

# INTERNATIONAL COOPERATION AND MUTUAL ASSISTANCE

## II. GENERAL COMMENTS AND RECOMMENDATIONS

- ICESCR General Comment 1 (Third session, 1989): Reporting by States Parties, E/1989/22 (1989) 87 at paras. 1, 3 and 9.

1. ...The Committee considers that it would be incorrect to assume that reporting is essentially only a procedural matter designed solely to satisfy each State party's formal obligation to report to the appropriate international monitoring body. On the contrary, in accordance with the letter and spