular children from disadvantaged and marginalized groups, including internally displaced children and children living in poverty, in spite of measures already taken by the State party, such as legislation that criminalizes sexual exploitation; sex tourism with minors; and child pornography with specific provisions regarding Internet providers, as well as the National Plan of Action to prevent and eradicate sexual exploitation (2006–2011) (art. 10).

The Committee urges the State party to effectively enforce legislation to combat trafficking in children. It also recommends that the State party strengthen its programmes and information campaigns to prevent trafficking under the National Strategy to Combat Human Trafficking 2007–2012, with particular attention to children from disadvantaged and marginalized groups; to continue to provide mandatory training for law officials and judges; and to prosecute and sentence those responsible for the crimes of trafficking in children. The State party should provide in its next periodic report statistical data disaggregated on an annual basis, by sex and country of origin of children who are victims of exploitation and trafficking, as well as on cases investigated and the decisions taken.

161. The Committee is concerned that it is permissible for children to get married at 14 years with the consent of a parent or guardian, though the legal minimum marriage age in the State party is 18 years. It is also concerned that getting married at 14 years has a negative impact on the enjoyment by children of their economic, social and cultural rights, in particular the rights to health and to education (art. 10).

The Committee encourages the State party to implement the legal minimum marriage age of 18 years for girls and boys, in compliance with international standards. The Committee also requests that, in its next periodic report, the State party provide detailed information on the extent of this phenomenon.

162. The Committee is concerned that some 20 per cent of children born in the State Party are not registered, in particular in remote areas and among indigenous and Afro-Colombian peoples and internally displaced persons. It is also concerned that the lack of registration results in difficulties in the access to and enjoyment of their rights under the Covenant (art. 10).

The Committee recommends that the State party take immediate measures to ensure that all children born in the State party are registered, in particular in rural areas and among indigenous and Afro-Colombian peoples and internally displaced persons. The Committee also recommends that the State party complete the modernization of its Civil Registry, and provide sufficient resources to the National Registry's Office to facilitate the registration in rural areas and by internally displaced persons.

163. The Committee is concerned at the large number of persons living in poverty (46 per cent) and in extreme poverty (17.8 per cent) in the State party. The Committee is also concerned that in rural areas extreme poverty is double that of the national average (32.6 per cent) (art. 11).

The Committee urges the State party to effectively combat and reduce poverty by developing effective policies and programmes. In particular, the Committee recommends that the State party give priority to policies aimed at generating income and implement its Strategy on the Reduction of Poverty and Inequalities adopted in 2004, in full compliance with economic, social and cultural rights, as recommended by the Committee in its statement on poverty and the International Covenant on Economic, Social and Cultural Rights (E/C.12/2001/10).

164. The Committee is concerned about the high malnutrition rate which affects a considerable number of children and women, in particular among internally displaced groups, as well as persons living in rural areas.

The Committee firmly recommends that the State party adopt an effective national food policy to combat hunger and malnutrition, in particular among children, women, internally displaced persons and persons living in rural areas.

165. The Committee is concerned that the policy encouraging agro-exporting goods, such as agro-fuels, may deprive peasants from cultivating their lands. The Committee is also concerned about the unequal distribution of lands owned by a minority of the population, as well as about the absence of a genuine agrarian reform, as recommended in the previous concluding observations of the Committee (art. 11).

The Committee recommends that the State party develop agricultural policies which prioritize the production of food; implement programmes that protect national food production with incentives for small producers; and ensure the restitution of lands taken from indigenous and Afro-Colombian peoples, as well as peasant communities.

166. The Committee is concerned that access to safe drinking water and sanitation is not universal and that, in some rural areas, especially in the Chocò region, almost 90 per cent of the population do not have access to safe drinking water.

The Committee calls upon the State party to adopt a national water policy in order to ensure universal access to safe drinking water, in particular to persons living in rural areas.

167. The Committee is concerned about housing deficit in the State party in terms of quantity and quality, and that overcrowding in housing is widespread among disadvantaged and marginalized individuals and families. The Committee is also concerned that internally displaced persons are offered inadequate temporary housing. The Committee is further concerned that forced evictions are widespread in the State party, including in relation to internally displaced families (art. 11).

In line with its general comment No. 4 (1991) on the right to adequate housing, the Committee recommends that the State party adopt a national strategy to provide the population with sustainable solutions for housing; take immediate measures to ensure access to adequate housing, in particular for disadvantaged and marginalized individuals and families, including internally displaced persons, indigenous and Afro-Colombian peoples. The Committee urges the State to take practical measures, including by adopting an adequate legal framework to ensure that persons forcibly evicted are provided with alternative accommodation or compensation, in accordance with the guidelines adopted by the Committee in its general comment No. 7 (1997) on forced evictions. The Committee also urges the State party to provide detailed information in its next periodic report, about the extent of homelessness in the State party and the practical measures taken to address this problem.

168. The Committee is concerned that maternal and infant mortality remain very high and persistent in the State party, in particular in rural areas and among indigenous peoples in Amazonas and Antioquia, and Afro-Colombian peoples in the Pacific and Atlantic coasts, due to difficulties in accessing health-care services (art. 12).

The Committee recommends that the State party strengthen its public health policy, to ensure for all, in particular for the indigenous, Afro-Colombian peoples and persons living in rural areas, universal access to health-care services. The Committee also recommends that the State party take all necessary measures to ensure that health-care services are accessible to those living in poverty.

169. The Committee is highly concerned about the increasing rate of teenage pregnancies and the lack of adequate and accessible sexual and reproductive health services, in particular in rural areas and among internally displaced persons (art. 12).

The Committee recommends that the State party ensure sexual and reproductive education in schools. It also recommends that the State party increase resources allocated to sexual and reproductive health services, in particular in rural areas and among internally displaced persons, and carry out a proactive strategy to prevent early pregnancies.

170. The Committee is concerned at the high rate of drug consumption in the State party, in particular among adolescents and its negative effects on individual health, as well as its impact on public health care (art. 12).

The Committee recommends that the State party include programmes to combat drug consumption in its public health and education policies, including information campaigns on the negative effects of the use of narcotics.

171. The Committee notes with deep concern that drug production and trafficking remains persistent in the State party and that it is a major processor and exporter of cocaine, despite efforts made to eradicate illicit coca production. The Committee also notes with concern the resulting drug violence; large-scale internal displacement; widespread corruption; negative consequences of anti-narcotics measures such as the effect of aerial fumigation on food security, adverse health impacts and denial of livelihoods; and that profit from this illicit economy finances all sides of the armed internal conflict in the State party (arts. 11, 12).

The Committee recommends that the State party incorporate economic, social and cultural rights in strategy to combat drug-trafficking.

In this regard, the State party should allocate significant resources for:

- (a) Ensuring transparency and accountability in counternarcotics efforts;**
- (b) Conducting alternative and sustainable development activities for farmers currently involved in illicit coca production;**
- (c) Enhancing the Presidential Programme against corruption, prosecuting and sentencing those responsible, including State and local officials;**
- (d) Strengthening and reforming local institutions particularly the police and judiciary.**

The Committee reminds the State party that counternarcotics efforts should not lead to adverse impacts on the enjoyment of economic, social and cultural rights.

172. The Committee is concerned that access to free and compulsory education is not fully ensured, as families continue to pay for the provision of educational services such as school exams reports, carnet, certifications and the use of equipment based on their incomes (arts. 13, 14).

The Committee recommends that the State party take immediate measures to ensure access of all children without discrimination, to free and compulsory primary education.

173. The Committee is concerned about the high rate of illiteracy among young persons and adults in the State party, in particular among disadvantaged and marginalized groups, as well as in rural areas (arts. 13, 14).

The Committee recommends that the State party take all necessary measures to combat illiteracy, including by carrying out awareness-raising campaigns to sensitize parents, in particular indigenous and Afro-Colombian peoples and populations in rural areas, to the importance of education for their children.

174. **The Committee encourages the State party to resume the drafting process of the National Plan of Action on Human Rights and International Humanitarian Law in consultation with different stakeholders.**

175. **The Committee encourages the State party to consider ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.**

176. **The Committee requests the State party to disseminate the present concluding observations widely among all levels of society, particularly among State officials, the judiciary and civil society organizations, to translate and publicize them as far as possible and to inform the Committee on the steps taken to implement them in its next periodic report. It also encourages the State party to continue engaging national human rights institutions, non-governmental organizations and other members of civil**

society in the process of discussion at the national level prior to the submission of its next periodic report.

177. The Committee invites the State party to update its core document in accordance with the requirements of the common core document in the harmonized guidelines on reporting.

178. The Committee requests the State party to submit its sixth periodic report, prepared in accordance with the revised reporting guidelines of the Committee, adopted in 2008 (E/C.12/2008/2), by 30 June 2015.

Kazakhstan

179. The Committee on Economic, Social and Cultural Rights considered the initial report of Kazakhstan on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/KAZ/1) at its 12th to 14th meetings, held on 10 and 11 May 2010 (E/C.12/2010/SR.12, 13 and 14), and adopted, at its 24th and 25th meetings held on 19 and 20 May 2010, the following concluding observations.

A. Introduction

180. The Committee welcomes the submission of the initial report of Kazakhstan and the written replies to its list of issues (E/C.12/KAZ/Q/1/Add.1) but regrets that some questions have remained unanswered.

181. The Committee appreciates the constructive dialogue with the delegation of the State party which included representatives from various ministries with expertise on the subjects covered by the Covenant.

B. Positive aspects

182. The Committee notes with appreciation the achievements by the State party in the implementation of economic, social and cultural rights, in particular:

(a) The adult literacy rate of 99.8 per cent and provision of compulsory secondary education free of charge;

(b) The provision of free treatment of common diseases for children and adolescents registered in dispensaries; and

(c) The eradication of poliomyelitis and the preventive vaccination of 98.6 per cent of children in the State party.

183. The Committee welcomes the recent ratification of:

(a) International Convention for the Protection of All Persons from Enforced Disappearance (2009);

(b) First Optional Protocol to the International Covenant on Civil and Political Rights (2009); and

(c) Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2008).

C. Factors and difficulties impeding the implementation of the Covenant

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

D. Principal subjects of concern and recommendations

185. The Committee is concerned that the Covenant has not been invoked before the national courts despite constitutional guarantees of direct applicability of the provisions of the Covenant in the domestic legal order and its precedence, as an international treaty, over domestic legislation.

The Committee recommends that the State party take all appropriate measures to ensure effective applicability of the Covenant in national courts, including by raising awareness of this obligation and the provisions of the Covenant among those involved with law enforcement, such as judges, lawyers and public officials. The Committee draws the attention of the State party in this regard to its general comment No. 9 (1998) on the domestic application of the Covenant. The Committee requests that the State party include in its next periodic report information on progress made in this connection and on decisions of national courts, tribunals or administrative authorities giving effect to the rights contained in the Covenant.

186. The Committee notes with concern the low level of awareness of human rights in general, and of the Covenant in particular, among the population of the State party and regrets that awareness-raising efforts have been limited to legal literacy.

The Committee urges the State party to review the National Human Rights Action Plan with a view to adopting strategies for promoting and raising awareness of the public regarding human rights in general and economic, social and cultural rights in particular. In this connection, the Committee encourages the State party to make use of the varied languages of the population and appropriate media that are available and accessible to all.

187. The Committee is concerned that human rights education in schools and on training programmes for selected professions excludes economic, social and cultural rights.

The Committee recommends that the State party include economic, social and cultural rights in the curricula of schools and in the human rights training programmes for professionals who have a direct role in the promotion and protection of human rights, including civil servants, medical professionals, social workers, teachers, law enforcement officers and the military.

188. The Committee is concerned that the Office of the Ombudsman is not compliant with the Paris Principles relating to the status and functioning of national institutions for protection and promotion of human rights. The Committee notes with regret that the Ombudsman cannot consider petitions about actions and decisions of the President, the Parliament, the executive branch of Government, the Constitutional Council, the Attorney General, the Central Election Commission and the courts that relate to economic, social and cultural rights.

The Committee urges the State party to expend all efforts to bring the Office of the Ombudsman into full compliance with the principles relating to the status and functioning of national institutions for protection and promotion of human rights (Paris Principles, General Assembly resolution 48/134). The Committee draws the attention of the State party to its general comment No. 10 (1998) on the role of national human rights institutions in the protection of economic, social and cultural rights.

189. The Committee notes with concern that corruption is widespread in the State party, including in the judiciary. The Committee is also concerned about the lack of independence of the judicial system, which hinders the full enjoyment of human rights, including economic, social and cultural rights.

The Committee urges the State party to intensify its efforts to combat corruption, including through capacity-building of law enforcement officers, prosecutors and judges in this regard. The Committee calls on the State party to pursue its programme for the reform of the judicial system.

190. The Committee is concerned that constitutional provisions and other legislation in force in the State party do not provide comprehensive protection from the prohibited forms of discrimination in all areas relating to economic, social and cultural rights.

The Committee recommends that the State party undertake a legislative review aimed at ensuring that the laws prohibiting discrimination protect effectively from direct and indirect discrimination in each of the rights enshrined in the Covenant. The Committee draws the attention of the State party to the Committee's general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights. The Committee further calls on the State party to ensure that any legislative measures in this regard provide for dissuasive sanctions against acts of discrimination (art. 2, para. 2).

191. The Committee notes with concern the difficulties that persons with disabilities experience in the exercise of their economic, social and cultural rights, especially with regard to equal opportunities for employment, education, health and reasonable accommodation based on disability. The Committee is also concerned about the lack of relevant statistics on the situation of persons with disabilities.

The Committee urges the State party to adopt a national strategy and plan to ensure that all persons with disabilities enjoy the same economic, social, and cultural rights as the rest of the population. The Committee calls on the State party to allocate resources for the full and effective implementation of the Disabled Persons (Protection) Act. The Committee draws the attention of the State party to its general comment No. 5 (1994) on persons with disabilities. The Committee requests that the State party include in its next periodic report detailed information, including statistical data, on an annual basis, disaggregated by sex, age, urban/rural distribution, on persons with disabilities with regard to their enjoyment of economic, social and cultural rights (art. 2, para. 2).

192. The Committee is alarmed by the systemic discrimination against migrants, refugees and asylum-seekers with respect to their economic, social and cultural rights. The Committee is particularly concerned that these groups are not eligible for social assistance from the State party and that they face obstacles for securing legal means of subsistence.

The Committee urges the State party to remove all barriers to the effective exercise of economic, social and cultural rights by migrants, refugees and asylum-seekers, including in the field of social assistance, education, employment, health services and family protection (art. 2, para. 2).

193. The Committee is deeply concerned by the persistence of prejudices and customary practices that perpetuate negative stereotyped roles for women, despite the adoption by the State party of the Gender Equality Act and the 2006–2016 Gender Equality Strategy.

The Committee urges the State party to strengthen efforts to eliminate negative stereotypes and societal attitudes that discriminate against women, including through awareness-raising programmes and, in particular, the correction of discriminatory language and images in textbooks and the media. The Committee recommends that the State party adopt time-bound targets and allocate the necessary resources to ensure the proper functioning of the National Commission on Family and Gender and the effective implementation of the 2006–2016 Gender Equality Strategy. The Committee refers the State party in this regard to its general comment No. 16 (2005)

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

194. The Committee is concerned that under the State party's Penal Code, the courts have the authority to hand down a sentence of forced labour.

The Committee urges the State party to abolish forced labour as a punitive measure for convicts and amend legislation to bring the concerned provisions of the Penal Code into conformity with article 6 of the Covenant. The Committee calls on the State party to ensure that work for convicted prisoners is conditional on consent, in conformity with International Labour Organization (ILO) Convention No. 29 concerning forced or compulsory labour (art. 6).

195. The Committee regrets the absence of information on the actual extent of the informal economy in the State party and the situation of workers and their families in this economy.

The Committee requests the State party, in the next periodic report, to provide detailed information, including statistics, on an annual basis, disaggregated by sex and by rural and urban distribution, on the extent of the informal economy and the State party's policies and protection measures, if any, that take this economy into account (art. 6).

196. The Committee regrets that information provided to it in the State party report, in the replies to the list of issues and during the dialogue has not enabled it to ascertain whether the minimum wage in the State party affords workers and their families an adequate standard of living and whether the minimum wage standard is effectively enforced.

The Committee requests the State party in its next periodic report to provide detailed information on the minimum wage including how the level is established and whether it provides an adequate standard of living for workers and their families, and on the mechanisms in place to enforce the minimum wage, particularly in rural areas (art. 7).

197. The Committee notes with concern that women are employed predominantly in sectors and employment which carry lower wages, such as in agriculture, health and education. The Committee is also concerned about the disproportionate representation of women in the informal economy.

The Committee requests the State party to provide in its next periodic report detailed information on:

(a) **The measures it has undertaken to ensure equal opportunities for women to access higher paying employment and to improve their representation in decision-making positions in the labour force;**

(b) **Protection measures for women working in the informal economy; and**

(c) **Any temporary special measures undertaken to close the wage gap of men and women in compliance with the principles of "equal pay for work of equal value" under article 7 of the Covenant (art. 7, 3).**

198. The Committee is deeply concerned at the precarious situation of migrant workers who are employed without contracts in tobacco plantations and are, together with their families, vulnerable to exploitation and abuse.

The Committee urges the State party to assess the extent of the problem of migrant workers who are employed in plantations and agricultural farms and their conditions of work, with a view to establishing mechanisms that enforce the relevant Labour Code provisions on fair wages and favourable conditions of work (arts. 7, 2, para. 2).

199. The Committee is concerned about the increasing number of occupational injuries and the absence of comprehensive legislation regulating safety and health at work. The Committee is also concerned about restrictions on labour inspections both in law and in practice.

The Committee urges the State party to continue its efforts to bring its legislation on occupational safety and health in line with international standards, including the ILO Convention No. 167 concerning safety and health in construction, which the State party has ratified. The Committee also calls on the State party to revise its policy of restrictions on unscheduled labour inspections, including the requirement of written notification of 30 days prior to inspection, indicating the date and subject of the unscheduled inspection (art. 7).

200. The Committee notes with concern the restrictions imposed by the State party on the right to strike.

The Committee urges the State party to revise its legislation on the right to strike to bring it in line with article 8 of the Covenant and the ILO conventions relating to the right to strike (art. 8).

201. The Committee is concerned that the social security system of the State party is not comprehensive, leaving part of the population, including self-employed workers, workers employed in the informal economy, non-nationals and other disadvantaged and marginalized groups without adequate protection.

The Committee urges the State party to extend the coverage provided by its social security system to self-employed workers, workers in the informal economy, non-nationals, and other disadvantaged and marginalized groups. In this regard, the Committee draws the State party's attention to its general comment No. 19 (2007) on the right to social security. The Committee also encourages the State party to consider ratifying ILO Convention No. 102 concerning minimum standards of social security (art. 9).

202. The Committee is concerned that the basic and minimum pensions may not ensure an adequate standard of living for pensioners and their families.

The Committee recommends that the State party take effective measures to increase the amounts of basic and minimum pensions so as to ensure an adequate standard of living for pensioners and their families. The Committee requests the State party to provide in its next periodic report comparative statistical data on recipients of basic and minimum pensions, disaggregated by sex, family size, income group and other relevant criteria, to enable the Committee to better assess the public pension system of the State party. The Committee also requests the State party to provide in its next periodic report detailed information on the ongoing privatization of the pension system, in particular its effects on the right to social security of the most disadvantaged and marginalized individuals (art. 9).

203. The Committee is alarmed at the high level of violence against women and children in the State party. The Committee is concerned about impunity related to domestic violence. Furthermore, the Committee is concerned that information provided during the dialogue indicates that the law does not sufficiently guarantee protection and rehabilitation of victims and that legal proceedings are initiated only upon formal complaints by victims.

The Committee urges that the State party take measures to ensure effective enforcement of the Domestic Violence Act and adopt necessary amendments to ensure the criminalization of domestic violence, the prosecution of offenders and the protection and rehabilitation of victims. The Committee also calls on the State party to conduct education and training programmes for judicial authorities and law

enforcement officials on women's and children's rights, as well as awareness-raising campaigns to sensitize the general public about domestic violence as a human rights violation (art. 10, 3).

204. The Committee notes with deep concern that trafficking in women and children remains a serious problem despite efforts undertaken by the State party. The Committee regrets the absence of statistics on the extent of the problem.

The Committee urges the State party to intensify its efforts to combat trafficking in persons for sexual exploitation and labour purposes and to vigorously implement its national action plan to combat trafficking. The Committee also urges the State party to provide protection and rehabilitation services to victims and to prosecute offenders. The Committee requests that the State party include in its next periodic report detailed information on the extent of trafficking in persons into, within and out of the State party's territory, as well as statistics (on an annual basis) and information on prosecution cases and assistance extended to victims. The Committee also requests that the State party provide information on the outcomes of measures undertaken to combat trafficking and on the difficulties encountered (art. 10).

205. The Committee is concerned about the persistence of child labour in the State party, including by children of migrant workers in tobacco and cotton farms. The Committee is also concerned that these children do not attend school during farming periods.

The Committee calls on the State party to take urgent measures to ensure protection of all children against all forms of exploitation and undertake effective measures to enable them to fully enjoy their right to education. The Committee requests that the State party in its next periodic report include detailed information on the problem of child labour, measures undertaken to eradicate child labour, and progress achieved in this regard. The Committee also requests detailed information regarding street children, including statistical data, on an annual basis, disaggregated by age and gender (art. 10, para. 3).

206. The Committee is deeply concerned about the high level of poverty in rural areas and in some regions, despite the macroeconomic achievement of the State party. According to the most recent data available to the Committee (from 2006), poverty rates exceeded 38.2 per cent in the oil-rich oblast of Kyzylordinskaya and 25.1 per cent in Akmolinskaya and the oil-rich oblast of Mangistauskaya, where rural poverty stood at over 63.2 per cent.

The Committee recommends that the State party continue its fight against poverty, paying particular attention to the human rights of those still living in poverty. In this respect, the Committee refers the State party to its statement on poverty and the International Covenant on Economic, Social and Cultural Rights (E/C.12/2001/10). The Committee requests the State party to provide information in the next periodic report on income inequality, including details on income redistribution in the State party, as well as comparative data on the number of people living in poverty, disaggregated by sex, region, rural/urban and family size, and on progress achieved in reducing the incidence of poverty in the regions where it is most acute (art. 11).

207. The Committee notes with grave concern the high rate of forced evictions and demolitions of houses conducted without court orders or sufficient notice, and without adequate compensation or alternative accommodation. The Committee is also concerned that the legal framework of the State party in this regard is not in line with international human rights standards.

The Committee urges the State party to adopt the proper legal framework regulating the conduct of urbanization projects to ensure that persons forcibly evicted are provided with adequate compensation and/or relocation taking into the guidelines

adopted by the Committee in its general comment No. 7 (1997) on forced evictions. The Committee also draws the State party's attention to the guidelines on development-based evictions and displacements (see A/HRC/4/18) prepared by the Special Rapporteur on adequate housing. The Committee requests that the State party provide detailed information on progress made in this regard in its next periodic report (art. 11, para. 1).

208. The Committee is concerned at reports of long waiting periods, lack of transparency and corruption surrounding the provision of accommodation assistance and prohibitive rates applied by financial institutions on housing loans. The Committee is also concerned that disadvantaged and marginalized individuals and groups are not given priority access to the State housing construction programme.

The Committee recommends that the State party ensure that national housing policies accord priority attention to disadvantaged and vulnerable groups and to take account of the Committee's general comment No. 4 (1991) on the right to adequate housing in its policies. The Committee urges the State party to monitor the implementation of accommodation assistance in order to curb corrupt practices and to undertake measures to regulate interest rates on housing. The Committee requests the State party to provide, in its next periodic report, detailed statistics on homelessness and the extent of inadequate housing, disaggregated by, inter alia, urban/rural, family size, income groups and other relevant criteria (art. 11, para. 1).

209. The Committee is concerned about the lack of up-to-date information on adequate housing in the State party and about the high percentage of dwellings, particularly in rural areas, that do not have access to clean drinking water and proper sewage and sanitation systems.

The Committee recommends that the State party address disparities between urban and rural areas and among regions with regard to adequate housing, sanitation systems and water connections. The Committee requests the State party in its next periodic report to provide detailed information relating to the housing situation, including the number of urban slum-dwellers and the percentage of dwellings in rural areas that do not have access to clean drinking water and proper sewage and sanitation systems (art. 11, para. 1).

210. The Committee notes with grave concern the reported neglect of mental health patients and the low level of protection of mental health patients from abuse, including forced internment.

The Committee recommends that the State party undertake a comprehensive review of its mental health policy and legislation to bring them into line with international standards on the protection of persons with mental health problems. In this regard, the Committee draws the attention of the State party to its general comment No. 14 (2000) on the right to the highest attainable standard of health and the Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care. The Committee requests that the State party include in its next periodic report detailed information on progress made and difficulties encountered in this regard, as well as statistical data, on an annual basis, on mental health, disaggregated by sex and urban/rural distribution (art. 12).

211. The Committee notes with concern that sexual and reproductive health services, particularly for teenagers, are not available. The Committee further notes with concern the lack of comprehensive sexual and reproductive health education programmes for girls and boys in the national school curricula that provide them with objective information in accordance with medical and education standards.

The Committee recommends that the State party include sexual and reproductive health education programmes in schools and provide a broad range of sexual and reproductive health care services through its primary health-care system. The Committee also requests that the State party provide in its next periodic report information on sexual and reproductive health, including the practice of abortion (arts. 12, 10).

212. The Committee is concerned by the lack of information about illicit drug production and drug-trafficking, which are reportedly serious in the State party. The Committee also notes with concern that few drug users have access to methadone as a substitute drug dependence therapy, as this programme of treatment is still in a pilot phase.

The Committee requests that the State party include in its next periodic report detailed information, including statistical data, disaggregated by urban/rural distribution, on an annual basis, on drug consumption, illicit drug production and drug trafficking. The Committee also calls on the State party to ensure that methadone as substitute drug dependence therapy is made accessible to all drug dependents (art. 12).

213. The Committee is concerned about the regional environmental hazards that have a negative impact on the enjoyment of the right to health by the population in the State party, in particular the depletion and pollution of the Aral Sea and the environmental pollution of the former nuclear test site of Semipalatinsk. The Committee is also concerned about air pollution and accumulation of waste, as well as contamination of soil and water by industrial waste, agricultural pollutants and chemicals.

The Committee urges the State party to take immediate steps, including through regional cooperation as appropriate, to address environmental hazards that affect the health of the population and to strengthen its efforts to address environmental issues. The Committee further calls on the State party to allocate more resources in this regard and to strictly enforce its environmental legislation. The Committee requests that the State party provide in its next periodic report information on remedies available and redress afforded to those who have contracted illnesses due to environmental pollution (art. 12).

214. The Committee recommends that, in addition to expanding treatment services for cardiovascular diseases, the State party undertake prevention programmes, including public information campaigns on healthy lifestyle (art. 12).

215. The Committee recommends that the State party take measures to ensure availability of, and equal access to, cultural goods and services, particularly for disadvantaged and marginalized groups and to ensure that privatization and corporate patronage in the areas of culture do not impede access. In this regard, the Committee draws the attention of the State party to its general comment No. 21 (2001) on the right to everyone to take part in cultural life (art. 15).

216. The Committee requests that the State party, in its next periodic report, provide detailed information on the implementation of rights and obligations under articles 13 and 14 of the Covenant (arts. 13 and 14).

217. The Committee calls on the State party to ensure that counter-terrorism measures and legislation do not have a discriminatory effect on the enjoyment of economic, social and cultural rights by certain groups in the State party, in particular ethnic minorities.

218. The Committee requests the State party in its next periodic report to provide disaggregated data gathered annually relating to the implementation of the provisions

of the Covenant, as a tool for assessing the progressive realization of economic, social and cultural rights (art. 2, para. 1).

219. The Committee encourages the State party to consider ratifying the Optional Protocol to the Covenant.

220. The Committee requests the State party to disseminate the present concluding observations widely among all levels of society, in particular among State officials, the judiciary and civil society organizations, to translate and publicize them as widely as possible, and to inform the Committee in its next periodic report on the steps taken to implement them. The Committee also encourages the State party to continue engaging national human rights institutions, non-governmental organizations and other members of civil society in the discussions at the national level prior to the submission of its next periodic report.

221. The Committee encourages the State party to consider ratifying the Convention on the Rights of Persons with Disabilities and its Optional Protocol both of which the State party has signed. The Committee also encourages the State party to consider signing and ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

222. The Committee invites the State party to submit a common core document in accordance with the requirements of the common core document in the harmonized guidelines on reporting, recently approved by the international human rights treaty bodies.

223. The Committee requests the State party to submit its second periodic report, prepared in accordance with the treaty-specific reporting guidelines of the Committee, adopted in 2008 (E/C.12/2008/2), by 30 June 2015.

Mauritius

224. The Committee on Economic, Social and Cultural Rights considered the combined second to fourth periodic reports of Mauritius on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/MUS/4) at its 9th, 10th and 11th meetings, held on 7 and 10 May 2010 (see E/C.12/2010/SR.9, 10 and 11), and adopted, at its 19th meeting, held on 17 May 2010, the following concluding observations.

A. Introduction

225. The Committee welcomes the submission of the combined second to fourth periodic reports of Mauritius and the written replies to its list of issues (E/C.12/MUS/Q/4/Add.1), although it regrets that the combined report was submitted almost 13 years late. The Committee appreciates the frank and constructive dialogue with the delegation of the State party, which included representatives with expertise on the subjects covered by the Covenant.

B. Positive aspects

226. The Committee welcomes the progress achieved by the State party in advancing the enjoyment of economic, social and cultural rights in the State party since the consideration of its initial report by the Committee.

227. The Committee notes with appreciation that the State party provides health care services and education up to the tertiary level free of charge.

228. The Committee welcomes the ratification by the State party of:

(a) Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (2008);

(b) Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (2009);

(c) Convention on the Rights of Persons with Disabilities (2010);

(d) International Labour Organization (ILO) Convention No. 182 (1999) on the Worst Forms of Child Labour (2000);

(e) Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2005).

C. Factors and difficulties impeding the implementation of the Covenant

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

D. Principal subjects of concerns and recommendations

230. The Committee is concerned that economic, social and cultural rights are essentially not enshrined in the Constitution, although some individual rights proclaimed therein are relevant to this category of rights. The Committee is also concerned that the Covenant provisions have not been incorporated in the domestic law and cannot be directly invoked by individuals before national courts. It notes that this situation has a restrictive impact on the scope of the competencies of the institutional guarantees of human rights, including courts, the National Human Rights Commission, and the Ombudsman's Office.

The Committee encourages the State Party to complete the planned amendment of the Constitution with a view to enshrining economic, social and cultural rights on an equal footing with other constitutional rights. The Committee also recommends that the State party accord the Covenant a legal status that would enable its provisions to be invoked directly within the domestic legal system, preferably by incorporating the Covenant provisions into the domestic law. In this regard the Committee refers to its general comment No. 9 (1998) on the domestic application of the Covenant.

231. The Committee is concerned that the draft national action plan on human rights does not specifically deal with economic, social and cultural rights. It is also concerned that this plan has been under finalization for several years.

The Committee recommends that the State party revise, finalize and adopt the draft national action plan on human rights and dedicate a section of it to economic, social and cultural rights. It also encourages the State party to consult widely with civil society, the National Human Rights Commission and the Ombudsman in the preparation of the national action plan.

232. The Committee is concerned that the National Human Rights Commission has no specific mandate to deal with economic, social and cultural rights as such, although it notes that the Commission can and does receive complaints against discriminatory treatment in relation to economic, social and cultural rights under section 16 of the Constitution.

The Committee recommends that the State party amend the Protection of Human Rights Act of 1998 in order to give the National Human Rights Commission a specific mandate to deal with economic, social and cultural rights.

233. The Committee is concerned that the State party has not adopted any policies or laws to protect refugees and asylum-seekers.

The Committee recommends that the State party enable asylum-seekers to exercise their right to seek asylum and that it ensure protection against refoulement in line with the widely recognized principle of non-refoulement. In this regard, the Committee also recommends that the State party consider ratifying the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.

234. The Committee is concerned about the high level of poverty among Mauritian Creoles that largely prevents the enjoyment of human rights by those affected (art. 2, para. 2).

The Committee urges the State party to develop an effective strategy targeting poverty specifically among Mauritian Creoles, with due respect to their cultural rights.

235. The Committee is concerned that children with disabilities, children affected and/or infected by HIV/AIDS, and children from disadvantaged families often suffer under de facto discrimination (art. 2, para. 2).

The Committee urges the State party to adopt the necessary measures to prevent, diminish and eventually eliminate the conditions and attitudes which cause or perpetuate de facto discrimination against those groups of children, in line with the Committee's general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights.

236. The Committee is concerned that, according to section 16, paragraph 4(b), of the Constitution, the non-discrimination clause in section 16, paragraph 1, of the Constitution does not apply to laws that make provisions with respect to non-nationals (art. 2).

In line with its general comment No. 20, the Committee recommends that the State party undertake to ensure the applicability of the non-discrimination clause to non-nationals.

237. The Committee is concerned that section 16, paragraph 4 (c), of the Constitution exempts personal laws relating to adoption, marriage, divorce, burial or devolution of property on death from the non-discrimination clause in section 16, paragraph 1, of the Constitution, which particularly affects women (art. 3).

The Committee urges the State party to ensure that the ongoing constitutional reform and all personal laws relating to adoption, marriage, divorce, burial or devolution of property on death are governed by the principle of non-discrimination, and that it eliminate all legislation that may result in discrimination against women.

238. The Committee is concerned about the persistence of stereotypes regarding the division of responsibilities between women and men in the family, the community and in public life, where men are still considered the main source of income for the family and women are expected to be primarily responsible for household chores (art. 3).

The Committee recommends that the State party undertake measures to vigorously address gender-based prejudices and to promote the equal sharing of responsibilities in the family, community and public life. In this regard, the Committee draws the attention of the State party to its general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights.

239. The Committee is concerned at the absence of a cross-cutting national minimum wage (art. 7).

The Committee encourages the State party to establish a cross-cutting national minimum wage, and ensure that it enables workers and their families to enjoy an adequate standard of living and that the minimum wage standard is thoroughly

enforced. The Committee further encourages the State party to establish an effective system of indexation and regular adjustment of the minimum wage to, inter alia, the cost of living.

240. The Committee is concerned about the concentration of women in the low-wage and unskilled labour sectors, the unemployment gap between women and men which reflects the disadvantageous situation of women on the labour market, the persisting wage differentials between women and men and the absence of a law requiring equal pay for work of equal value (art. 7).

The Committee recommends that efforts be made to eliminate occupational segregation in employment and the unemployment gap and wage differentials between women and men, including through the use of temporary special measures. It further recommends amending section 20 of the Employment Rights Act of 2008 with a view to ensuring equal pay for work of equal value.

241. The Committee is concerned at the persistence of sexual harassment in the workplace. While noting that section 38 of the Employment Rights Act of 2008 protects any worker who exercises any of the rights provided for in the Act against termination of employment, the Committee is concerned that many cases of sexual harassment go unreported because women are afraid of losing their jobs (art. 7).

The Committee recommends that the State party evaluate the effectiveness of the legal framework in place to combat sexual harassment in the workplace and provide a safe environment for women to report cases. It further recommends that the State party take the necessary steps to ensure that women are aware of their rights provided for in the Employment Rights Act.

242. The Committee is concerned that migrant workers face difficult living and working conditions, and are afforded little legal protection. It is further concerned at the vulnerability of migrant workers to violations of trade union rights, and that migrant workers who exercise their right to strike may be deported from the State party on the grounds of "breach of contract" (arts. 7 and 8).

The Committee recommends that the State party adopt a comprehensive legal framework for the protection of the rights of migrant workers, ensuring that the conditions of employment of all migrant workers are not less favourable than those granted to a local worker. The Committee also recommends that the State party take the necessary measures to guarantee that migrant workers may fully exercise their trade union rights both in law and in practice, and that they are protected from measures such as deportation for exercising these rights. It further recommends that the State party ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and ILO Convention No. 143 (1975) concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers.

243. The Committee is concerned that, according to regulation 3 of the Social Aid Regulations of 1984, non-nationals are not entitled to social aid that is paid to poor households who do not have sufficient resources to meet their basic needs (art. 9).

The Committee recommends that the State party amend regulation 3 of the Social Aid Regulations of 1984 in order to ensure that non-national individuals and families who do not have sufficient resources to meet their basic needs are entitled to social aid.

The Committee encourages the State party to consider including in its welfare system a guaranteed minimum income that promotes a human rights-based approach and brings together already existing benefits to combat poverty among disadvantaged and

marginalized individuals and groups, such as the social assistance scheme and income support scheme.

244. The Committee is concerned that, according to the Employment Rights Act of 2008 section 30, women with less than 12 months' continuous employment with the same employer are not entitled to paid maternity leave. It is further concerned that, according to section 31 of the same Act, men are entitled to paid paternity leave only if they have contracted civil or religious marriage to the mother of their child (art. 10).

The Committee recommends that the State party revise the Employment Rights Act, ensuring that all working mothers be accorded paid maternity leave, and that all fathers exercising parental responsibilities are entitled to paid paternity leave, regardless of their marital status.

245. The Committee is concerned at the persistent domestic violence against women in the State party, and that domestic violence is not specifically categorized as a criminal offence and can only be prosecuted as "assault". The Committee is particularly concerned that marital rape is not criminalized (art. 10).

The Committee recommends that the State party combat violence against women by making domestic violence a specific criminal offence, effectively implementing the Protection from Domestic Violence Act of 1997 and evaluating the National Action Plan to Combat Domestic Violence launched in 2007. The Committee also recommends that the State party ensure victims' access to justice, by encouraging the reporting of crimes and ensuring that perpetrators are prosecuted and punished. The Committee calls upon the State party to ensure that marital rape constitutes a criminal offence. It further requests the State party to raise public awareness, through the media and education programmes on violence against women.

246. The Committee is concerned at the persistent problem with cases of child abuse and neglect in the State party (art. 10).

The Committee recommends that the State party take the necessary measures to combat child abuse and neglect, including explicitly prohibiting corporal punishment at home and in alternative care settings and as a disciplinary measure in the penal system.

247. The Committee is concerned at cases of sexual exploitation of children, including reports that some schoolgirls voluntarily work in conjunction with prostitution rings, while others are forced into prostitution (art. 10).

The Committee recommends that the State party take all the necessary measures, including of a legal nature, to combat the sexual exploitation of children. It further recommends that the State party ratify the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, signed by the State party in 2001, and amend its laws to be fully compliant with this Protocol.

248. The Committee is concerned that abortion is criminalized in all settings, including when the mother's life is at risk, and when the pregnancy is the result of rape. It is further concerned by the failure of the State party to provide exact information on sexual and reproductive health services and education (arts. 10 and 12).

The Committee recommends that the State party amend section 235 of the Criminal Code in order to allow for abortion in cases of therapeutic abortion and when pregnancy is result of rape or incest. It further recommends that the State party make sexual and reproductive health services widely available, and mainstream sexual and reproductive health education in schools.

249. The Committee is concerned that 10 per cent of Mauritians are estimated to be living in poverty, and, in particular, that about 40 per cent of the population on Rodrigues Island live below the poverty level. It is further concerned that some regions are deprived of water supply and hygienic living conditions, particularly on Rodrigues Island (art. 11).

The Committee urges the State party to take immediate and effective measures to combat poverty and ensure that the population has affordable access to water supply and hygienic living conditions, particularly on Rodrigues Island, in line with its general comment No. 4 (1991) on the right to adequate housing and general comment No. 15 (2002) on the right to water and its statement on poverty and the International Covenant on Economic, Social and Cultural Rights (E/C.12/2001/10).

250. The Committee is concerned at the alarmingly high number of injecting drug users in the State party. It is further concerned at reports that the National Drug Control Master Plan 2008–2012 was never officially endorsed and is not being used by the various stakeholders concerned. The Committee is also concerned about the sharp increase in cases of HIV/AIDS, particularly concerning intravenous drug users, sex workers and prison inmates (art. 12).

The Committee recommends that the State party undertake a comprehensive approach to combat its serious drug problem. In order to achieve the progressive realization of the right to the highest attainable standard of physical and mental health for people who inject drugs and to ensure that this group may benefit from scientific progress and its applications (art. 15, para. 1 (b)), the State party should implement in full the recommendations made by the World Health Organization in 2009 designed to improve the availability, accessibility and quality of harm reduction services, in particular needle and syringe exchange and opioid substitution therapy with methadone. People who use drugs should be a key partner in this initiative. As a matter of urgency, the State party should:

(a) **Scale up needle and syringe programmes to all geographical areas. The Government should amend the Dangerous Drugs Act of 2000 to remove prohibitions on distributing or carrying drug paraphernalia as these impede HIV prevention services;**

(b) **Implement pilot prison needle and syringe exchanges and opioid substitution therapy programmes based on international best practice standards;**

(c) **Remove age barriers to accessing opioid substitution therapy and develop youth-friendly harm reduction services tailored to the specific needs of young people who use drugs;**

(d) **Remove restrictions on access to residential shelters for women who use drugs;**

(e) **Make hepatitis C treatment freely available to all injecting drug users;**

(f) **With regard to addicted persons, consider decriminalization and public health-based measures such as prescription of buprenorphine.**

251. The Committee is concerned at the high and increasing rate of drug trafficking and related corruption in the State party (art. 12).

The Committee recommends that the State party take the necessary measures to combat drug trafficking and related corruption. At the same time, the Committee recommends that these measures fully comply with the international human rights standards, including in relation to the abolition of the death penalty.

252. The Committee is concerned about the lack of information on the effectiveness of the strategies developed to combat chronic diseases, especially diabetes, tobacco use, and obesity and overweight (art. 12).

The Committee recommends that the State party evaluate the effectiveness of its strategies to combat the above-mentioned health problems, and if necessary, undertake further measures to that end. In this regard it draws the attention of the State party to its general comment No. 14 (2000) on the right to the highest attainable standard of physical and mental health.

253. The Committee is concerned about the slow progress in education, in particular among children in some disadvantaged areas, and that one third of all children do not pass the Primary School Leaving Certificate examinations. The Committee is of the view that the use of English as the language of instruction contributes to this situation, in the light of the fact that Creole is spoken by a large majority of the population. The Committee is also concerned about the negative impact of private tuition on the universal access by children to secondary education (art. 13).

The Committee recommends that the State party increase its efforts to ensure that children in disadvantaged areas are able to complete school, including by maintaining and extending the system of Zones d'Éducation Prioritaire. It further recommends that the State party continue its experiments with the use of Creole as a medium of instruction in schools, and that it produce educational materials in Creole. The Committee also recommends that the State party eliminate the competitive system for entry to secondary schools and admit children to secondary schools near to their place of residence and not based on their performance.

The Committee recommends that the State party strengthen its efforts to eliminate situations that may be discriminatory against children with disabilities and take steps to ensure that all children with disabilities can, as appropriate, study in mainstream schools. In order to implement this approach, the State party should ensure that teachers are trained to educate children with disabilities within regular schools, in line with the Committee's general comment No. 5 (1994) on persons with disabilities.

254. The Committee is concerned that the Mauritian Cultural Centre has ceased to function (art. 15).

The Committee recommends that the State party conclude its revision of the objectives of the Mauritian Cultural Centre, re-open it and use it to consolidate national unity, as envisaged.

255. **The Committee encourages the State party to consider signing and ratifying the Optional Protocol to the Covenant.**

256. **The Committee recommends that the State party provide, in its fifth periodic report, updated statistical data on the enjoyment of each Covenant right, disaggregated by age, gender, ethnic origin, urban/rural population and other relevant status, on an annual comparative basis over the past five years.**

257. **The Committee requests the State party to disseminate the present concluding observations widely among all levels of society, in particular among State officials, the judiciary and civil society organizations, to translate and publicize them as far as possible, and to inform the Committee on the steps taken to implement them in its next periodic report. It also encourages the State party to continue engaging national human rights institutions, non-governmental organizations and other members of civil society in the process of discussion at the national level prior to the submission of its next periodic report.**

258. The Committee encourages the State party to consider extending an invitation to the special procedures of the Human Rights Council to visit the country with a view to enhancing the dialogue, especially with special rapporteurs in the area of economic, social and cultural rights.

259. The Committee recommends that the State party considers withdrawing its interpretative declaration concerning article 24, paragraph 2(b), of the Convention on the Rights of Persons with Disabilities in relation to the policy of inclusive education, as this affects the object and purpose of the Convention. The Committee further recommends that the State party withdraw its reservation concerning article 11 of that Convention, by which it seeks to exclude measures specified in article 11 “unless permitted by domestic legislation expressly providing for the taking of such measures”, as this goes to the substance of the provision and affects the object and purpose of the Convention.

260. The Committee requests the State party to submit its fifth periodic report in line with the revised treaty-specific reporting guidelines of the Committee (E/C.12/2008/2), by 30 June 2015.

Forty-fifth session

Dominican Republic

261. The Committee on Economic, Social and Cultural Rights considered the third periodic report of the Dominican Republic on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/DOM/3) at its 34th, 35th and 36th meetings, held on 3 and 4 November 2010 (see E/C.12/2010/SR.34, 35 and 36), and adopted, at its 55th meeting held on 19 November 2010, the following concluding observations.

A. Introduction

262. The Committee welcomes the submission of the third periodic report of the Dominican Republic. The Committee also appreciates the dialogue held with the delegation of the State party, the written replies to the list of issues, as well as the oral responses provided by the delegation of the State party. However, it regrets the 11-year delay in the presentation of the report, and the fact that the written replies to the list of issues were only submitted on 29 October 2010, too late for their translation into the working languages of the Committee.

B. Positive aspects

263. The Committee welcomes the ratification by the State party of the International Convention on the Rights of Persons with Disabilities and its Optional Protocol (2009), the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2006), the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (2002), and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000).

264. The Committee also welcomes the enactment by the State party of new laws and plans to advance the realization of the Covenant rights, including:

- (a) Law No. 87-01 of 9 May 2001, which created the Dominican Social Security System;

- (b) Law No. 42-01 of 2001 or the General Law on Health, which established the foundations for the National Health System;
- (c) Law No. 137-03 of 2003 on unlawful trafficking in migrants and trafficking in persons;
- (d) The National Gender Equity Plan II (2007–2017).

265. The Committee appreciates the positive role played by the State party in response to the January 2010 earthquake that struck neighbouring Haiti.

C. Principal subjects of concerns and recommendations

266. The Committee is concerned about the lack of references to Covenant provisions by domestic courts, despite the fact that international treaties form part of the domestic legal order of the State party.

The Committee recommends that the State party take effective measures to increase awareness of the Covenant rights among the judiciary and the public at large, and ensure that Covenant provisions can be invoked before the domestic courts. The Committee draws the attention of the State party to its general comments No. 3 (1990) on the nature of States parties' obligations and No. 9 (1998) on the domestic application of the Covenant, and invites the State party to ensure that the process of adapting the legal system to the new Constitution is done with a view to fulfilling the enjoyment of economic, social and cultural rights by all persons living in the State party.

267. The Committee regrets that the absence of disaggregated statistical information in the State party report did not enable the Committee to fully assess to what extent and how the rights set out in the Covenant were implemented in the State party.

The Committee urges the State party to provide, in its fourth periodic report, updated statistical data showing the practical application of the Covenant, on a comparative annual basis, including disaggregated data and relevant statistics regarding the implementation of its laws and the practical results of plans, programmes and strategies carried out in relation to the various rights enshrined in the Covenant.

268. The Committee notes with concern that information about the impact of the United States-Dominican Republic-Central America Free Trade Agreement (CAFTA) and the Economic Partnership Agreements with the European Union on the fulfilment of social economic and cultural rights in the State party was not available. It is also concerned by cases of investment agreements being approved before the environmental and social impact assessments are carried out.

The Committee encourages the State party to take into account its obligations under the Covenant in all aspects of its negotiations with investors and while negotiating and signing international agreements on economic partnerships. The Committee calls upon the State party to play an active role in regulating economic and social policy to ensure that the enjoyment of economic, social and cultural rights, particularly by the most disadvantaged and marginalized groups, is not undermined. The Committee recommends that the State party take steps to ensure that environmental and social impact assessments precede the approval of investment agreements or commencement of activities that might negatively impact economic, cultural and social rights, in particular of the most disadvantaged and vulnerable groups.

269. The Committee expresses its concern that although the *Defensor/a del Pueblo* (Human Rights Ombudsperson) was established by Law No. 19-01 in 2001, and despite recent efforts for his/her appointment, the position remains unfilled.

The Committee urges the State party to implement Law No. 19-01, to accelerate the appointment of the *Defensor/a del Pueblo*. It also encourages the State party to furnish the Office of the *Defensor/a del Pueblo* with all the competences of a fully fledged national human rights institution in conformity with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) or to consider the establishment of a national human rights commission with such competences.

270. The Committee regrets the absence of a comprehensive anti-discrimination law, despite provisions in existing legislation promoting equality and prohibiting discrimination in specific areas. The Committee is also concerned about the discriminatory impact of certain laws and practices, especially those linked to nationality and birth registration (art. 2, para. 2).

The Committee urges the State party to adopt a comprehensive anti-discrimination law spelling out all the prohibited grounds for discrimination, as set out by article 2, paragraph 2, of the Covenant and taking into account the Committee's general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights.

271. The Committee reiterates its concern that racial prejudice and discrimination against Haitians and Dominicans of Haitian descent in the State party persists. It regrets that five years after the judgment by the Inter-American Court of Human Rights in the Yean and Bosico case, children of Haitian descent born in the State party continue to suffer discrimination, in particular through the revocation of identity documents as a result of the application of Law No. 285-04 on Migration of 2004, Resolution No. 017 by the Dominican Electoral Board in 2007, and article 18.3 of the Constitution of 2010. The Committee notes that the non-renewal of residency documents has increased the exposure of Haitian children and Dominican children of Haitian descent, especially, to discriminatory practices. The Committee is also concerned that the aforementioned Law No. 285-04 on Migration expanded groups of children denied their right to Dominican nationality making them effectively stateless and that this law is applicable retroactively. The Committee is in particular concerned that the approach taken by Law No. 285-04 on Migration of 2004 has been integrated into the 2010 Constitution of the State party (art. 2, para. 2).

The Committee recommends that the State party adopt the necessary measures to prevent, diminish and eliminate the conditions and attitudes which cause or perpetuate formal or de facto discrimination against Haitians and Dominicans of Haitian descent. It also urges the State party to ensure birth registration with regard to these groups and guarantee their economic, social and cultural rights. It urges the State party to reconsider the regulations relating to the citizenship of children of Haitians and Dominicans of Haitian descent, in particular, by ensuring a non-discriminatory access to the Dominican nationality, irrespective of date of birth.

272. The Committee reiterates its concern that, despite legislative efforts to ensure the equal enjoyment by men and women of economic, social and cultural rights, discrimination against women persists in many fields of life, as is manifested inter alia by the persisting wage gap between men and women, the low percentage of women in high-ranking positions in political and public life, occupational sex segregation and pregnancy tests carried out in free trade zones as a precondition for employment (art. 3).

The Committee reiterates its previous recommendations that the State party pursue policies to achieve the full equality between men and women and draws the attention of the State party to its general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights. It recommends that the State party take steps towards enhancing the participation of women in high-ranking positions in political and public life. It also recommends that the State party

intensify its efforts to effectively promote the greater participation of women in the labour market and to ensure equal working conditions, including equal pay for work of equal value, as well as to ensure the prohibition of the practice of carrying out pregnancy tests. The Committee urges the State party to hold employers who continue to apply these practices accountable.

273. The Committee is concerned that the Ministry of Women receives 0.08 per cent of the national budget, the ministry with the lowest budget allocation, making the implementation of the National Gender Equity Plan II virtually impossible. It also notes with concern public statements to the effect that the Ministry of Women could undergo changes affecting its autonomy (art. 3).

The Committee encourages the State party to ensure an adequate allocation of financial and human resources for the implementation of the National Gender Equity Plan II as well as the strengthening the capacities of the Ministry of Women.

274. The Committee is deeply concerned about the poor working conditions in export processing zones, in particular for women. It is also concerned about the obstacles encountered in the exercise of basic trade union rights by workers in these zones; it is indicative that less than 15 per cent of the companies operating in the export processing zones have a trade union and there is a lack of collective processes and bargaining agreements. The Committee also notes with concern the large groups of employees in such zones that have recently lost their jobs, and many of whom remain without compensation and are yet to receive their accumulated benefits (arts. 7 and 8).

The Committee reiterates its recommendation that workers in export processing zones be allowed to form and join trade unions and that their right to strike and to enjoy just and favourable conditions of work be guaranteed. It reminds the State party of its obligation to protect workers and their families against incidents of abuses of human rights by the corporate sector in these zones.

275. The Committee is concerned about violations of labour standards, trade union freedoms and equal rights of men and women, as indicated by trade union complaints presented to competent bodies. The Committee also regrets the lack of information from the State party on the numbers and nature of complaints made by trade union organizations concerning conditions of work and trade union freedoms (arts. 7 and 8).

The Committee urges the State party to strictly enforce basic labour standards and further increase the number of labour inspections, promote training and enhanced opportunities for workers, ensure trade union freedom and guarantee that women have the same conditions of work as men. With a view to achieving progress in these areas, the Committee recommends the thorough analysis of the complaints submitted by trade unions.

276. The Committee reiterates its concern that the minimum wage remains insufficient for workers and their families to enjoy an adequate standard of living. It is concerned that the current system of 14 different minimum wages for different work categories does not cover all sectors of activity and, as a result of its complexity, may negatively affect the implementation of the right to minimum wage (art. 7 (a)).

The Committee reiterates its previous recommendation that the State party ensure that the minimum wage provides workers and their families with an adequate standard of living in accordance with article 7, paragraph (a) (ii), of the Covenant and invites the State party to continue collaboration with the International Labour Organization (ILO) on this issue. The Committee also recommends that the State party ratify ILO Convention No. 131 (1970) concerning Minimum Wage Fixing at this juncture.

277. The Committee notes with concern that sexual harassment in the workplace continues to affect more than 30 per cent of women and that only a few cases were settled under the Labour Code. It is further concerned that sexual harassment has not been recognized as a crime under penal law (art. 7 (b)).

The Committee recommends that the State party adopt and implement legislation that criminalizes sexual harassment in the workplace and that it set up mechanisms to monitor its implementation. It also recommends that the State party raise public awareness of the criminal nature of sexual harassment.

278. The Committee reiterates its concern for migrant workers in an irregular situation and their families, mainly those of Haitian origin, who are in a vulnerable situation and often subject to exploitation, discrimination and unpaid wages owing to their lack of personal documents. It notes with concern that, despite the right to form and join trade unions being provided for by the Labour Code, regardless of legal status, the majority of these workers in the agricultural and construction industries do not exercise their rights, fearing dismissal or deportation (arts. 7, 8 and 9).

The Committee reiterates its view that it is necessary to regularize the situation of undocumented workers, through the delivery of residence permits or naturalization. It recommends that the State party adopt specific and effective measures for the protection of the rights of undocumented workers, ensuring the implementation of the guarantees set by the Labour Code for the same protection granted to national workers. The Committee also recommends that the State party take the necessary measures to guarantee that migrants and Dominican workers of Haitian origin have full opportunity to exercise their trade union rights in practice, and that they are protected from retaliation measures for exercising these rights.

279. The Committee is concerned that underemployment and unemployment remain high in the State party, disproportionately affecting women and young persons, notably those living in rural areas. It also notes with concern that the creation of employment opportunities is taking place primarily in the informal economy, which involves 54 per cent of the workforce but does not guarantee an adequate level of protection of the rights of employees (arts. 6, 7 and 9).

The Committee recommends that the State party take effective measures, such as an employment action plan, to expand regular employment and ensure an accelerated reduction of underemployment and unemployment with a special focus on women and young persons. It also recommends that the State party undertake to ensure the respect of the rights of all employees, irrespective of their employment scheme.

280. The Committee is concerned at the slow implementation of the 2003 Dominican System of Social Security, its limited coverage and services and the fact that more than three quarters of the population, in particular women and the elderly, lack pensions and appropriate health care in the framework of the system. The Committee also notes with concern that, in urban areas, only 12 per cent of older people are entitled to the universal old-age pension and access to health treatment, and that this percentage drops to 3.4 per cent of the population in rural areas (arts. 6, 7 and 9).

The Committee reiterates the State party's obligation for universal social security coverage under article 9 of the Covenant and recommends that the State party undertake to extend the coverage of social security to workers in rural areas and the informal sector in line with general comment No. 19 (2007) on the right to social security. The Committee encourages the State party to strengthen inspections with a view to identifying non-declaration or under-declaration of employees, in order to strengthen the fiscal system of the State party and thus to allow for financing of the Social Security System. At this juncture, the Committee recommends that the State

party consider ratifying ILO Convention No. 102 (1952) concerning Minimum Standards of Social Security.

281. The Committee expresses its concern about continuing violence against women, in particular, domestic violence, despite legislation which characterizes and penalizes family violence, such as article 42 (2) of the Constitution and Law No. 24-97 (art. 10).

The Committee urges the State party to attach high priority to comprehensive measures to address domestic and other violence against women and requests that the State party allocate the human and financial resources necessary to put in place a national action plan to combat violence against women. It calls on the State party to ensure the effective application of the 1997 Law No. 24-97 on domestic violence by the competent authorities, pursuing, inter alia, an effective access to justice for victims and accountability of perpetrators. It also recommends that the State party encourage and facilitate coordination among all actors working on domestic violence cases and carry out measures to address the physical, mental and sexual health issues arising from this violence by providing support and rehabilitation services to victims. The Committee calls on the State party to carry out awareness-raising programmes and training for law enforcement officials and relevant professionals on the criminal nature of acts of domestic violence and for the public at large including a campaign of zero tolerance that makes such violence unacceptable.

282. The Committee is concerned about the problem of trafficking in human beings in the State party where persons, in particular women and children continue to be trafficked from, through and within the country for the purposes of sexual exploitation and forced labour. It is concerned by the lack of adequate funds to enforce and monitor the National Action Plan against the Trafficking of Persons and Smuggling of Migrants and the lack of measures for the rehabilitation of victims of trafficking and exploitation (art. 10, para. 3).

The Committee recommends that the State party intensify its efforts to combat human trafficking, especially of women and children, for purposes of sexual exploitation and forced labour, inter alia by prosecuting and convicting offenders of the law against trafficking, supporting programmes and public awareness campaigns to prevent trafficking – in particular emphasizing that trafficking of women and children for sexual exploitation is a criminal offence, providing mandatory training for law enforcement officials, prosecutors and judges on the anti-trafficking legislation and increasing the provision of medical, psychological and legal support for victims.

283. The Committee is concerned that despite the efforts of the State party, child labour continues to be widespread, especially in agriculture and the informal sector (art 10, para. 3).

The Committee recommends that the State party intensify its efforts to combat child labour, including through labour inspections in agriculture and the informal sector, ensuring that employers exploiting child labour are held accountable. It also recommends that victims of child labour are rehabilitated. The Committee calls on the State party to undertake awareness-raising campaigns with a view to eradicating socially accepted child labour.

284. The Committee is concerned that despite the efforts by the State party to issue birth certificates or personal identification documents to affected Dominicans, a large number of persons, almost 100,000, are still not registered (arts. 10 and 11).

The Committee urges the State party to accelerate the process of birth registration for those persons still lacking identity documents and requests that information in this regard be included in the next periodic report.

285. The Committee is concerned that the national refugee status determination procedure in place has been largely inactive, which has left asylum claims pending for many years. It further regrets that the non-renewal of personal documentation of refugees and lack of access to birth registration by the State authorities seriously hinders their enjoyment of economic, social and cultural rights, including access to the rights to work, health and education (art. 10 and 11).

The Committee urges the State party to ensure protection for asylum-seekers and refugees in line with international standards, including ensuring compliance with the principle of non-refoulement. It urges the State party to develop and implement viable migration policies, in consultation with relevant States. It recommends that the State party consider accession to international instruments to address the situation of stateless persons, namely the 1954 Convention relating to the Status of Stateless Persons and that it continue its cooperation with the Office of the United Nations High Commissioner for Refugees in this regard.

286. The Committee is concerned about the large number of persons living in poverty (42 per cent) and in extreme poverty (10 per cent) in the State party. It is further concerned that the declining average real income in recent years has meant for Dominican households a decrease in consumption of staple foods, below minimum subsistence levels for the most vulnerable population and regrets that chronic malnutrition has risen. It notes with concern that while the National Development Strategy is a positive endeavour, it largely lacks a human rights-based approach and does not sufficiently address existing inequalities between women and men (art. 11).

The Committee urges the State party to fully integrate human rights, and especially economic, social and cultural rights, into its poverty-reduction strategies, and encourages in particular, steps aimed at reducing social inequalities. In this regard, the Committee refers the State party to the Statement on poverty and the International Covenant on Economic, Social and Cultural Rights, adopted by the Committee on 4 May 2001 (E/2002/22-E/C.12/2001/17, annex VII) and to its general comment No. 15 (2002) on the right to water. It also encourages the State party to develop indicators and benchmarks and that it compile disaggregated data for the purpose of specifically assessing the needs of disadvantaged and marginalized individuals and groups, and requests that this information be included in the next periodic report.

287. The Committee reiterates its concern about the continuing housing deficit in the State party, both in terms of quantity and quality, and about housing conditions in the *bateyes*, including limited access to sanitation infrastructure, water supply and health and educational services. The Committee also reiterates its concern over forced evictions taking place in contravention of the State party's obligations under the Covenant and notes the absence of a law or decree prohibiting the practice of evictions (art. 11).

In light of the Committee's general comments Nos. 4 (1991) on the right to adequate housing and 7 (1997) on forced evictions, the Committee recommends that the State party carry out measures to provide access to adequate and affordable housing with legal security of tenure for everyone, irrespective of income or access to economic resources and particularly to the most disadvantaged and marginalized individuals and groups. The Committee also urges the State party to take specific measures to ensure that persons forcibly evicted are provided with alternative accommodation or compensation enabling them to acquire adequate accommodation, including by adopting an adequate legal framework. It further requests that the State party provide additional updated information in one year's time on the implementation of

the recommendations made in the report on the technical assistance mission to the State party of the Committee on 19–26 September 1997 (E/C.12/1997/9).

288. The Committee expresses concern about the persistently high maternal mortality rate and the overall low quality in maternal health care, the increasing number of teenage pregnancies, the high number of unsafe abortions involving girls between 12 and 18 years old, as well as the lack of adequate and accessible sexual and reproductive health care and education services (arts. 10 and 12).

The Committee recommends that the State party undertake all necessary measures to decrease the maternal mortality rate including measures to improve the quality of maternal care, including prenatal health services and medical assistance at birth. It encourages the State party to ensure affordable access for everyone to comprehensive family planning services, including adolescents, and to raise public awareness and education on sexual and reproductive health.

289. The Committee is also concerned about amendments to article 37 of the Constitution criminalizing abortion in all settings (arts. 10 and 12).

The Committee recommends that the State party provide funds to ensure the availability of contraceptives to assist women and men to prevent unwanted pregnancies and resort to potentially life-threatening, unsafe abortions. It urges the State party to reconsider its legislation on abortion with a view to lifting its prohibition in cases of a serious threat to the health or life of the pregnant woman and pregnancies resulting from rape or incest.

290. The Committee is concerned that, despite efforts by the State party in the area of health care, disadvantaged and marginalized individuals continue to have inadequate access to quality medical services. The Committee is further concerned that:

(a) The public health system is seriously underfunded, as compared to the international recommended standard of 3 per cent of gross domestic product (GDP);

(b) The per capita expenditure on health care is disproportionately divided throughout the country; and

(c) The State party system lacks a holistic health protection, promotion and disease prevention strategy (art. 12).

The Committee urges the State party to increase expenditures for health care, at least in line with the internationally recommended standard of 3 per cent of GDP, and to take all appropriate measures to ensure universal access to health care, at costs that are affordable to everyone. In this vein, the Committee draws the attention of the State party to the Committee's general comment No. 14 (2000) on the right to the highest attainable standard of health. It recommends that the State party adopt health protection and promotion and disease prevention programmes. The Committee also recommends that the State party ensure the adequate training of health personnel, in quantitative and qualitative terms, including on human right-related aspects of health care.

291. The Committee is concerned that antiretroviral treatment or specific HIV-related tests are not covered by the Basic Health Plan. It also notes with concern that discrimination against persons with HIV/AIDS and high-risk groups, such as men in same-sex relationships and transgender persons continues, and that these groups, along with undocumented Haitians residing in the State party and Dominicans of Haitian origin and persons living with HIV in *bateyes*, face serious difficulties in accessing prevention, treatment, care and support services (art. 12, paras. 1 and 2 (c)).

The Committee encourages the State party to continue its efforts towards the adoption of comprehensive HIV care programmes, including support services, and to limit the spread of HIV/AIDS, through effective prevention campaigns. The Committee further recommends that the State party undertake effective steps to prevent discrimination of specific groups in their access to protection against HIV/AIDS and to focus HIV/AIDS programmes on those specific groups disproportionately affected by this epidemic.

292. The Committee is concerned that public education is severely underfunded despite the obligations set forth in article 63 (10) of the Constitution and the General Law on Education No. 66-97. According to data from the State party, the goal for financing education set by law is 4 per cent of GDP, however, in 2010 it was 2.4 per cent and in 2011 the budget proposal is 1.98 per cent of GDP (arts. 13 and 14).

The Committee urges the State party to ensure a sufficient budget allocation to the education sector, in particular with a view to guaranteeing universal free primary education.

293. The Committee is concerned that children in remote areas, Dominican-born children of Haitian descent and children of migrants continue to face difficulties in initial enrolment and access to education and that the overall quality and quantity of education is low, in particular among disadvantaged and marginalized groups and in rural areas, which issue is accompanied by a high rate of school dropouts and repetition. It also notes with concern that, despite ongoing efforts by the State party, rates of illiteracy among young persons and adults remain high (arts. 13 and 14).

The Committee recommends that the State party take steps to ensure that education in primary and secondary schools is provided according to the Education Law at a level of five hours on a daily average instead of the present three hours. It also recommends that the State party strengthen the quality of the public education system and continue its efforts to provide targeted financial support and other incentives to families belonging to vulnerable and disadvantaged groups, to ensure that education is equally accessible to all and without discrimination.

294. The Committee encourages the State party to sign and ratify the Optional Protocol to the Covenant.

295. The Committee invites the State party to expedite its ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

296. The Committee recommends that the State party provide, in its next periodic report, updated statistical data on the enjoyment of each right enshrined in the Covenant, disaggregated by age, gender, ethnic origin, urban/rural population and other relevant criteria, on an annual comparative basis over the previous five years.

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

298. The Committee invites the State party to submit an updated common core document in accordance with the harmonized guidelines on reporting to the international human rights treaty monitoring bodies (HRI/GEN/2/Rev.6).

299. **The Committee requests the State party to submit its fourth periodic report, prepared in accordance with the revised reporting guidelines of the Committee, adopted in 2008 (E/C.12/2008/2), by 30 June 2015.**

Netherlands (Kingdom of)

300. The Committee on Economic, Social and Cultural Rights considered the combined fourth and fifth periodic reports of the Kingdom of the Netherlands on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/NLD/4-5, Add.1 and Add.2) at its 43rd, 44th and 45th meetings, held on 10 and 11 November 2010 (E/C.12/2010/SR.43, 44 and 45), and adopted, at its 55th meeting held on 19 November 2010, the following concluding observations.

A. Introduction

301. The Committee welcomes the submission of the combined fourth and fifth periodic reports of the Kingdom of the Netherlands and the written replies to its list of issues, but regrets the late submission of the report of Aruba.

302. The Committee appreciates the frank and constructive dialogue with the delegation of the State party that included representatives from the four constituent countries of the State party, with expertise on the subjects covered by the Covenant.

B. Positive aspects

303. The Committee welcomes the adoption of measures, legislative and otherwise, by the State party since the last review of the State party's reports that have contributed to the realization of the economic, social and cultural rights enshrined in the Covenant, including the following:

- (a) The incorporation of economic, social and cultural rights in the Constitutions of Curaçao and St. Maarten;
- (b) The legislative amendments providing for compulsory education for all children in all territories of the State party, irrespective of their legal status;
- (c) The introduction of a mechanism of reimbursement of medical fees for services provided to undocumented migrants;
- (d) Measures, legislative and otherwise, put into place to improve work/life balance; and
- (e) The maintenance by the Netherlands of a high level of official development assistance at 0.7 per cent of its gross national product.

C. Principal subjects of concern and recommendations

304. The Committee is concerned at the unequal enjoyment of economic, social and cultural rights among the four constituent countries of the State party (art. 2, paras. 1 and 2).

As the State party is accountable for the implementation of the Covenant in all its territories, the Committee urges it to ensure the equal enjoyment of the economic, social and cultural rights by all individuals and groups under its jurisdiction. This entails an obligation for the State party to ensure that all its enactments and policies should provide for all the same level of enjoyment of economic, social and cultural rights. Moreover, the principle of "maximum available resources" should apply to the State party and not to its constituent countries individually. The Committee requests

the State party to provide information on practical measures adopted and implemented in this regard in its next periodic report.

305. Given the fact that the State party follows a monist system, whereby international treaties are directly applicable, the Committee reiterates its concern that some provisions of the Covenant are not self-executing and enforceable in the State party and that they have not been admitted by courts to substantiate legal claims relating to economic, social and cultural rights.

The Committee reiterates its recommendation that the State party has the obligation to give effect to the rights contained in the Covenant in each territory, so that individuals can seek enforcement of their rights before national courts and tribunals. Moreover, in view of the numerous decisions of the State party's courts to the effect that the provisions of the Covenant are not self-executing and thus not binding in accordance with articles 93 and 94 of the Constitution of the State party, the Committee urges the State party to consider all remedial measures, legislative or otherwise, to ensure that the Covenant rights are applicable and justiciable in all its constituent countries. In this regard, the Committee refers the State party to its general comment No. 9 (1998) on the domestic application of the Covenant. The Committee also requests the State party to continue to provide in its periodic reports detailed information on case law from all its territories regarding the implementation of the Covenant.

306. The Committee is concerned that none of the constituent countries of the State party has yet adopted national human rights action plans.

The Committee calls on the State party to ensure that, in all its constituent countries, national action plans for human rights in accordance with the Vienna Declaration and Programme of Action of 1993 are adopted and implemented. The Committee recommends that these plans include specific programmes regarding the realization of economic, social and cultural rights.

307. The Committee is concerned by the insufficient awareness of the provisions of the Covenant among the general public at large.

The Committee recommends that the State party take effective measures to increase awareness among the public at large of the economic, social and cultural rights contained in the Covenant, as well as of judicial or other remedies available to individuals in the event of violations of these rights, and encourages the State party to involve civil society and national human rights institutions in this regard.

308. The Committee is concerned that the training programmes for judges, law enforcement officers, teachers, social workers and public officials do not cover the provisions of the Covenant and their application in a systematic manner.

The Committee calls on the State party to provide systematic training on the provisions of the Covenant and their application to members of all professions and sectors that play a direct role in the promotion and protection of the rights contained in the Covenant, including judges, law enforcement officers, migration officers, lawyers, civil servants, teachers, and health-care professionals.

309. The Committee is concerned that there are no human rights institutions that comply fully with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) in the State party.

The Committee calls on the State party to continue its efforts to establish national human rights institutions compliant with the Paris Principles. The Committee calls upon the State party to ensure that these institutions have mandates which specifically

cover economic, social and cultural rights and all territories of the State party. The Committee draws the attention of the State party to its general comment No. 10 (1998) on the role of national human rights institutions in the protection of economic, social and cultural rights. Moreover, the Committee recommends that the State party take steps towards the accreditation of these institutions by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights.

310. The Committee notes with concern that the anti-discrimination legislation of the State party does not provide protection against discrimination in all its forms (art. 2, para. 2).

The Committee calls on the State party to ensure that the new legislation integrating the four Equal Treatment Acts to be introduced in the Netherlands and the new equal treatment enactments to be adopted by Curaçao and St. Maarten provide comprehensive protection of the rights to equality and non-discrimination on all the prohibited grounds covered by the Covenant. The Committee further urges the State party to ensure that effective remedies are available to victims of discrimination. The Committee draws the attention of the State party to general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights.

311. The Committee is concerned that migrants and persons from ethnic minorities in the Netherlands continue to face considerable discrimination in the enjoyment of economic, social and cultural rights, particularly with regard to employment, housing, health and education, in spite of the measures taken by the State party. The Committee is further concerned that the situation is compounded by the rise in racism and xenophobia in the Netherlands (art. 2, para. 2).

The Committee urges the State party to pay particular attention to the situation of migrants and persons from ethnic minorities in the Netherlands and calls on the State party to:

- (a) Identify any difficulties faced by these groups in accessing employment, housing, health and education, and take the necessary remedial steps;**
- (b) Adopt and implement targeted policies and programmes to improve their situation;**
- (c) Take all necessary measures to combat racism and xenophobia, including through the use of media and education to overcome stereotypes and promote diversity, bearing in mind that changing attitudes will necessitate long-term efforts reaching out to the public at large;**
- (d) Enforce effectively the legal prohibitions against discrimination in the enjoyment of economic, social and cultural rights; and**
- (e) Provide in its next periodic report comparative statistics on the enjoyment of economic, social and cultural rights by migrants and persons from ethnic minorities, and the rest of the population.**

312. The Committee notes with concern that persons with disabilities face discrimination in the enjoyment of economic, social and cultural rights, particularly in the field of employment and education (art. 2, para. 2).

The Committee calls on the State party to continue its efforts to promote integration of persons with disabilities in the labour market and to facilitate their access, physical or otherwise, to education. The Committee recommends that the State party take all necessary measures to ensure that all persons with disabilities enjoy the same economic, social and cultural rights as the rest of the population, according particular

attention to their accessibility to public places. In this regard, the Committee draws the attention of the State party to its general comment No. 5 (1994) on persons with disabilities.

313. The Committee remains concerned that, in spite of advances made in all the constituent countries of the State party, women still do not enjoy economic, social and cultural rights on the same level as men. As regards employment, the Committee is concerned at the wage gap, the under-representation of women in the labour market and their concentration in part-time employment, in spite of measures introduced and services made available to facilitate reconciliation of work and family life. The Committee is also concerned that women are under-represented in political life (art. 3).

The Committee calls on the State party, in all its constituent countries, to:

(a) Increase the effectiveness of policies, strategies and programmes promoting gender equality in relation to economic, social and cultural rights, and adopt the remedial measures required;

(b) Adopt the necessary measures to encourage employers to promote uptake of flexible work arrangements by women and men; and

(c) Step up efforts to increase women's participation in political life.

The Committee draws the attention of the State party to its general comment No. 16 (2005) on the equal right of men and women and requests the State party to provide in its next periodic report statistical data on the participation of women in the workforce, disaggregated by age, wage, part-time/full-time work and national origin, as well as data on women's economic independence and participation in political life.

314. The Committee expresses concern at the existence of compulsory labour for detainees in the Netherlands. The Committee is further concerned that detainees work for private entities for very low wages (arts. 6 and 7).

The Committee urges the State party to take appropriate measures in the Netherlands so that detainees are not subjected to any form of compulsory labour, in contravention of article 6 of the Covenant. Moreover, the Committee recommends that the State party ensure that the conditions of work of detainees, including wages and social security benefits, are fair and just. In this regard, the Committee urges the State party to bring its legislation into line with articles 6 and 7 of the Covenant and International Labour Organization (ILO) Convention No. 29 concerning Forced or Compulsory Labour.

315. The Committee notes with concern that unemployment in Aruba and the islands of the former Netherlands Antilles remains high. The Committee further regrets the lack of statistical data on underemployment in the State party (arts. 6 and 2, para. 2).

The Committee reiterates its recommendation calling on the State party to intensify its efforts to combat unemployment, particularly in Aruba and in the islands of the former Netherlands Antilles. The Committee recommends that the State party take account of its general comment No. 18 (2005) on the right to work in the adoption and implementation of its employment policies. The Committee also requests the State party to provide in its next periodic report statistical data on unemployment and underemployment, disaggregated by constituent country, sex, ethnic origin and economic and social situation, over the five years preceding the submission of the report.

316. The Committee is concerned that, in all the constituent countries of the State party, domestic workers do not enjoy the same protection as other workers and are in a

disadvantaged position in that their employers do not contribute to the payment of their health insurance and pensions, as employers do in other sectors (art. 7 and 9).

The Committee calls on the State party to adopt remedial measures, legislative or otherwise, to bring the rights and benefits accorded to domestic workers in line with those afforded to other workers, particularly in terms of social security benefits.

317. The Committee is concerned that, in the absence of an explicit recognition of the right to strike in the legislation of the Netherlands, the exercise of that right has been made subject to the scrutiny of the courts and that in Curaçao and St. Maarten a ban on the right to strike is still in force (art. 8).

The Committee urges the State party to recognize explicitly the right to strike with its permissible limits in the legislation of the Netherlands. The Committee also calls on the State party to ensure that the provisions on the exercise of the right to strike in the new Criminal Codes of Curaçao and St. Maarten are in line with article 8 of the Covenant.

318. The Committee notes with concern the rather low uptake of social assistance by entitled persons both in the Netherlands and in the islands of the former Netherlands Antilles (arts. 9 and 11).

The Committee urges the State party to continue taking all necessary measures to raise awareness of social assistance entitlements both in the Netherlands and in the islands of the former Netherlands Antilles and ensure that all individuals and households in need of social assistance have effective access thereto. The Committee also encourages the State party to include these measures into national poverty action plans.

319. The Committee is concerned that the long period of affiliation required in order to receive the full public pension in the Netherlands is discriminatory to migrant workers working in the State party. The Committee is further concerned at the risk of poverty for pensioners, as the amount of the full pension is at the level of the minimum wage (arts. 9 and 11).

The Committee calls on the State party to end discrimination against migrant workers with regard to pension rights. The Committee also calls on the State party to assess the impact of its enactments regarding old-age pension on the standard of living of pensioners, bearing in mind the increasing mobility of workers. The Committee draws the attention of the State party in this regard to its general comment No. 19 (2007) on social security.

320. The Committee is concerned, in spite of the measures taken, at the scale of domestic violence and the absence of a specific offence of domestic violence in the Netherlands. Furthermore, the Committee is concerned at the lack of information on the scale of domestic violence in Aruba and the islands of the former Netherlands Antilles (art. 10).

The Committee calls on the State party to:

- (a) Enact a specific offence of domestic violence in the Netherlands;**
- (b) Continue efforts undertaken to combat domestic violence, including by strengthening efforts to prosecute acts of domestic violence and continue raising awareness of domestic violence;**
- (c) Act upon the findings of the survey on domestic violence in the Netherlands, including by addressing its root causes;**
- (d) Ensure the effective enforcement of the new provisions on domestic violence enacted in Aruba, Curaçao and St. Maarten;**

(e) **Conduct a study on the scale of domestic violence in Aruba, Curaçao and St. Maarten and provide information on the findings in the next periodic report of the State party; and**

(f) **Include in its next periodic report, for all constituent countries of the State party, information on the number and nature of reported cases of domestic violence, on convictions, and sanctions imposed on perpetrators, as well as any assistance and rehabilitation measures provided to victims.**

321. The Committee regrets that corporal punishment is not prohibited in Aruba (arts. 10 and 13).

The Committee urges the State party to introduce a statutory prohibition of corporal punishment in the home and in all educational settings in Aruba, in line with article 10 of the Covenant and the Committee's general comment No. 13 (1999) on the right to education, which refers to the fact that corporal punishment is inconsistent with the fundamental principle of dignity of the individual.

322. The Committee notes with concern that boys face discrimination on all the islands of the former Netherlands Antilles, which affects their education, as confirmed by a survey conducted by the State party (arts. 10 and 2, para. 2).

The Committee calls on the State party to continue to address the problem of discrimination faced by boys on the islands of the former Netherlands Antilles by attending to its root causes, such as the societal stereotypes about, and expectations from, boys and girls. In this regard, the Committee recommends that, in addition to the involvement of parents and teachers, the policies to be adopted and implemented also comprise public awareness campaigns to change the public's attitudes towards gender roles and the education of boys and girls.

323. The Committee notes with concern that pockets of poverty exist in all the constituent countries of the State party. Moreover, the Committee is concerned that Aruba, Curaçao and St. Maarten have not yet adopted either official poverty lines or strategies or action plans to combat poverty (art. 11).

The Committee urges the State party to combat poverty and social exclusion by targeting disadvantaged and marginalized groups, such as single parent families, migrants and children, and reiterates its recommendation calling on the State party to:

(a) **Establish, for each constituent country, an official poverty line which would enable the State party to assess the extent of poverty and monitor and evaluate progress; and**

(b) **Draw up and implement anti-poverty strategies and action plans, taking full account of economic, social and cultural rights.**

In this regard, the Committee refers the State party to its statement on poverty and the International Covenant on Economic, Social and Cultural Rights (E/2002/22-E/C.12/2001/17, annex VII), adopted in 2001. The Committee also requests the State party to provide in its next periodic report disaggregated and comparative, annually collected data on the number of individuals and households living in poverty, and on progress made in combating poverty.

324. The Committee is deeply concerned that asylum-seekers and unaccompanied minors in the Netherlands have been held in detention for long periods of time. The Committee also regrets that undocumented migrants, including families with children, are not entitled to a basic right to shelter and are rendered homeless after their eviction from reception

centres. The Committee is also concerned that, although undocumented migrants are entitled to health care and education, in practice they cannot always have access to either (arts. 11, 10, 12, 13 and 2, para. 2).

The Committee urges the State party to:

(a) **Ensure that the legislation in the Netherlands guarantees that asylum-seekers are detained only when it is absolutely necessary and that the time which rejected asylum-seekers and irregular migrants spend in detention is limited to a strict minimum; and**

(b) **Meet its core obligations under the Covenant and ensure that the minimum essential level relating to the right to housing, health and education is respected, protected and fulfilled in relation to undocumented migrants.**

325. The Committee regrets that it has not received clear and detailed information on the reportedly high drug consumption in the State party (art. 12).

The Committee requests the State party to include in its next periodic report detailed information, including statistical data, on drug consumption and trafficking in the State party and availability of dependence therapy, including for detainees.

326. The Committee expresses its deep concern at the reportedly high number of abortions performed on the islands of the former Netherlands Antilles and at the lack of an official estimate of the scale of the problem. In addition, the Committee is also particularly concerned that abortion primarily concerns adolescents and that it remains illegal in Curaçao and St. Maarten (art. 12).

The Committee urges the State party to review the legislation in Curaçao and St. Maarten and consider providing for exceptions to the prohibition on abortion in cases of therapeutic abortion or pregnancies resulting from rape or incest. Furthermore, the Committee calls on the State party to adopt, in all its territories, effective measures to assist women in preventing unwanted pregnancies, including by implementing mandatory sex education in schools and providing a broad range of sexual and reproductive health goods and services through the primary health-care system, with particular attention to access by adolescents and other disadvantaged and marginalized individuals and groups. The Committee requests the State party to provide in its next periodic report detailed information, including statistics, on early pregnancies and abortions among adolescents, and on the impact of measures taken to address these problems.

327. The Committee is concerned over the adverse impact on the enjoyment of the right to health resulting from the seizure in the Netherlands by the State party of consignments of generic medicine consistent with Trade-Related Aspects of Intellectual Property Rights (TRIPS) being shipped from one developing country to another (art. 12).

The Committee urges the State party to take into account its international obligation to respect the right of everyone to the highest attainable standard of health and to desist from such seizures in the future.

328. The Committee is concerned at reports that many older persons are denied appropriate care, including in nursing homes, due to the insufficient number of caregivers, the lack of sufficiently trained personnel and the absence of a comprehensive enactment on geriatric health care (arts. 12 and 2, para. 2).

The Committee urges the State party to accord priority to the improvement of the health-care system for older persons, in order to meet its obligation of ensuring availability, accessibility, acceptability and quality of health care for them. In this regard, the Committee recommends that the State party adopt urgently a strategy on

the health of older persons, in line with the Committee's general comment No. 14 (2000) on the right to the highest attainable standard of health. The Committee also urges the State party to monitor the quality of facilities, goods and services provided to older persons through an effective inspection mechanism. Furthermore, in view of the ageing population, the Committee encourages the State party to adopt a coherent and comprehensive strategy to address the difficulties faced by older persons. In this connection, the Committee draws the attention of the State party to its general comment No. 6 (1995) on the economic, social and cultural rights of older persons.

329. The Committee is concerned that, according to reports, a large proportion of prisoners with mental health problems in the Netherlands do not receive the health assistance that they need, owing to the shortage of trained personnel in penal institutions and a lack of monitoring of adequacy and quality of care. The Committee is also concerned about the practice of the use of isolation as a form of punishment when prisoners cause trouble, without due regard being given to the health implications involved (art. 12).

The Committee recommends that the State party address the problem of medical treatment of prisoners with mental health problems and take the necessary measures to increase the number of trained mental health personnel in penal institutions or to guarantee appropriate treatment in mental health institutions. The Committee urges the State party not to use isolation as a form of punishment when prisoners with mental health problems cause trouble.

330. The Committee is concerned that, while education is compulsory for all children, regardless of their legal status, undocumented children opting to enrol in vocational education programmes are not yet able to complete their apprenticeships because of work permit requirements in the Netherlands (arts. 13 and 2, para. 2).

The Committee recommends that the State party take appropriate remedial measures to ensure that undocumented children who enrol in vocational education programmes in the Netherlands are able to complete their apprenticeships.

331. The Committee is concerned that the national school curricula of the State party do not provide for adequate human rights education (art. 13).

The Committee calls on the State party to ensure that human rights education is provided in schools at all levels and universities, and that it covers the economic, social and cultural rights.

332. **The Committee encourages the State party to take advantage of the institution-building process taking place in Curaçao and St. Maarten to ensure that their enactments and policies give effect to the economic, social and cultural rights enshrined in the Covenant. In this regard, the Committee draws the attention of the State party to its general comment No. 3 (1990) on the nature of States parties' obligations.**

333. The Committee welcomes the progressive reforms brought to the social security system in the four constituent countries of the State party and encourages the State party to take account of the Committee's general comment No. 19 (2007) on the right to social security in future initiatives to be taken to improve the social security system (art. 9).

334. While recognizing the measures taken in the Netherlands to combat human trafficking, the Committee urges the State party to continue and intensify its efforts to combat trafficking as long as the Netherlands remains a destination or transit country for trafficking. The Committee also recommends that the State party provide in its next periodic report detailed information about the problem of human trafficking in

the islands of the former Netherlands Antilles and the impact of measures taken (art. 10).

335. The Committee recommends that the State party adopt a national plan of action to combat the rise in homelessness in the Netherlands, and to consider its causes and prescribe ways and means of preventing homelessness and rehabilitating the homeless (art. 11).

336. The Committee recommends that the State party intensify its efforts to reduce the waiting time of six weeks in the Netherlands for children and adolescents needing mental health care (art. 12).

337. The Committee recommends the State party to provide, in its sixth periodic report, updated statistical data on the enjoyment of each Covenant right, disaggregated by age, sex, ethnic origin, urban/rural population, economic and social situation and other relevant status, on an annual comparative basis over the five years preceding the submission of the report.

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

339. The Committee encourages the State party to consider ratifying the Optional Protocol to the Covenant on Economic, Social and Cultural Rights, which it has signed.

340. The Committee encourages the State party to consider signing and ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and ratifying the Convention on the Rights of Persons with Disabilities and the International Convention for the Protection of all Persons from Enforced Disappearance.

341. The Committee invites the State party to update its core document in accordance with the requirements of the harmonized guidelines on reporting (HRI/GEN/2/Rev.6) recently approved by the international human rights treaty bodies.

342. The Committee requests the State party to submit its sixth periodic report, prepared in accordance with the revised reporting guidelines of the Committee, adopted in 2008 (E/C.12/2008/2), by 30 June 2015.

Sri Lanka

343. The Committee considered the combined second to fourth periodic reports of Sri Lanka on the implementation of the Covenant (E/C.12/LKA/2-4) at its 40th, 41st and 42nd meetings, held on 8 and 9 November 2010 (E/C.12/2010/SR. 40, 41 and 42), and adopted, at its 55th meetings, held on 19 November 2010, the following concluding observations.

A. Introduction

344. The Committee welcomes the open and constructive dialogue with the delegation of the State party. However, it expresses concern that the State party's report, which was

submitted with a 15-year delay, contained limited information, disaggregated data or relevant statistics on the practical implementation of Covenant rights in the State party. The Committee regrets that the State party did not provide responses to half of the Committee's list of issues. The Committee calls upon the State party to ensure full compliance of its next periodic report with the Committee's reporting guidelines so as to enable a full assessment of the degree of implementation of Covenant rights in the State party. The Committee recommends that the State party consult civil society organizations during the preparatory process of its next periodic report.

B. Positive aspects

345. The Committee welcomes the ratification of the two Optional Protocols to the Convention on the Rights of the Child, namely on the involvement of children in armed conflict in 2000 and on the sale of children, child prostitution and child pornography in 2006 and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women in 2002. It also welcomes the ratification of ILO Conventions Nos. 111 (1998) concerning Discrimination in Respect of Employment and Occupation, 138 (2000) concerning Minimum Age for Admission to Employment, and 182 (2001) concerning the Worst Forms of Child Labour.

346. The Committee notes with appreciation the positive developments related to the implementation of the Covenant, such as the adoption of:

- (a) The Prevention of Domestic Violence Act No. 34 of 3 October 2005;
- (b) The Employment of Women, Young Persons and Children (Amendment) Act No. 8 of 2003 which increases the minimum age of employment from 12 to 14 years; and
- (c) The National Policy on Disability in 2003.

347. The Committee commends the State party for its significant progress towards the achievement of the Millennium Development Goals, especially in the field of health and education and notes with appreciation that the State party is on track to achieve the targets for most of the indicators by 2015.

C. Principal subjects of concern and recommendations

348. The Committee is concerned that the Covenant has not been given full effect in the domestic legal order and that although some of its provisions are justiciable before the supreme court, they are rarely invoked which reveals a limited knowledge of the Covenant in the State party. The Committee also expresses serious concern that the legally binding nature of international human rights treaties and more specifically of ILO Conventions to which the State party is party has been questioned by the Supreme Court on numerous occasions.

The Committee calls upon the State party to ensure that the Covenant enjoys full legal effects in the domestic legal order and prevails over domestic legislation in case of conflict. It also urges the State party to bring its domestic legislation in conformity with the rights contained in the Covenant. The Committee calls upon the State party to improve human rights training programmes in such a way as to ensure better knowledge, awareness and application of the Covenant and other international human rights instruments, in particular among the judiciary, law enforcement officials and other actors responsible for the implementation of the Covenant.

349. The Committee is concerned that, although partially lifted, the continuation of the state of emergency is hampering the full realization of the economic, social and cultural rights.

The Committee urges the State party to consider repealing all remaining emergency regulations which jeopardize the realization of economic, social and cultural rights.

350. The Committee expresses concern about the lack of independence of the National Human Rights Commission which was downgraded to B status, notably for this reason, by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) in December 2007. The Committee also notes with concern that posts on the National Human Rights Commission remain vacant and that the National Human Rights Commission is effectively in abeyance.

The Committee urges the State party to ensure that the National Commission on Human Rights meets the requirements of independence and autonomy set out in the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles, General Assembly resolution 48/134).

351. The Committee is concerned that the judiciary and important oversight bodies lack independence to effectively carry out their role in the promotion and protection of economic, social and cultural rights. The Committee is also concerned about the 18th amendment of the Constitution passed on 8 September 2010 which further reduces the independence of the judiciary and other oversight bodies as it provides for direct appointments by the president of, inter alia, chairpersons and members of the Commission to Investigate Allegations of Bribery or Corruption, members of the Judicial Service Commission and the Parliamentary Commissioner for Administration (Ombudsman).

The Committee calls upon the State party to take all the necessary measures to ensure the independence and integrity of the judiciary and oversight bodies. It also recommends that the State party consider reviewing the provisions of the 18th amendment of the Constitution related to the appointment procedure of chairpersons and members of oversight bodies.

352. The Committee expresses serious concern about widespread threats, attacks, defamation campaigns and various forms of stigmatization against human rights defenders in the State party as well as about illegitimate restrictions of their activities.

The Committee urges the State party to take the necessary action in accordance with the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms of 9 December 1998 to end the ongoing harassment and persecution of human rights defenders and ensure that those responsible for the threats and attacks are duly prosecuted and punished. The Committee calls upon the State party to engage in a constant dialogue with civil society actors, including those carrying out human rights advocacy campaigns and human rights defenders to formulate and implement strategies for the protection and promotion of economic, social and cultural rights throughout the country, including the current formulation of a national plan of action for human rights. It also urges the State party to speed up the process of adoption of a Right to Information Act.

353. The Committee is concerned that the conversion of the Veddahs' traditional land into a national park has led to their socio-economic marginalization and impoverishment, Veddahs having been prohibited access to their traditional hunting grounds and honey sites. The Committee is also concerned that Veddahs are highly stigmatized in the State party, in particular Veddah children who are the victim of ostracism in the school system and often employed in hazardous occupations (art. 1, para. 2).

The Committee urges the State party to ensure that the Veddahs can return to and remain undisturbed on the lands from which they were evicted, in particular in the Maduru Oya reserve, to establish a state authority for the representation of Veddahs

which should be consulted and should give consent prior to the implementation of any project or public policy affecting their lives. The Committee also recommends that the State party consider ratifying ILO Convention No. 169 (1989) concerning Indigenous and Tribal Peoples in Independent Countries.

354. The Committee expresses concern about the high levels of corruption which undermines the realization of economic, social and cultural rights for all and the fact that the State party has not yet taken firm and effective measures to combat corruption and impunity associated with it (art. 2, para. 1).

The Committee calls upon the State party to take all necessary measures to combat corruption and impunity associated with it. In this regard, it encourages the State party to train the police and other law enforcement officers, as well as prosecutors and judges in the strict application of anti-corruption laws, to require the public authorities, in law and in practice, to operate in a transparent manner, and to ensure that prosecution cases are brought to justice. The Committee encourages the State party to seek the cooperation of international organizations with special expertise in the field of combating corruption and requests the State party to provide detailed information in its next periodic report about progress made in combating corruption and impunity.

355. The Committee is concerned about the harsh working and living conditions of plantation workers and their families, a high proportion of them living in extreme poverty. It also expresses concern that Citizenship Act No.18 of 1948 which deprived Tamils of Indian origin of citizenship has still not been abrogated and that thousands of Tamils of Indian origin are still awaiting to be granted citizenship on the basis of the 2003 Grant of Citizenship to Persons of Indian Origin Act, and as stateless persons do not enjoy their economic, social and cultural rights (art. 2, para. 2).

The Committee calls upon the State party to provide the necessary resources for the implementation of the National Plan of Action for the Social Development of the Plantation Community adopted in 2006 and to provide comprehensive information in its next periodic report on the concrete measures taken to ensure that plantation workers and their families as well as Tamils of Indian origin are no longer subject to discrimination and live in decent conditions. The Committee calls upon the State party to repeal Citizenship Act No. 18 of 1948 and to speed up the process of issuing identity documents for Tamils of Indian origin in accordance with the 2003 Grant of Citizenship to Persons of Indian Origin Act.

356. The Committee is concerned that in spite of the recent establishment of quotas for the employment of persons with disabilities, they remain discriminated against in their access to employment and highly stigmatized in the society. The Committee is also concerned that the 2003 National Policy on Disability has not yet been implemented and that families of disabled persons have so far only received limited support from the State party and therefore continue to resort to institutionalization of their children with disabilities, often for long periods. The Committee also expresses concern that a large proportion of children with disabilities, most of them girls, remains deprived of any type of education opportunities (art. 2, para. 2).

The Committee calls upon the State party to take concrete steps to implement its 2003 National Policy on Disability and to strengthen its efforts to promote inclusion of persons with disabilities into the labour market, including by strengthening the system of job quotas for persons with disabilities. The Committee also calls upon the State party to gather accurate disaggregated statistical data on children with disabilities and ensure that all these children, particularly girls, have access to education. The

Committee encourages the State party to ratify the Convention on the Rights of Persons with Disabilities and its Optional Protocol.

357. The Committee is concerned that in spite of repeated recommendations made by treaty bodies since 1998, the State party has still not repealed statutory and personal laws that discriminate against women and girls, such as the 1935 Land Development Ordinance and the provisions of the Muslim Personal Law allowing early marriage of girls as young as 12 years old, and has taken limited steps to address the persistence of stereotypes, attitudes and patriarchal traditions on family and societal roles of men and women. The Committee notes with serious concern that the State party relies on the communities themselves to amend their personal status laws and that the Women's Bill does not protect women and girls from all communities from early and forced marriage (art. 3).

The Committee reminds the State party that the equal right of men and women to the enjoyment of all economic, social and cultural rights is an immediate obligation of the States parties which cannot be conditioned to willingness of concerned communities to amend their laws. The Committee therefore calls upon the State party to take immediate action to repeal all statutory laws that discriminate against women and to amend the Muslim Personal Law and to put it in conformity with its national legislation with the view to outlaw early marriage. The Committee also encourages the State party to vigorously promote equality between women and men at all levels of society, including through targeted educational programmes and mass media campaigns against stereotypes which prevent women from enjoying their economic, social and cultural rights. The Committee draws the attention of the State party to its general comment No. 16 (2005) on the equal right of men and women.

358. The Committee notes with concern that despite the decrease in unemployment in recent years, the female unemployment rate has remained twice as high as that of males for the past decades and that almost half of the 15–29 age group, especially educated youths, remain unemployed. The Committee is also seriously concerned that about 300 000 women are at risk of losing their employment as a result of the withdrawal by the European Union of the GSP preferential trading scheme due to significant shortcomings in respect of Sri Lanka's implementation of three United Nations human rights conventions, which are a relevant condition for receiving benefits under the scheme (art. 6).

The Committee recommends that the State party adopt a national action plan for the promotion of stable employment opportunities for women and younger Sri Lankans containing numerical targets and a time frame for its implementation and establish a national mechanism to monitor the implementation of the plan of action. The Committee also encourages the State party to monitor closely the situation of the women at risk of losing their employment due to the withdrawal of the GSP so as to enable them to enjoy their economic, social and cultural rights.

359. The Committee expresses concern that several statutory provisions and emergency regulations of the State party allow for the recourse to compulsory labour, in particular the Compulsory Public Service Act, No. 70 of 1961, under which compulsory public service of up to five years may be imposed on graduates, has still not been repealed (art. 6).

The Committee welcomes the State party's assertion during the interactive dialogue that measures are being taken to repeal Compulsory Public Service Act No. 70.

360. The Committee expresses concern about the low and declining representation of women in decision-making and public positions and their concentration in only a few sectors of the economy and in low-skilled and low-paid jobs. The Committee is also concerned that the prohibition of direct and indirect discrimination in employment and occupation and the principle of equal remuneration for men and women for work of equal value have still not been reflected in national legislation (arts. 7 and 3).

The Committee also calls upon the State party to ensure that its legislation prohibits direct and indirect discrimination in employment and occupation and reflects the principle of equal remuneration for men and women for work of equal value and is enforced with adequate mechanisms. The Committee encourages the State party to adopt temporary special measures to increase the number of women in decision-making and public positions and to effectively combat women's discrimination in the workplace.

361. The Committee is concerned that workers in sectors not covered by wage boards are not entitled to any minimum wage. The Committee is also concerned that tea plantation workers are denied a monthly salary and receive extremely low daily wages (art. 7).

The Committee recommends that the State party ensure that minimum wages enable all workers and their families to enjoy an adequate standard of living and that these are regularly adjusted to the cost of living. The Committee further strongly recommends that the State party take urgent measures to ensure that plantation workers are provided with a decent monthly salary.

362. The Committee expresses serious concern that sexual harassment is particularly widespread in tea plantations and in export processing zones (EPZs) (art. 7).

The Committee calls upon the State party to include provisions prohibiting and preventing sexual harassment in its national labour law and to provide its labour inspectorate with the necessary human, technical and financial resources to deal with cases of sexual harassment in an efficient manner.

363. The Committee expresses deep concern that Sri Lankan women have often no other choice but to migrate to find employment and that one million of them work abroad as domestic workers, often in slavery-like conditions. The Committee is also concerned that the State party has not studied the impact of such massive labour migration on Sri Lankan families, nor provided women with alternative employment opportunities (arts. 7, 9 and 10).

The Committee reiterates its recommendation (E/C.12/1/Add.24, para. 27) to the State party to conduct a comprehensive assessment of women labour migration. It urges the State party to give priority to the development of employment opportunities for women within the State party, including through the introduction of innovative micro-credit schemes. The Committee also urges the State party to strengthen its efforts to adequately inform women prior to their departure, and strengthen the role of Labour Attaches in Sri Lankan missions abroad in protecting the rights of migrant workers in host countries. The Committee also encourages the State party to take all necessary measures to ensure that families, in particular children of migrant workers residing in the State party are able to fully enjoy all their economic, social and cultural rights.

364. The Committee is concerned about the restrictions on trade unions activities, the widespread harassment of trade unionists and the low protection against anti-union discrimination in the State party, especially in export processing zones (EPZs). In particular, the Committee is concerned that the Public Security Ordinance of 1947 and the Essential Public Services Act of 1979 impose restrictions on the right to strike enforceable with sanctions involving compulsory. The Committee is also concerned that legal recognition is only granted to unions representing over 40 per cent of workers at any given workplace and that the Emergency Regulation No. 01 2006 amendment gives such a broad definition of essential services, that restrictions of trade union rights may be imposed on almost any sector of the economy. The Committee is further concerned that trade unions are strongly discouraged in EPZs through suspension, demotion, dismissal of unionists, warning of new workers not to join unions, prohibition of trade unionists to enter EPZs and

creation of employees' councils funded by and functioning under the aegis of the employer (art. 8).

The Committee calls upon the State party to:

(a) **Ensure that no sanctions involving compulsory labour be imposed for disciplinary offences or participation in peaceful strikes in services other than essential services defined in the strict sense of the term and to amend its legislation accordingly;**

(b) **Remove legal obstacles to trade unions' rights notably by providing a clear definition and limiting the scope of "essential services" to services where interruption would endanger the life, personal safety or health of the whole or part of the population and by reviewing the 40 per cent requirement for legal recognition in accordance with ILO recommendations;**

(c) **Increase penalties applicable to anti-union discrimination, allow trade unions to bring anti-union discrimination claims directly before the courts and ensure that anti-union actions are duly investigated and examined by courts within a short period of time;**

(d) **Take urgent measures to ensure the freedom to form and join trade unions, to prevent interference in the management and operation of trade unions in EPZs and to allow labour inspectors to make unannounced visits.**

365. The Committee is concerned that in spite of the existence of a large number of social assistance schemes in the State party, the social security system remains highly fragmented and does not adequately cover all workers. The Committee is also concerned that disadvantaged and marginalized groups, notably families in the plantation sector and older persons, remain excluded or under-covered by the Samurdhi poverty alleviation programme due to shortcomings in its management and coordination, corruption and fraud (art. 9).

The Committee urges the State party to take all the necessary measures to ensure that poverty alleviation and social assistance programmes are managed in an adequate and transparent manner and targeted at the most disadvantaged and marginalized individuals and groups, including families in the plantation sector and older persons. The Committee encourages the State party to continue its collaboration with the ILO to expand social security coverage, including through the establishment of the social protection floor.

366. The Committee expresses deep concern that in spite of the high incidence of domestic violence against women and children in the State party, the provisions of the Prevention of Domestic Violence Act No.3 of 2005 remain insufficiently known, notably by the police, and that protection orders are seldom issued and perpetrators rarely prosecuted. The Committee also notes with concern the absence of temporary shelter for women and children victims of domestic violence and the considerable delays to obtain court decisions in this matter.

The Committee urges the State party to take active measures to combat domestic violence and to enforce the 2005 Prevention of Domestic Violence Act No.3 including through public awareness and education campaigns and recruitment of additional female police officers within the Bureaus for the Protection of Children and Women (BPCW). The Committee also encourages the State party to ensure that crisis centres and shelters where victims of domestic violence can find safe lodging and counselling are available and accessible throughout the country.

367. The Committee expresses serious concern that cultural sensitivities are used as a justification by the State party not to criminalize marital rape in all circumstances (art. 10).

The Committee urges the State party to take immediate steps to criminalize marital rape in all circumstances.

368. The Committee is deeply concerned that no effective measures have been taken by the State party to enforce child labour laws as previously recommended by the Committee (E/C.12/1/Add.24, para. 26) and that almost one million children continue to be exploited economically in agriculture or as domestics, the latter being often subjected to various forms of violence (art. 10, para. 3).

The Committee urges the State party to adopt effective measures to combat child labour.

369. The Committee is deeply concerned that thousands of children remain sexually abused and exploited including in child sex tourism. The Committee notes with grave concern that perpetrators of child sexual exploitation and abuse, including child traffickers are rarely prosecuted, while child victims may still be excluded from protection of the law and placed on remand for conducting prostitution (art. 10, para. 3).

The Committee calls upon the State party to amend its legislation against child sexual exploitation and ensure that it covers all children and does not criminalize child prostitutes. The Committee also urges the State party to implement the 2006 national Plan of Action against Child Sex Tourism and to report on the results achieved in its next periodic report to the Committee. The Committee further requests the State party to take more active measures to bring perpetrators of child sexual exploitation to justice. The Committee calls upon the State party to take immediate measures to establish shelters and trained professionals to meet the recovery and rehabilitation needs of children victims of sexual abuse and exploitation.

370. The Committee expresses deep concern about allegations according to which during the last months of the armed conflict in 2009, civilians were deliberately deprived of food, medical care and humanitarian assistance which constitute violations of article 11 of the Covenant as well as of the international humanitarian prohibition of starvation and may amount to a war crime (art. 11).

In light of its general comment No. 12 (1999) on the right to adequate food, the Committee draws the attention of the State party to the fact that the prevention of access to humanitarian food aid in internal conflicts constitutes a violation of article 11 of the Covenant as well as a grave violation of international humanitarian law. The Committee encourages the State party to fully cooperate with the United Nations Secretary-General's panel on accountability.

371. The Committee is concerned that in spite of progress made by the State party to resettle internally displaced persons (IDPs) and to rebuild damaged infrastructure in conflict-affected areas, thousands of IDPs are still prevented from returning due to the establishment of High Security Zones (HSZs) on their homelands. The Committee is also concerned about the conditions of resettlement of internally displaced persons who often lack basic shelter, access to sanitation and water and livelihood opportunities, a situation aggravated by the regular restrictions placed on United Nations agencies, international organizations and international and national NGOs to access internally displaced persons requiring urgent assistance (arts. 11 and 12).

The Committee urges the State party to speed up the closing of HSZs as indicated during the interactive dialogue, to restore housing land and/or property of which IDPs have been arbitrarily or unlawfully deprived and to establish adequate mechanisms at local levels to resolve land and property disputes and to provide compensation to land owners for the occupation of their land. The Committee draws the attention of the State party to its obligation to respect and protect the work of United Nations

agencies, human rights advocates and other members of civil society who assist internally displaced persons in the realization of their economic, social and cultural rights and to refrain from imposing further restrictions on access to IDPs, especially those who are living in food insecurity. The Committee requests the State party to provide detailed information on the situation of internally displaced persons in its next periodic report.

372. The Committee notes with concern the persistence of significant disparities in levels of economic development between the Western region and the rest of the country that affect the equal enjoyment by all of economic, social and cultural rights such as employment, welfare benefits, health and social services. The Committee is also concerned that while poverty has decreased in urban areas, it has grown by over 40 per cent in the estate sector (arts. 11 and 12).

The Committee recommends that the State party take all necessary remedial measures to address the regional disparities that affect the equal enjoyment of economic, social and cultural rights and to ensure that its poverty reduction strategies specifically address, through targeted measures, the needs of the most disadvantaged and marginalized individuals and groups, especially in the estate sector. The Committee encourages the State party to further develop indicators and benchmarks, disaggregated by sex, age, urban/rural population and social and ethnic group, for monitoring progress achieved in combating poverty, and that it report on such progress in its next periodic report. In this regard, the State party is referred to the Committee's statement on poverty and the International Covenant on Economic, Social and Cultural Rights (E/C.12/2001/10).

373. The Committee is concerned about the acute housing shortage in the State party and the large number of homeless persons. The Committee is also concerned that slum dwellers are vulnerable to forced evictions (art. 11).

The Committee recommends that the State party address the acute housing shortage by adopting a national strategy and a plan of action on adequate housing; drastically increase its national housing budget to an appropriate level commensurate with the extent of the problem and to ensure that plans to construct new social housing units are fully implemented, especially those intended for disadvantaged and marginalized individuals and groups, including those living in slums. The Committee also urges the State party to ensure that persons who are forcibly evicted are provided with adequate compensation or alternative accommodation in accordance with a legal framework that complies with the guidelines adopted by the Committee in its general comment No. 7 (1997) on forced evictions. The Committee further requests the State party to provide in its next periodic report detailed information on the incidence of forced evictions and on the extent of homelessness in the State party, as well as the measures taken to address these problems.

374. The Committee is concerned about the acute overcrowding and the inhuman detention conditions which prevail in many of the State party's prisons. The Committee is also concerned that children are not regularly separated from adults (arts. 10, para.3; 11 and 12).

The Committee calls upon the State party to take urgent active measures to combat prison overcrowding, in particular by focusing on alternatives to custodial measures. The Committee also recommends that the State party remove children from adult detention facilities.

375. The Committee expresses concern that malnutrition affects nearly one-third of children and one quarter of women and that the nutrition status of internally displaced persons, especially children, remains an issue of serious concern (arts. 11 and 12).

The Committee urges the State party to adopt the necessary measures to protect the right to adequate food, including through the setting up of a public food distribution system for the most disadvantaged and marginalized individuals and groups. It also encourages the State party to formulate and implement an Integrated Nutrition Programme throughout the State party.

376. The Committee is deeply concerned that 10 per cent of maternal mortality is reported as the direct result of clandestine abortions. The Committee also notes with concern the lack of basic sexual and reproductive health services, the limited information available on safe contraceptive methods in the State party and the insufficient and educational programmes about sexual and reproductive health, especially in the curricula of the Sri Lankan education system (art. 12).

The Committee urges the State party to amend abortion laws and to consider providing for exceptions to the prohibition on abortion in cases of therapeutic abortion or pregnancies resulting from rape or incest to help women not to have to resort to illegal abortions that expose them to a high risk of morbidity and mortality. The Committee also urges the State party to establish basic sexual and reproductive health services throughout the State party, to set up comprehensive educational programmes on sexual and reproductive health, including public awareness-raising campaigns about safe contraceptive methods programmes and inclusion of appropriate information on sexual and reproductive health in the curricula of the Sri Lankan education system.

377. The Committee is concerned that mental health services remain insufficient to cope with widespread post-conflict mental disorders. The Committee is also concerned that the 2007 draft Mental Health Act has still not been adopted (art. 12).

The Committee recommends that the State party adopt the draft Mental Health Act of 2007 and to formulate strategies to strengthen available psycho-social assistance, especially for children and recruit more mental health workers and other specialized professionals to address post-conflict mental disorders.

378. The Committee commends the achievements of the State party in primary school enrolment and gender parity. However, The Committee notes with concern that public investment in education is at a relatively low level in spite of the needs of rebuilding school infrastructure in conflict-affected areas, reducing persistent disparities in accessing education between the State party's provinces and providing schools with water, sanitation and electricity. The Committee is also concerned about the high school dropout (one in five children) before completion of the compulsory nine-year cycle due mainly to the existence of school fees despite the constitutional guarantee of free education and the low quality of education. The Committee also regrets that insufficient efforts have been made to include human rights and peace education in the school curricula (arts.13 and 14).

The Committee recommends that the State party significantly increase the funding of the public education system and to ensure the effective abolition of school fees. The Committee also calls upon the State party to take active measures to reintegrate children in conflict-affected areas into education through rehabilitation of school facilities, to reduce disparities among provinces and districts in access to and full enjoyment of the right to education and to ensure that schools are adequately equipped with water, sanitation and electricity facilities. The Committee further calls upon the State party to improve the quality of education by ensuring that teachers are well-trained and fully qualified and to ensure that human rights and peace education is fully included in school curricula.

379. The Committee encourages the State party to consider ratifying the Optional Protocol to the Covenant.

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

381. The Committee encourages the State party to consider signing and ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention for the Protection of All Persons from Enforced Disappearance. The Committee also encourages the State party to proceed with the ratification of the Convention on the Rights of Persons with Disabilities and its Optional Protocol as indicated in its written responses to the Committee.

382. The Committee requests the State party to submit its fifth periodic report, prepared in accordance with the revised reporting guidelines of the Committee (E/C.12/2008/2), by 30 June 2013.

Switzerland

383. The Committee on Economic, Social and Cultural Rights considered the second and third periodic reports of Switzerland on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/CHE/2-3) at its 37th, 38th and 39th meetings, held on 5 and 8 November 2010 (see E/C.12/2010/SR.37, 38 and 39), and adopted, at its 55th meeting held on 19 November 2010, the following concluding observations.

A. Introduction

384. The Committee welcomes the submission of the second and third periodic reports of Switzerland as well as the written replies to its list of issues (E/C.12/CHE/Q/2-3/Add.1), both of which contained comprehensive and detailed information on the situation in the State party. The Committee also welcomes the opportunity it had to engage in an open and constructive dialogue with the delegation of the State party, which included a number of representatives from different State departments and institutions.

B. Positive aspects

385. The Committee welcomes the ratification by the State party of the following:

- (a) Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, on 26 June 2002;
- (b) Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, on 19 September 2006;
- (c) Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, on 29 September 2008;
- (d) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, on 27 October 2006;

(e) Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, on 27 October 2006;

(f) International Labour Organization (ILO) Convention No. 98 (1949) concerning the Application of the Principles of the Right to Organise and to Bargain Collectively, on 17 August 1999;

(g) ILO Convention No. 144 (1976) concerning Tripartite Consultations to Promote the Implementation of International Labour Standards, on 28 June 2000;

(h) ILO Convention No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, on 28 June 2000.

386. The Committee welcomes the adoption by the State party of measures, legislative and otherwise, that contributed to the realization of the economic, social and cultural rights enshrined in the Covenant, including the following:

(a) Federal Act on vocational training (LFPr), which entered into force in 2004;

(b) Federal Act on the general aspects of social security law, which entered into force on 1 January 2003;

(c) Federal Act of family allowances, which harmonizes a number of provisions for the whole country.

C. Principal subjects of concern and recommendations

387. The Committee regrets the State party's persistent position that most of the provisions of the Covenant merely constitute programmatic objectives and social goals rather than legal obligations. According to that position, some of those provisions cannot be given effect in the domestic legal order of the State party and cannot be directly invoked before domestic tribunals and courts of the State party.

The Committee reiterates that, bearing in mind the provisions of article 28 of the International Covenant on Economic, Social and Cultural Rights, the principal responsibility for Covenant implementation lies with the federal Government of the State party. The Committee recommends that the State party: take steps to agree upon a comprehensive legislation giving effect to all economic, social and cultural rights uniformly between the federal Government and the cantons; establish an effective mechanism to ensure the compatibility of domestic law with the Covenant; and guarantee effective judicial remedies for the violations of the rights enshrined in the Covenant. The Committee encourages the State party to pursue its efforts of harmonizing cantonal laws and practices to ensure equal enjoyment of Covenant rights throughout the confederation. The Committee draws the attention of the State party to the Committee's general comments No. 3 (1990) on the nature of States parties' obligations, and No. 9 (1998) on the domestic application of the Covenant.

388. The Committee is concerned that the State party has not yet established a national human rights institution that is in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).

The Committee recommends that the State party consider establishing a national human rights institution with a broad human rights mandate that includes economic, social and cultural rights, and to provide it with adequate financial and human resources, in conformity with the Paris Principles. While the Committee recognizes that the decision by the State party to conduct a pilot project creating "a specialized centre on human rights" within universities for a five-year period could be a significant first step, it reminds the State party that this is not an acceptable substitute

for an independent national human rights institution fully compliant with the Paris Principles.

389. The Committee is concerned that despite article 8 of the Constitution, which prohibits discrimination, and the provisions against discrimination in the legislation of the State party, individuals and groups such as migrants, undocumented persons and persons with disabilities continue to experience discrimination in the enjoyment of Covenant rights. The Committee notes that only some cantons have enacted anti-discrimination laws, and is concerned about the lack of a comprehensive anti-discrimination law to prevent and combat discrimination on all the prohibited grounds (art. 2).

The Committee recommends that the State party enforce effectively its laws prohibiting discrimination. It also recommends that the State party consider adopting a comprehensive anti-discrimination law enforced uniformly throughout the confederation. In this regard, the Committee draws the attention of the State party to its general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights.

390. The Committee notes with concern that women continue to be disadvantaged despite the efforts undertaken by the State party, such as the express prohibition of wage discrimination under the Constitution and the Gender Equality Act. Wage gaps between men and women have recently begun to widen again, part-time work is more widespread among women than men, and women are disproportionately represented (68.8 per cent) in the low-wage sector. Furthermore, women in higher professional positions earn 30 per cent less than their male counterparts. The Committee also notes with concern that according to information contained in the website of the Federal Office for Gender Equality, there are few women in executive positions: only 3 per cent of company management positions and 4 per cent of administrative positions in Swiss enterprises are held by women (art. 3).

The Committee recommends that the State party intensify voluntary measures towards reducing the inequality between men and women in both the public and private sectors, and to strictly enforce equal pay for work of equal value. The Committee also recommends that the State party continue to promote the Gender Equality Act through more diverse and creative initiatives as well as implement proactive strategies including the introduction of quotas, an extensive media campaign, using paid advertisements if necessary, and the establishment of achievement awards that highlight women's contributions to society and to the economy.

391. The Committee is concerned about the high unemployment rates among particular groups such as migrants, women, and young people, especially those of foreign origin, in comparison to the mainstream groups in the State party, and that measures to address unemployment among these groups have apparently been inadequate (art. 6).

The Committee recommends that the State party take concrete measures to address the unemployment situation of vulnerable groups among the population, to promote their integration into the labour market and to pursue the development of vocational training and apprenticeship for young people of foreign origin.

392. The Committee notes with concern that, if the right to strike is provided by legislation, it is being compromised in the State party by the interpretation of the principle of "reasonableness". As a result, trade unionists have been given criminal sentences because of their involvement in a strike or a trade union campaign, due to the interpretation of the principle of "reasonableness" by the court (art. 8).

The Committee requests that the State party undertake a comprehensive review of the right to strike in practice. It also requests that the State party ascertain that its

interpretation of “reasonableness” is in conformity with international standards. The Committee requests the State party, in its next periodic report, to provide detailed information regarding this concern.

393. The Committee is concerned that, according to the Civil Code, trade unionists dismissed because of trade-union activities cannot be reinstated, and are compensated for only up to six months salary (art. 8).

The Committee recommends therefore that the State party consider amending its legislation to allow the reinstatement of trade unionists arbitrarily dismissed for trade-union activities. The Committee has taken note of the statement by the State party’s delegation that a proposal to amend the Civil Code in order to provide compensation of up to 12 months salary is currently in public consultation.

394. The Committee is concerned about reports according to which “illegalized” persons are excluded from social aid in some cantons and instead have to rely on emergency aid (art. 9).

The Committee recommends that the State party provide social aid, instead of emergency aid, as the last social safety net for everyone living in the State party’s territory. The Committee also recommends that the State party set common standards for access and entitlement to social aid.

395. The Committee notes with concern the persistence of violence against women, including domestic violence, as well as the absence of specific legislation addressing this phenomenon (art. 10).

The Committee recommends that the State party intensify its efforts to address the issue of violence against women, including by criminalizing domestic violence, by enacting specific legislation against domestic violence and all forms of violence against women and by ensuring that victims have access to immediate means of protection and redress. The Committee also recommends that the State party prosecute and punish those who are responsible.

396. The Committee notes with concern the lack of information about the extent of sexual abuse and exploitation of children, particularly of vulnerable groups, in the State party (art. 10).

The Committee recommends that the State party conduct a comprehensive assessment of the extent of sexual abuse of children, with a view to reviewing the need for additional legislative or administrative measures to address the problem.

397. The Committee notes with concern that the requirements of article 50 of the Federal Law on Foreign Nationals have the effect of preventing migrant women who are victims of domestic violence from leaving abusive marriages and from seeking assistance, for fear of losing their residency permit. In particular the requirement of providing proof of the difficulty of reintegrating in the country of origin, coupled with the stringent requirement of being married for at least three years to either a Swiss national or a foreigner, creates problems for migrant women who are victims of domestic violence and who have been married for less than three years to a Swiss national or a foreigner (art. 10).

The Committee urges the State party to consider modifying article 50 of the Federal Law on Foreign Nationals with a view to removing its effect in practice of leaving no other option for migrant women who are victims of domestic violence but to remain in abusive marriages for the sake of retaining their residency permit.

398. The Committee is concerned that forced marriages still exist in the State party, despite some measures taken to prevent and combat this phenomenon. The Committee is

also concerned about the lack of official and comprehensive statistical data on this phenomenon (art. 10).

The Committee recommends that the State party reinforce its measures, including by adopting legislation to prevent and prohibit forced marriages. The Committee also recommends that the State party carry out targeted awareness-raising campaigns to prevent occurrences of forced marriages. The Committee requests the State party to provide in its next report comprehensive statistical data on forced marriages, disaggregated by origin, sex and age.

399. The Committee reiterates the concern expressed in its previous concluding observations regarding the persistence of poverty in the State party (E/C.12/1/Add.30, para. 12). The Committee is particularly concerned about the persistent phenomenon of the “working poor” who are working in precarious conditions with low incomes that do not enable them to enjoy an adequate standard of living (art. 11).

The Committee recommends that the State party reinforce measures specifically targeting the disadvantaged and marginalized individuals and groups who continue to live in poverty, including the working poor, in its new National Strategy to Combat Poverty. In this regard, the Committee draws the attention of the State party to its statement on poverty and human rights adopted in 2001 (E/C.12/2001/10) and encourages the State party to fully integrate economic, social and cultural rights in the mentioned National Strategy. The Committee requests the State party to provide in its next periodic report comparative statistical data, compiled on an annual basis over the five years leading up to the report, on disadvantaged and marginalized individuals and groups living in poverty, including the working poor, disaggregated by origin, sex and age.

400. The Committee notes with concern the neglect suffered by some asylum-seekers in the State party, who are reportedly forced to stay in underground nuclear bunkers for an indefinite duration while their claims are being considered. The Committee is concerned about the lack of appropriate facilities for families and/or unaccompanied/separated children, resulting in the possible separation of families and in these children having to stay in the same dormitory room as adult asylum-seekers (art. 11).

The Committee requests the State party to provide in its next periodic report detailed information, including data disaggregated according to origin, sex and age, about the living conditions of asylum-seekers, in particular of children who are unaccompanied or separated from their families. The Committee also requests the State party to report on the measures taken to protect these asylum-seekers and the provision of adequate living standards as required by the Covenant.

401. The Committee is concerned about the high rate of suicides in the State party, which is reported to be three to four daily, in particular among young people. The Committee is also concerned about reports that a large number of suicides are committed with easily accessible firearms (art. 12).

The Committee recommends that the State party take effective measures to combat suicide, including through the adoption and implementation of a national action plan for the prevention of suicide. The Committee also recommends that the State party conduct systematic surveys and undertake scientific studies on the root causes of suicide. The Committee further recommends that the State undertake measures restricting access to firearms kept at home in connection with service in the army.

402. The Committee notes with concern the inadequacy of sex education and of measures to promote sexual and reproductive health in the State party (art. 12).

The Committee recommends that the State party adopt concrete programmes on sex education as well as on sexual and reproductive health including in school curricula. The Committee requests the State party to provide information in its next periodic report on its progress in this regard.

403. The Committee regrets that human rights education is not given sufficient attention in the State party (art. 13).

The Committee reminds the State party that human rights education and training is an obligation of State under article 13 of the Covenant. The Committee urges the State party to promote human rights through human rights education in schools, in awareness-raising and information campaigns for the public at large, and in training programmes for judges, public authorities and all agents of the State.

404. The Committee is concerned about the insufficiency of preschool education facilities for children from 3 to 7 years old, as well as the insufficient number of places in childcare centres for children from 0 to 3 years old, in some cantons (art. 13).

The Committee encourages the State party to promote the harmonization of standards for access to preschool education facilities and childcare centres, so as to ensure that all children living in the territory of the State party have the same opportunities to benefit from childcare and preschool education.

405. The Committee notes with concern the lack of a coherent and comprehensive policy in the State party regarding the promotion and protection of the culture and way of life of the Roma, Sinti and Yeniche. The Committee is also concerned that the provision of long-term and short-term caravan sites for travellers continues to be an unresolved problem (art. 15).

The Committee recommends that the State party take concrete measures to promote the culture and way of life of the Roma, Sinti and Yeniche and to encourage the cantons to establish an adequate number of long-term and short-term caravan sites. The Committee draws the attention of the State party to its general comments No. 20 (2009) on non-discrimination and No. 21 (2009) on the right of everyone to take part in cultural life.

406. The Committee recommends that the State party comply with its Covenant obligations and take into account its partner countries' obligations when negotiating and concluding trade and investment agreements. In this regard, the Committee draws the attention of the State party to its statement to the Third Ministerial Conference of the World Trade Organization, adopted in 1999 (E/C.12/1999/9). The Committee also recommends that the State party undertake an impact assessment to determine the possible consequences of its foreign trade policies and agreements on the enjoyment by the population of the State party's partner countries of their economic, social and cultural rights. For example, the imposition by the State party of strict intellectual property protection that goes beyond the standards agreed upon in the World Trade Organization can adversely affect access to medicines, thereby compromising the right to health. In addition, the Committee is of the view that the so-called "TRIPS-plus" provisions concerning accession to the International Convention for the Protection of New Varieties of Plants increase food production costs, seriously undermining the realization of the right to food.

407. The Committee encourages the State party to increase the level of its contribution of official development assistance, which presently stands at 0.47 per cent of gross domestic product, and to achieve the international standard of 0.7 per cent as expeditiously as possible.

408. The Committee recommends that the State party adopt safeguards to ensure that the application of the fourth revised Law on Unemployment Insurance does not have a negative effect on the standard of living of beneficiaries. The Committee requests the State party to provide in its next periodic report detailed statistical data on the impact of this law, disaggregated by origin, sex and age.
409. The Committee requests the State party to provide in its next periodic report detailed information regarding the working conditions of prisoners and their compensation.
410. The Committee recommends that the State party take all appropriate measures to guarantee in its legislation the right to marriage by everyone in the territory of the State party.
411. The Committee requests the State party to provide, in its next periodic report, detailed information regarding the situation of undocumented persons, including “illegalized” persons who do not have any regular residence status in the State party and who live in precarious conditions without access to the most basic human rights, especially economic, social and cultural rights. The Committee also requests the State party to include in its report the measures undertaken to protect such persons from exploitation and abuse, and from becoming victims of human trafficking.
412. The Committee requests the State party to provide in its next periodic report detailed information on the extent to which the Concordat on Special Education complies with international human rights standards concerning persons with disabilities, and on its uniform application in all cantons throughout the Confederation.
413. The Committee requests the State party to adopt strategies to protect cultural diversity, including through the recognition of the contributions of the various groups in the State’s territories to the contemporary culture of the State. The Committee also requests the State party to undertake targeted measures to promote a culture of tolerance throughout its territory by, inter alia, encouraging media to produce materials and programmes to combat the growing problem of intolerance and xenophobia. The Committee would appreciate receiving, in the next periodic report of the State party, detailed information about the progress achieved in this regard.
414. The Committee encourages the State party to consider ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.
415. The Committee requests the State party to disseminate the present concluding observations widely among all levels of society, particularly among State officials, the judiciary and civil society organizations, to translate and publicize them as far as possible and to inform the Committee on the steps taken to implement them in its next periodic report. It also encourages the State party to engage with non-governmental organizations and other members of civil society in the process of discussion at the national level prior to the submission of its next periodic report.
416. The Committee invites the State party to update its core document in accordance with the requirements of the common core document in the harmonized guidelines on reporting (HRI/GEN/2/Rev.6).
417. The Committee requests the State party to submit its fourth periodic report, prepared in accordance with the revised reporting guidelines of the Committee adopted in 2008 (E/C.12/2008/2), by 30 June 2015.

Uruguay

418. The Committee considered the combined third and fourth periodic report of Uruguay on the implementation of the Covenant (E/C.12/URY/3-4) at its 31st, 32nd and 33rd meetings, held 2 and 3 November 2010 (see E/C.12/2010/SR.31, E/C.12/2010/SR.32 and E/C.12/2010/SR.33), and adopted, at its 55th meeting, held on 19 November 2010 (E/C.12/2010/SR.55), the following concluding observations.

A. Introduction

419. The Committee welcomes the submission of the combined third and fourth periodic report of the State party. The Committee also welcomes the State party's written replies to the list of issues, the additional information provided by the State party prior to the dialogue and the frank and constructive dialogue with the State party's delegation.

B. Positive aspects

420. The Committee commends the State party on the following measures adopted since the examination of its second periodic report:

(a) The reinstatement, in 2005, of the tripartite collective bargaining councils involving employers, employees and Government representatives;

(b) The adoption of the National Social Emergency Plan (2005–2007) aimed at mitigating the effects of the economic crisis of 2002 on persons in situations of extreme poverty;

(c) The creation, in 2005, of the Social Cabinet, which aims to coordinate the State party's response to poverty, and comprises the Ministers for Economy and Finance, Education and Culture, Labour and Social Security, Public Health, Regional Planning and Environment, and Tourism and Sport;

(d) The reform of the health sector, including the establishment — with a view to increasing access to health care — of the National Health Fund (FONASA), and the Integrated Health System in 2007;

(e) The adoption, in 2007, of the Equity Plan, an important feature of which is the Plan for Equal Opportunities and Rights between Women and Men; and

(f) The adoption of the National Strategy for Children and Adolescents (2010–2030).

C. Principal subjects of concern and recommendations

421. The Committee is concerned about the lack of clarity in the State party's legislation regarding the status of the Covenant in the domestic legal order.

The Committee urges the State party to give legal effect to the provisions of the Covenant in its domestic legal order, including through incorporation or other appropriate means, in accordance with the Committee's general comment No. 3 (1990) on the nature of States parties' obligations and general comment No. 9 (1998) on the domestic application of the Covenant. The Committee reminds the State party that the incorporation of the Covenant into domestic law is an important means of ensuring its justiciability.

422. The Committee is concerned that, although the national human rights institution was established in 2008, it is not yet operational.

The Committee urges the State party to render operational the national human rights institution, in conformity with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).

423. The Committee is concerned about the lack of detailed data disaggregated, inter alia, by age, sex, urban or rural population and socio-economic situation on the implementation of the Covenant, including on the impact of measures referred to in the State party's report. The Committee reiterates that such data is crucial for the effective assessment of the progress made towards the realization of the obligations contained in the Covenant.

The Committee recommends that the State party provide, in its next periodic report, updated statistical information, including data, on the effective implementation of each Covenant right, disaggregated by age, sex, urban or rural population, socio-economic situation and other relevant status, on an annual comparative basis over the past five years. The State party is encouraged to take into account the Committee's general comment No. 1 (1989) on reporting by States parties.

424. The Committee notes with concern the persisting discrimination against, and the social and economic marginalization of, minority groups in the State party, including persons of African descent, and widespread discrimination on the basis of sexual orientation. The Committee notes that such discrimination and marginalization are reflected in all areas covered by the Covenant, most notably health care, education, employment and access to housing. The Committee regrets that the State party has not provided information on the budget allocations for its plans and programmes in this area or on the impact of measures taken so far to combat discrimination against these groups (art. 2, para. 2).

The Committee recommends that the State party adopt a comprehensive anti-discrimination law, taking into account the Committee's general comment No. 20 (2009) on non-discrimination in economic, social and cultural Rights, and prioritize the effective implementation of existing programmes to eliminate all forms of discrimination in law and in practice.

425. The Committee is concerned that, despite the adoption of a quota for employing persons with disabilities to fill at least 4 per cent of public sector vacancies and the employment placement programme for the visually impaired, operated in collaboration with the Braille Foundation, persons with disabilities continue to lack access to employment. The Committee is also concerned that programmes of comparable potential impact have not been put in place for the private sector (art. 2, para. 2).

The Committee recommends that the State party take additional measures to promote equality of access to employment for persons with disabilities and pay particular attention to their access to private sector employment.

426. The Committee is concerned about the persisting inequalities between men and women in the State party, partly as a result of entrenched stereotypes regarding the role of women in society and the family. The Committee notes with concern that women are underrepresented at all levels of government and that significant disparities exist in relation to access to employment and conditions of work, with women being overrepresented in the informal economy and unskilled and less remunerative employment. The Committee expresses its concern that women of African descent are particularly disadvantaged as a result of the discrimination faced by Afro-descendants in all spheres (arts. 3, 6 and 7).

The Committee recommends that the State party:

(a) **Strengthen the implementation of measures to combat discrimination against women, including Law No. 18.104 on the Promotion of Equal Rights and Opportunities between Men and Women (2007) and the First National Plan for Equal Opportunities and Rights (2007);**

(b) **Ensure that such measures receive sufficient budgetary support and that they fully address, inter alia, the particular vulnerability of women of African descent, disparities in access to and conditions of employment, and participation in public life; and**

(c) **Conduct public awareness-raising campaigns, in collaboration with civil society organizations and the media, with a view to combating traditional stereotypes regarding the status of women and men in the public and private spheres.**

427. The Committee notes with concern the information provided in paragraph 76 of the State party's report (E/C.12/URY/3-4) with regard to the inadequacy of legislation on, inter alia, employment security for pregnant women and the provision of leave for employees with children requiring medical attention (art. 7).

The Committee recommends that the State party undertake a comprehensive review of its employment laws with a view to ensuring the full realization of the right to just and favourable conditions of work for women and men.

428. The Committee expresses its concern over the relatively high number of workplace accidents and the absence of an effective regulatory framework for occupational health and safety, despite the reinstatement of the National Workforce Safety and Health Council in 2008 and the preparation of draft regulations for the implementation of International Labour Organization (ILO) Convention No. 184 (2001) concerning Safety and Health in Agriculture (art. 7).

The Committee recommends that the State party take effective measures to prevent accidents in the workplace, including by strengthening the occupational safety and health commissions. The Committee also recommends that the State party strengthen the regulatory framework by expanding it to cover all occupations, and ensure the application of appropriate sanctions in the event of a failure to observe safety regulations.

429. The Committee is concerned that, according to information provided by the State party, the current minimum wage remains insufficient to ensure a decent living as stipulated in article 7 (a) (ii) of the Covenant.

The Committee recommends that the State party strengthen its efforts towards the progressive increase of the minimum wage in accordance with article 7 (a) (ii) of the Covenant.

430. The Committee expresses its concern that a significant proportion of detainees who are engaged in work in the State party's prisons are not remunerated (art. 7).

The Committee recommends that the State party ensure that all detainees receive fair remuneration for their work.

431. The Committee is concerned that, despite legislative changes designed to ensure equal treatment of children, de facto discrimination against children born out of wedlock is widespread (arts. 10 and 2, para. 2).

The Committee recommends that the State party strengthen its efforts to address discrimination against children born out of wedlock, including through amendments to its family law in order to bring it into line with the provisions of the Covenant. The Committee encourages the State party, in collaboration with civil society organizations and the media, to conduct awareness-raising programmes on the right of all children to equal treatment.

432. The Committee notes with concern that, despite the adoption of measures such as the National Plan to Combat Domestic Violence, launched in 2004, and the creation of

specialized courts to deal with domestic violence, such violence remains widespread. The Committee is also concerned that specialized courts exist only in Montevideo and that no psychosocial support and other assistance is available for victims of domestic violence (art. 10).

The Committee recommends that the State party strengthen measures to combat violence against women by, inter alia, effectively enforcing the existing legislation on domestic violence and conducting public awareness and education campaigns on domestic violence and its effects. The Committee urges the State party to ensure that specialized courts are also available in areas outside Montevideo and that psychosocial support and access to shelters are readily available to victims of domestic violence.

433. The Committee notes with concern the provisions of certain penal laws which discriminate against women, including the prohibition on remarriage within 300 days of the dissolution of marriage and public decency laws, which, in practice, affect mostly women (art. 10).

The Committee recommends that the State party take urgent steps to repeal all discriminatory provisions in its legislation, including the restrictions on remarriage and the public decency legislation that has a discriminatory effect on women.

434. The Committee is concerned that the minimum ages for marriage, namely 12 years for girls and 14 years for boys, are inconsistent with the requirement under the Covenant that marriage be entered into only with free consent. The Committee is further concerned that the lower age for girls is discriminatory (arts. 10, para. 1, and 3).

The Committee calls on the State party to raise the minimum age of marriage to 18 years for both boys and girls.

435. The Committee is concerned about the incidence of child labour in the State party, particularly in the solid waste removal industry. It is particularly concerned that the legal framework does not sufficiently address the requirements of relevant international legal standards in the area of child labour, particularly in relation to the specification of categories of hazardous work and the right of every child to education. The Committee regrets the lack of detailed information on the practical measures taken by the National Committee for the Eradication of Child Labour (CETI), established in December 2000, to combat child labour and on the outcome of the survey on child labour referred to in paragraph 143 of the State party's report (E/C.12/URY/3-4) (art. 10, para. 3).

The Committee recommends that the State party:

(a) Enforce the existing legislation on the prohibition of child labour and ensure that children attend school;

(b) Strengthen its legal framework in line with the Covenant and other applicable international legal standards, including ILO Convention No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour; and

(c) Provide, in its next periodic report, information on the measures taken by the National Committee for the Eradication of Child Labour (CETI) and on the outcome of the State party's survey on child labour.

436. The Committee notes with concern that, despite a steady decline in poverty in recent years, partly due to significant economic growth and measures such as the National Social Emergency Plan (2005–2007) and the Equity Plan (2008), the percentage of the population living in poverty remains high. The Committee is also concerned about the disproportionate vulnerability to poverty of women, persons of African descent and children, particularly those under 6 years of age (arts. 11, para. 1, and 2, paras. 2 and 3).

The Committee calls on the State party to:

(a) **Strengthen the integration of economic, social and cultural rights into its Equity Plan, taking into account the Committee's statement on poverty and the Covenant, adopted on 4 May 2001 (E/2002/22-E/C.12/2001/17, annex VII);**

(b) **Step up its efforts to reduce poverty; and**

(c) **Ensure that adequate resources are allocated for disadvantaged and marginalized individuals and groups.**

437. The Committee is concerned that, despite the measures taken by the State party to improve access to housing, including the Five-Year Housing Plan (2005–2009), a high number of irregular settlements continue to exist in urban and suburban areas, many of which lack access to proper sanitation and are hazardous due to structural defects. The Committee also notes with concern that many rural settlements are situated in flood-prone zones (art. 11, para. 1).

The Committee urges the State party to strengthen its efforts to provide access to adequate housing, with a focus on adequate funding for the Five-Year Housing Plan, the relocation of families in irregular settlements to safe housing, assistance to low-income families and other disadvantaged and marginalized individuals and groups, and to the provision of adequate sanitation facilities. The Committee also calls upon the State party to ensure that any forced evictions of individuals and groups living in irregular settlements take into account the requirements set out in the Committee's general comment No. 7 (1997) on the right to adequate housing: forced evictions. The State party is requested to provide information, in its next periodic report, on the impact of the Five-Year Housing Plan.

438. The Committee is concerned that, despite the availability of shelters, many people, the majority of whom are children, live on the streets, where they have limited access to health care, education and other rights guaranteed by the Covenant (art. 11, para. 1).

The Committee recommends that the State party take effective measures to address the root causes of the phenomenon of people living on the streets and to ensure that they have access to health care, education, social security and other rights guaranteed under the Covenant. The State party is requested to provide information, in its next periodic report, on the impact of measures taken in this regard, including any plans and programmes implemented by the Institute for Children and Adolescents.

439. The Committee is concerned about the poor conditions in prisons and police cells including overcrowding and inadequate sanitation, and the lack of access to health care. It notes with regret that, although the State party's report refers to the development of plans to address the situation, no detailed information on these plans has been provided to the Committee (art. 11, para. 1).

The Committee recommends that the State party take urgent steps, including providing access to health care, to improve conditions in prisons and police cells and to ensure that they accord with applicable international legal standards in this area.

440. The Committee notes with concern the significant regional disparities in access to and quality of health care, including the concentration of doctors around the capital and the disproportionate representation of the more remote regions in infant and child mortality rates (art. 12).

The Committee recommends that the State party continue to strengthen the implementation of measures to ensure access to universal health care, including by

addressing regional disparities in access and the incidence of preventable diseases among children.

441. The Committee expresses concern that, although maternal mortality rates remain relatively low in the State party, unsafe abortion has been a leading cause of maternal death (art. 12).

The Committee urges the State party to incorporate comprehensive sexual and reproductive health education into school curricula at both primary and secondary school level and introduce public education and awareness-raising programmes in this respect.

442. The Committee is concerned about the marginalization of persons with mental disabilities within the health-care system, particularly the declining standards of their care (art. 12).

The Committee recommends that the State party take effective steps to improve standards of care for persons with mental disabilities and update its Mental Health Act of 1934. While noting that a draft bill on mental health is currently being discussed, the Committee invites the State party to address this issue in its next periodic report and to provide data on the steps taken and measures adopted in this regard.

443. The Committee is concerned about the situation of people with mental health disorders, particularly those being treated in the psychiatric clinics of Bernado Etchepare and Santin Carlos Rossi, where the sanitary and health situation is reportedly very poor (art. 12).

The Committee recommends that the State party address the issue of mental health in psychiatric clinics, take measures to improve living conditions for persons suffering from mental health disorders and provide data, in its next periodic report, on the steps taken to improve the situation of mental health patients, particularly on the availability of essential medicines.

444. The Committee is concerned about the health situation of prisoners and detainees infected with HIV/AIDS (art. 12).

The Committee recommends that the State party take effective measures to improve the treatment situation of detainees and prisoners infected with HIV/AIDS and to provide information, in its next periodic report, on the concrete steps taken to address this problem.

445. The Committee is concerned at the significant secondary school dropout rates and poor levels of literacy in rural areas and among Afro-descendants, occurring despite substantial budgetary allocations for education (art. 13).

The Committee recommends that the State party strengthen the implementation of existing measures to improve access to and quality of primary and secondary education for all children and take additional, effective steps to ensure that primary education is available, on a free and compulsory basis, and that secondary education is accessible, as provided in article 13 of the Covenant. Such measures should, in particular, address the need for further funding for education and the factors contributing to low enrolment and completion rates, and take into account the effect of poverty and income disparities on the realization of the right to education.

446. The Committee recommends that the State party take measures to address the remaining disparities in access to social security, with a view to ensuring universal coverage. The Committee also recommends that the State party pay particular attention to the need to ensure access to and enjoyment of social security benefits by

people of African descent, detainees and their families, and persons employed in the informal economy.

447. The Committee recommends that the State party take effective steps to address the increased use of the drug Ritalin on children as a method of behaviour control.

448. The Committee encourages the State party to consider ratifying the Optional Protocol to the Covenant.

449. The Committee also encourages the State party to consider ratifying the Optional Protocol to the Convention on the Rights of Persons with Disabilities, and ILO Convention No. 187 (2006) concerning the promotional framework for occupational safety and health.

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

451. The Committee invites the State party to update its core document in accordance with the harmonized guidelines on reporting to the international human rights treaty monitoring bodies (HRI/GEN/2/Rev.6).

452. The Committee requests the State party to submit its fifth periodic report, prepared in accordance with the revised reporting guidelines of the Committee, adopted in 2008 (E/C.12/2008/2), by 30 June 2015.

Chapter V

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

A. Day of general discussion on the right to sexual and reproductive health

453. At its fortieth session, the Committee decided to draw up a general comment on the right to sexual and reproductive health (arts. 10 and 12 of the Covenant). To this end, it decided to organize a day of general discussion at its forty-fifth session as part of the preparatory work leading to the formulation of a general comment on the subject.

454. At the 49th and 50th meetings of its forty-fifth session, on 15 November 2010, the Committee on Economic, Social and Cultural Rights held its day of general discussion on the right to sexual and reproductive health. The discussion day provided an opportunity to exchange views with, and gather insights from, practitioners and experts on the right to sexual and reproductive health.

455. The following experts were invited to participate in the thematic debate:

Ximena Andion, International Advocacy Director, Center for Reproductive Rights;

Catherine d'Arcangues, Coordinator, Office of the Director of the Department of Reproductive Health and Research, World Health Organization;

Sofia Gruskin, Director, Program on International Health and Human Rights, Harvard School of Public Health;

Leah Hoctor, Legal Advisor, International Commission of Jurists;

Rajat Khosla, Economic, Social and Cultural Rights Coordinator (Health), Amnesty International;

Rafael Mazin, Regional Advisor on HIV Prevention and Comprehensive Care, Pan-American Health Organization/World Health Organization;

Madhu Mehra, Executive Director, Partners for Law in Development;

Luz Melo, Human Rights Advisor, United Nations Population Fund;

Dainius Puras, Member, Committee on the Rights of the Child;

Dubravka Šimonović, Member, Committee on the Elimination of Discrimination against Women;

Karen Stefiszyn, Programme Manager, Centre for Human Rights, University of Pretoria; and

Alicia Yamin, Joseph H. Flom Fellow on Global Health and Human Rights, Harvard University.

456. Representatives of States, United Nations bodies and specialized agencies and non-governmental organizations also attended the day of general discussion.

Programme of the day of general discussion on the right to sexual and reproductive health, 15 November 2010, Palais Wilson

Monday, 15 November 2010

10.00–10.20 Introductory remarks

Jaime Marchán Romero, Chairperson, Committee on Economic, Social and Cultural Rights

Rocio Barahona-Riera, member and rapporteur for the formulation of a general comment on the right to sexual and reproductive health, Committee on Economic, Social and Cultural Rights – day of general discussion and general comment

10.20–11.40 Panel 1: Concept of right to sexual and reproductive health – Chair: Luz Melo, United Nations Population Fund

Alicia Yamin, Harvard University – Concept of right to sexual and reproductive health

Catherine D’Arcangues, World Health Organization – Components of the right to sexual and reproductive health

Rajat Khosla, Amnesty International – Elements of the right to sexual and reproductive health and limitations

11.40–13.00 Panel 2: Normative aspects – Chair: Jane Connors, Office of the United Nations High Commissioner for Human Rights

Monday, 15 November 2010

- Sofia Gruskin, Harvard University – Obligations of States parties in guaranteeing the right to sexual and reproductive health
- Luz Melo, United Nations Populations Fund – Vulnerable and marginalized groups
- Rafael Mazin, Pan-American Health Organization – Health systems, States parties obligations and the right to sexual and reproductive health
- Leah Hoxtor, International Commission of Jurists – Violations and implementation at the national level
- 15.00–16.25 Panel 3: Cross-cutting issues – Chair: Craig Mokhiber, Office of the United Nations High Commissioner for Human Rights
- Madhu Mehra, Partners for Law in Development – Cross-cutting issues
- Karen Steffiszyn, University of Pretoria – The right to sexual and reproductive health and HIV/AIDS
- 16.25–17.45 Panel 4 — Conclusions — Chair: Rocio Barahona-Riera, member and rapporteur for the formulation of a general comment on the right to sexual and reproductive health, Committee on Economic, Social and Cultural Rights
- Dainius Puras, Committee on the Rights of the Child – Child rights and a general comment on the right to sexual and reproductive health
- Dubravka Šimonović, Committee on the Elimination of Discrimination Against Women – Women’s rights and a general comment on the right to sexual and reproductive health
- Ximena Andion, Center for Reproductive Rights – Critical issues for further discussions
- 17.45–18.00 Closing remarks
- Rocio Barahona Riera, member and rapporteur for the formulation of a general comment on the right to sexual and reproductive health, Committee on Economic, Social and Cultural Rights
- Jaime Marchán Romero, Chairperson, Committee on Economic, Social and Cultural Rights
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B. Statement on the right to sanitation

457. At its 55th meeting on 19 November 2010, the Committee adopted its statement on the right to sanitation. The statement was accompanied by a press release issued jointly with the independent expert on the issue of human rights obligations related to water and sanitation on the occasion of World Toilet Day, to highlight the importance of this largely neglected topic. The full text of the statement is contained in annex VI of this report.

C. Briefing session on indicators, benchmarking, scoping and assessment in relation to economic, social and cultural rights

458. At its 18th meeting on 14 May, the Committee discussed indicators, benchmarking, scoping and assessment, in a discussion led by Eibe Riedel who made an introductory presentation. Between 2004 and 2009, initiatives regarding indicators, benchmarking, scoping and assessment in relation to economic, social and cultural rights took the shape of two Government-funded research projects with the mandate to identify — as an entry point — indicators for the right to adequate food, and then follow up by starting a process of practical validation of the indicators identified. The goal was to identify a list of indicators that would qualify for use as a monitoring tool in the context of State party reporting to the Committee. In addition to identifying, validating and fine-tuning the list of indicators, the project intensified work on the other essential element of indicators, benchmarking, scoping and assessment: the setting and scoping of benchmarks as concrete reference points for State implementation efforts. The mechanism for indicators, benchmarking, scoping and assessment effectively contains of four elements: (a) indicators representing the core content of respective Covenant rights; (b) the use of benchmarks as target points for implementation of these rights; (c) the process of scoping enabling joint ownership of the mechanism by the States parties as well as the Committee; and (d) assessment as periodic examination of the mechanism's results.

459. In his presentation, the Committee member Mr. Riedel proposed that — as a starting point — the Committee could work with States parties to voluntarily agree on particular goals or benchmarks which could later be scoped and form the basis of assessment by the Committee. In conclusion, the Committee agreed on the need for further development of the mechanism and better applicability to and alignment with the Committee's consideration of state party reports.

Chapter VI Additional decisions adopted and matters discussed by the Committee at its forty-fourth and forty-fifth sessions

A. Participation in intersessional meetings

460. At its forty-fourth and forty-fifth sessions, the Committee decided that the following members would represent the Committee in the various intersessional meetings that would take place over the course of the year (and in January 2011 for the inter-committee meeting's Working Group on Follow-up). The members have also actively participated in numerous events to which they are invited directly:

- (a) Inter-committee meeting: Mr. Clement Atangana and Mr. Jaime Márcan Romero;
- (b) Working Group on Follow-up: Mr. Mohamed Abdel-Moneim (also for the subgroup on views) and Mr. Zdzislaw Kedzia (also for the subgroup on concluding observations);
- (c) Forum on Minority Issues (November 2010): Mr. Azzouz Kerdoun.

B. Rules of procedure for the Optional Protocol to the Covenant

461. The Committee proceeded with discussions of the draft rules of procedure for the Optional Protocol to the Covenant during its forty-fourth and forty-fifth sessions, and is expected to continue with the discussions at its forty-sixth session in May 2011.

C. Future statements

462. At its 47th meeting on 12 November 2011, the Committee held preliminary discussions, in private, of the initial draft of its statement on the corporate sector and economic, social and cultural rights. The draft will be revised taking into account the views exchanged, and is expected to be discussed by the Committee at its forty-sixth session in May 2011.

D. Cooperation with specialized agencies

463. The Committee decided that its available members will meet with experts of the ILO Committee of Experts on the Application of Conventions and Recommendations at a meeting scheduled for 25 November 2011, during the pre-sessional working group of the Committee. This 8th roundtable meeting, organized and hosted by the Friedrich Ebert Foundation, is to focus on the issue of regression in the realization of social rights in light of the current austerity measures. An account of the discussions will be included in the next annual report of the Committee.

E. Working methods of the Committee

464. At its 27th meeting, on 21 May 2010, the Committee discussed its working methods, keeping in view the topics that will be covered in future inter-committee meetings and are of urgency to the Committee. The Committee discussed list of issues prior to reporting and follow-up to concluding observations. It was decided that, in relation to using lists of issues prior to reporting, the Committee would continue to monitor the situation. However, concerning lists of issues more generally, the Committee emphasized the need to keep the lists short, concise and focused on key shortcomings and concerns. The Committee reiterated the need to aim to raise not more than 30 questions in each list of issues.

465. Regarding follow-up to the Committee's concluding observations, while the Committee has a written procedure, this has not been followed in practice in recent years. The need to revisit these practices was discussed and reference was made to a paper on follow-up that would be prepared by the Rapporteur, Mr. Kedzia, in conjunction with secretariat, in time for the November 2011 session.

466. In this regard, the Committee also discussed the role of the country rapporteur and whether it needed to be enhanced. In relation to follow-up and to the dialogue, it was decided that, in future sessions, after the opening statement of the delegation, the country rapporteur would make a five-minute presentation, specifically on the status of follow-up of the Committee's previous concluding observations.

467. Other areas that the Committee covered in their discussions included timekeeping for the next session. It was decided that the Chairperson would keep time in order to ensure that questions and comments were kept concise and to allow maximum time for a constructive dialogue, although the actual time limits are not yet fixed.

468. One area which has been of some concern in recent sessions is the chapter on factors and difficulties in the concluding observations. Since deciding what “factors and difficulties that impede the implementation of the obligations in the Covenant” are been too divisive, the Committee decided that, unless it decides otherwise at a later stage, it would be best to remove this section from the concluding observations. If particular difficulties needed to be mentioned, they could be incorporated into a concern and recommendation instead.

469. The Committee initially decided to resume discussions of the working methods at the next session in November 2010, but, given the tight schedule of the session and theme of the inter-committee working group meeting to be held in January 2011, later decided to schedule the discussions on follow-up for a future session.

Chapter VII

Other activities of the Committee in 2010

A. Informal consultations on climate change and human rights

470. The meeting entitled “Threats to the realization of ESCR Perspectives from Environmental Law and the Climate Negotiations” was held in Geneva on 13 May 2010. This was a follow-up to the meeting supported by Friedrich Ebert Foundation in May 2009. This meeting hosted by the foundation’s Geneva branch aimed to provide an informal setting for a constructive discussion between Committee members and climate experts on how the contemporary challenge which climate change is posing to the realization of economic, social and cultural rights can be addressed in the work of the Committee.

B. Maternal mortality: an interactive briefing for the Committee

471. On 10 May 2010, the United Nations Population Fund (UNFPA) held an interactive evening briefing for the Committee in Geneva. The presentations emphasized that preventable maternal mortality and morbidity was a pressing human rights issue that resulted from violations of a range of women’s human rights. With more than half a million maternal deaths occurring annually worldwide, its essential that Governments, human rights bodies and advocates fully commit to raising awareness of and ensuring accountability for these needless rights violations. The programme included: an presentation by Committee member Ms. Rocio Barahona on the draft general comment on reproductive and sexual health; a presentation by Ms. Luz Melo, Human Rights Advisor at UNFPA; a presentation on the OHCHR thematic report on maternal mortality and morbidity and human rights by Ms. Melinda Ching Simon from the Gender Unit of OHCHR; and a presentation on maternal mortality on the ground by Ms. Ximena Andión Ibañez, Center for Reproductive Rights, International Advocacy Director.

C. Lunch briefing on clarifying and promoting extraterritorial human rights obligations – the new Maastricht Principles

472. On 6 May 2010, the Consortium on Extraterritorial Obligations, a coalition of 50 human rights organizations and university institutes, invited members to a lunch briefing on the subject of extraterritorial human rights obligations. As the Consortium noted, States held certain obligations to respect the human rights of persons outside their territory. These extraterritorial obligations had often gone unrecognized in the law, policy and/or practice of many States. The problem was not merely academic: a State’s actions or omissions could and frequently did have a substantial, and often adverse, impact on persons abroad. That

attitude of reductionism as to territorial obligations has led to a vacuum of human rights protection in a number of international political and legal processes and a paucity of regulations based on human rights to promote their protection. The situation was particularly challenging in the field of economic, social and cultural rights. The Consortium is led by a steering group consisting of persons from Åbo Akademi University, Amnesty International, Brot für die Welt, FIAN International, Human Rights Watch, ICJ, Lancaster University, Maastricht University and University of North Carolina. The secretariat of the steering group is at FIAN International.

Chapter VIII

Adoption of the report

473. At its 55th meeting, held on 19 November 2010, the Committee considered its draft report to the Economic and Social Council on the work of its forty-fourth and forty-fifth sessions (E/2011/22/CRP.1-3). The Committee adopted the report as amended during the discussions.

Annexes

Annex I

Members of the Committee on Economic, Social and Cultural Rights

<i>Name of member</i>	<i>Country of nationality</i>	<i>Term expires on 31 December</i>
Mr. Mohamed Ezzeldin Abdel-Moneim	Egypt	2012
Mr. Clement Atangana	Cameroon	2010
Ms. Rocío Barahona Riera	Costa Rica	2012
Ms. Virginia Bonoan-Dandan	Philippines	2010
Ms. Maria Virginia Bras Gomes	Portugal	2010
Ms. Jun Cong*	China	2012
Mr. Chandrashekar Dasgupta	India	2010
Mr. Zdzislaw Kedzia	Poland	2012
Mr. Azzouz Kerdoun	Algeria	2010
Mr. Yuri Kolosov	Russian Federation	2010
Mr. Jaime Márgan-Romero	Ecuador	2010
Mr. Sergei Martynov	Belarus	2012
Mr. Ariranga Govindasamy Pillay	Mauritius	2012
Mr. Eibe Riedel	Germany	2010
Mr. Waleed Sadi	Jordan	2012
Mr. Nikolaas Jan Schrijver	Netherlands	2012
Mr. Philippe Texier	France	2012
Mr. Alvaro Tirado Mejia	Colombia	2010

* On 25 October 2010, under item 1 of its agenda, the Economic and Social Council elected Ms. Jun Cong (China) by acclamation to the Committee on Economic, Cultural and Social Rights for a term beginning on 25 October 2010 and expiring on 31 December 2012 to replace Mr. Daode Zhan.

Annex II

A. Agenda of the forty-fourth session of the Committee on Economic, Social and Cultural Rights (3–21 May 2010)

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

B. Agenda of the forty-fifth session of the Committee on Economic, Social and Cultural Rights (1–19 November 2010)

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

9. Formulation of suggestions and recommendations of a general nature based on the consideration of reports submitted by States parties to the Covenant and by the specialized agencies.
10. Adoption of the annual report
11. Miscellaneous matters.

Annex III

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

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

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

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

- No. 13 (1999) on the right to education (article 13 of the Covenant) (twenty-first session; E/2000/22-E/C.12/1999/11 and Corr.1, annex VI)
- No. 14 (2000) on the right to the highest attainable standard of health (article 12 of the Covenant) (twenty-second session; E/2001/22-E/C.12/2000/22, annex IV)
- No. 15 (2002) on the right to water (articles 11 and 12 of the Covenant) (twenty-ninth session; E/2003/22-E/C.12/2002/13, annex IV)
- No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights (article 3 of the Covenant) (thirty-fourth session; E/2006/22-E/C.12/2005/5, annex VIII)
- No. 17 (2005) on the right of everyone to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author (article 15 (1) (c) of the Covenant) (thirty-fifth session; E/2006/22-E/C.12/2005/5, annex IX)
- No. 18 (2005) on the right to work (article 6 of the Covenant) (thirty-fifth session; E/2006/22-E/C.12/2005/5, annex X)
- No. 19 (2007) on the right to social security (article 9 of the Covenant) (thirty-ninth session; E/2008/22-E/C.12/2007, annex VII)
- No. 20 (2009) on non-discrimination (article 2 of the Covenant) (forty-second session; E/2010/22-E/C.12/2010, annex VI)
- No. 21 (2009) on the right of everyone to take part in cultural life (article 15 of the Covenant) (forty-third session; E/2010/22-E/C.12/2010, annex VII)

Annex IV

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

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

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

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

11. Statement of the Committee to the special session of the General Assembly for an overall review and appraisal of the implementation of the decisions taken at the United Nations Conference on Human Settlements (Habitat II) (New York, 6–8 June 2001) (twenty-fifth session; E/2002/22-E/C.12/2001/17, annex XI)
12. Statement of the Committee to the International Consultative Conference on School Education in Relation to Freedom of Religion and Belief, Tolerance and Non-Discrimination (twenty-seventh session; E/2002/22-E/C.12/2001/17, annex XII)
13. Statement of the Committee on human rights and intellectual property (twenty-seventh session; E/2002/22-E/C.12/2001/17, annex XIII)
14. Statement of the Committee to the Commission on Sustainable Development acting as the Preparatory Committee for the World Summit for Sustainable Development (Bali, Indonesia, 27 May–7 June 2002) (twenty-eighth session; E/2003/22-E/C.12/2002/13, annex VI)
15. The Millennium Development Goals and economic, social and cultural rights: joint statement by the Committee and the Special Rapporteurs on economic, social and cultural rights of the Commission on Human Rights (twenty-ninth session; E/2003/22-E/C.12/2002/13, annex VII)
16. Statement by the Committee on an evaluation of the obligation to take steps to the “maximum of available resources” under an optional protocol to the Covenant (thirty-eighth session; E/2008/22-E/C.12/2007/1, annex VIII)
17. Statement of the Committee on the world food crisis (fortieth session; E/2009/22-E/C.12/2008/1, annex VI)
18. Statement of the Committee on the right to sanitation (forty-fifth session; E/2011/22-E/C.12/2010/3, annex VII)

Annex V

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

The following issues have been the focus of discussion:

1. The right to food (third session, 1989)
2. The right to housing (fourth session, 1990)
3. Economic and social indicators (sixth session, 1991)
4. The right to take part in cultural life (seventh session, 1992)
5. The rights of the ageing and elderly (eighth session, 1993)
6. The right to health (ninth session, 1993)
7. The role of social safety nets (tenth session, 1994)
8. Human rights education and public information activities (eleventh session, 1994)
9. The interpretation and practical application of the obligations incumbent on States parties (twelfth session, 1995)
10. A draft optional protocol to the Covenant (thirteenth session, 1995, and fourteenth and fifteenth sessions, 1996)
11. Revision of the general guidelines for reporting (sixteenth session, 1997)
12. The normative content of the right to food (seventeenth session, 1997)
13. Globalization and its impact on the enjoyment of economic, social and cultural rights (eighteenth session, 1998)
14. The right to education (nineteenth session, 1998)
15. The right of everyone to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author (twenty-fourth session, 2000)
16. International consultation on economic, social and cultural rights in development activities of international institutions, organized in cooperation with the High Council for International Cooperation (France) (twenty-fifth session, 2001)
17. Equal right of men and women to the enjoyment of economic, social and cultural rights (article 3 of the Covenant) (twenty-eighth session, 2002)
18. The right to work (article 6 of the Covenant) (thirty-first session, 2003)
19. The right to social security (article 9 of the Covenant) (thirty-sixth session, 2006)

20. The right to take part in cultural life (article 15, paragraph 1 (a), of the Covenant) (fortieth session, 2008)
21. Non-discrimination and economic, social and cultural rights (article 2, paragraph 2, of the Covenant) (forty-first session, 2008)
22. The right to sexual and reproductive health (articles 10 and 12 of the Covenant) (forty-fifth session, 2010)

Annex VI

Statement on the right to sanitation*

1. Lack of access to sanitation affects human dignity and undermines the enjoyment of economic, social and cultural rights. Until recently, sanitation was a largely neglected topic; it has gradually begun to receive more attention.
2. At the 2002 World Summit on Sustainable Development in Johannesburg, South Africa, a target on sanitation was added to the Millennium Development Goals, emphasizing that reducing the number of people without access to sanitation is as fundamentally important as the other MDG targets. In order to raise awareness of and accelerate progress towards this target, the General Assembly declared 2008, International Year of Sanitation. The Human Rights Council, in turn, by resolution A/HRC/RES/15/9 of 06 October 2010, reaffirmed the human right to safe drinking water and sanitation that was recognized by the General Assembly on 28 July 2010.
3. However, despite these positive developments, the world is not making sufficient progress. Sanitation is one of the most off-track targets of the Millennium Development Goals, and recent estimates have shown that between 2006 and 2008, an additional 100 million people were left without access to improved sanitation. Recognizing this situation, the outcome document of the High-Level Plenary Meeting of the General Assembly held in September 2010 on the theme "Keeping the promise – United to achieve the Millennium Development Goals," called on Governments to redouble efforts to close the sanitation gap.
4. Indeed, 2.6 billion people do not have access to improved sanitation, and over one billion people still have no option but to practice open defecation. In developing countries, as much as 80 per cent of wastewater is untreated and goes directly into lakes, rivers and oceans (World Water Development Report, 2009, page 141). Diarrhoea, a direct consequence of this, is the second main cause of death of children under the age of five. Girls and boys do not attend school because they could contract diseases caused by inadequate sanitation.
5. Moreover, girls in many parts of the world do not go to school for lack of toilets, or lack of separate toilets for them. People living in poverty are disproportionately impacted by lack of access to sanitation. Recent research estimates that for every dollar invested in sanitation, there is about a nine-dollar long-term benefit in costs averted and productivity gained.
6. Fully aware of the relevance of sanitation for the enjoyment of an adequate standard of living, the Committee has regularly raised the issue of sanitation in its dialogue with States Parties and made specific reference thereto in several of its General Comments.
7. Since sanitation is fundamental for human survival and to enabling humans to live a life in dignity, the Committee reaffirms that the right to sanitation is an essential component of the right to an adequate standard of living, enshrined in article 11 of the International Covenant on Economic, Social and Cultural Rights. The right to sanitation is also integrally related, among other Covenant rights, to the right to health, as set forth in article 12, paragraphs 1 and 2 (a), (b) and (c), to the right to housing (article 11), as well as the right to

* Adopted by the Committee on Economic, Social and Cultural Rights on 19 November 2010 during its forty-fifth session.

water, which the Committee recognized in its General Comment No. 15 (2002). It is significant, however, that sanitation has distinct features which warrant separate treatment from water, in some respects. Although much of the world relies on waterborne sanitation, increasing sanitation solutions which do not use water are being promoted and encouraged.

8. In line with the definition of sanitation proposed by the Independent Expert on water and sanitation as “a system for the collection, transport, treatment and disposal or re-use of human excreta and associated hygiene”, States must ensure that everyone, without discrimination, has physical and affordable access to sanitation “in all spheres of life, which is safe, hygienic, secure, socially and culturally acceptable, provides privacy and ensures dignity”. The Committee is of the view that the right to sanitation requires full recognition by States parties in compliance with the human rights principles related to non-discrimination, gender equality, participation and accountability.

Annex VII

A. List of documents before the Committee at its forty-fourth session

E/C.12/44/1	Provisional agenda and tentative programme of work of the forty-fourth session of the Committee
E/C.12/44/2	Status of ratifications and reporting
E/C.12/1990/4/Rev.1	Rules of procedure of the Committee
E/C.12/2008/2	Revised reporting guidelines
A/65/190	Report of the chairpersons of the human rights treaty bodies on their twenty-second meeting
HRI/GEN/1/Rev.9 (vols. I and II)	Compilation of general comments and general recommendations adopted by human rights treaty bodies
HRI/GEN/2/Rev.6	Compilation of guidelines on the form and content of reports to be submitted by States parties
HRI/GEN/3/Rev.3	Compilation of rules of procedure adopted by human rights treaty bodies: note by the Secretariat
A/HRC/6/WG.4/2/Rev.1	Second revised draft optional protocol to the International Covenant on Economic, Social and Cultural Rights
E/C.12/AFG/2-4	Reports submitted by States parties to the Covenant: second, third and fourth periodic reports of Afghanistan
E/C.12/DZA/4	Reports submitted by States parties to the Covenant: third and fourth periodic reports of Algeria
E/C.12/COL/5	Reports submitted by States parties to the Covenant: fifth periodic report of Colombia
E/C.12/KAZ/1	Reports submitted by States parties to the Covenant: initial report of Kazakhstan
E/C.12/MUS/4	Reports submitted by States parties to the Covenant: second, third and fourth periodic reports of Mauritius
HRI/CORE/AFG/2007	Core document forming part of the reports of States parties: Afghanistan
HRI/CORE/1/Add.127	Core document forming part of the reports of States parties: Algeria
HRI/CORE/1/Add.56/Rev.1	Core document forming part of the reports of States parties: Colombia

HRI/CORE/MUS/2008	Core document forming part of the reports of States parties: Mauritius
E/C.12/AFG/Q/2-4	List of issues to be taken up in connection with the consideration of the second to fourth periodic reports of Afghanistan
E/C.12/DZA/Q/4	List of issues to be taken up in connection with the consideration of the third and fourth periodic reports of Algeria
E/C.12/COL/Q/5	List of issues to be taken up in connection with the consideration of the fifth periodic report of Colombia
E/C.12/KAZ/Q/1	List of issues to be taken up in connection with the consideration of the initial report of Kazakhstan
E/C.12/MUS/Q/4	List of issues to be taken up in connection with the consideration of the second, third and fourth periodic reports of Mauritius
E/C.12/AFG/Q/2-4/Add.1	Replies to the list of issues to be taken up in connection with the consideration of the second to fourth periodic reports of Afghanistan
E/C.12/DZA/Q/4/Add.1	Replies to the list of issues to be taken up in connection with the consideration of the third and fourth periodic reports of Algeria
E/C.12/COL/Q/5/Add.1	Replies to the list of issues to be taken up in connection with the consideration of the fifth periodic report of Colombia
E/C.12/KAZ/Q/1/Add.1	Replies to the list of issues to be taken up in connection with the consideration of the initial report of Kazakhstan
E/C.12/MUS/Q/4/Add.1	Replies to the list of issues to be taken up in connection with the consideration of the second, third and fourth periodic reports of Mauritius
E/C.12/1991/4, paras. 55–94	Concluding observations of the Committee on Economic, Social and Cultural Rights on the initial report of Afghanistan
E/C.12/1/Add.71	Concluding observations of the Committee on Economic, Social and Cultural Rights on the second periodic report of Algeria
E/C.12/1/Add.74	Concluding observations of the Committee on Economic, Social and Cultural Rights on the fourth periodic report of Colombia
E/C.12/994/20, paragraphs 165–185	Concluding observations of the Committee on Economic, Social and Cultural Rights on the initial report of Mauritius

B. List of documents before the Committee at its forty-fifth session

E/C.12/45/1	Provisional agenda and tentative programme of work of the forty-fifth session of the Committee
E/C.12/45/2	Status of ratifications and reporting
E/C.12/1990/4/Rev.1	Rules of procedure of the Committee
E/C.12/2008/2	Revised reporting guidelines
A/65/190	Report of the chairpersons of the human rights treaty bodies on their twenty-second meeting
HRI/GEN/1/Rev.9 (vols. I and II)	Compilation of general comments and general recommendations adopted by human rights treaty bodies
HRI/GEN/2/Rev.6	Compilation of guidelines on the form and content of reports to be submitted by States parties
HRI/GEN/3/Rev.3	Compilation of rules of procedure adopted by human rights treaty bodies: note by the Secretariat
E/C.12/DOM/3	Reports submitted by States parties to the Covenant: third periodic report of the Dominican Republic
E/C.12/NLD/4-5	Reports submitted by States parties to the Covenant: fourth and fifth periodic reports of The Netherlands
E/C.12/NLD/4/Add.1	Reports submitted by States parties to the Covenant: fourth periodic report of the Netherlands Antilles
E/C.12/NLD/4/Add.2	Reports submitted by States parties to the Covenant: fourth periodic report of the Netherlands Aruba
E/C.12/LKA/2-4	Reports submitted by States parties to the Covenant: second to fourth periodic reports of Sri Lanka
E/C.12/CHE/2-3	Reports submitted by States parties to the Covenant: second and third periodic reports of Switzerland
E/C.12/URY/3-4	Reports submitted by States parties to the Covenant: third and fourth periodic reports of Uruguay
HRI/CORE/1/Add.66	Core document forming part of the reports of States parties: The Kingdom of the Netherlands
HRI/CORE/1/Add.67	Core document forming part of the reports of States parties: Netherlands: the Netherlands Antilles
HRI/CORE/1/Add.68/Rev.1	Core document forming part of the reports of States parties: Netherlands: Aruba
HRI/CORE/LKA/2008	Core document forming part of the reports of States parties: Sri Lanka

HRI/CORE/1/Add.29/Rev.1	Core document forming part of the reports of States parties: Switzerland
HRI/CORE.1/Add.9/Rev.1	Core document forming part of the reports of States parties: Uruguay
E/C.12/DOM/Q/3	List of issues to be taken up in connection with the consideration of the third periodic report of the Dominican Republic
E/C.12/NLD/Q/4-5	List of issues to be taken up in connection with the consideration of the fourth and fifth periodic reports of the Kingdom of the Netherlands, the fourth periodic report of the Netherlands Antilles and the fourth periodic report of the Netherlands Aruba
E/C.12/LKA/Q/2-4	List of issues to be taken up in connection with the consideration of the second to fourth periodic reports of Sri Lanka
E/C.12/CHE/Q/2-3	List of issues to be taken up in connection with the consideration of the second and third periodic reports of Switzerland
E/C.12/URY/Q/3-4	List of issues to be taken up in connection with the consideration of the third and fourth periodic reports of Uruguay
E/C.12/DOM/Q/3/Add.1	Replies to the list of issues to be taken up in connection with the consideration of the third periodic report of the Dominican Republic
E/C.12/NLD/Q/4-5/Add.1	Replies to the list of issues to be taken up in connection with the consideration of the fourth and fifth periodic reports of The Netherlands, the fourth periodic report of the Netherlands Antilles and the fourth periodic report of the Netherlands Aruba
E/C.12/LKA/Q/2-4/Add.1	Replies to the list of issues to be taken up in connection with the consideration of the second to fourth periodic reports of Sri Lanka
E/C.12/CHE/Q/2-3/Add.1	Replies to the list of issues to be taken up in connection with the consideration of the second and third periodic reports of Switzerland
E/C.12/URY/Q/3-4/Add.1	Replies to the list of issues to be taken up in connection with the consideration of the third and fourth periodic reports of Uruguay
E/C.12/1/Add.16	Concluding observations of the Committee on Economic, Social and Cultural Rights on the second periodic report of The Dominican Republic
E/2007/22, paras. 571–604	Concluding observations of the Committee on Economic, Social and Cultural Rights on the third periodic report of the Kingdom of the Netherlands

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| E/C.12/NLD/CO/3/Add.1 | Concluding observations of the Committee on Economic, Social and Cultural Rights on the third periodic report of the Netherlands Antilles |
| E/C.12/1/Add.24 | Concluding observations of the Committee on Economic, Social and Cultural Rights on the initial report of Sri Lanka |
| E/C.12/1/Add.30 | Concluding observations of the Committee on Economic, Social and Cultural Rights on the initial report of Switzerland |
| E/C.12/1/Add.18 | Concluding observations of the Committee on Economic, Social and Cultural Rights on the second periodic report of Uruguay |
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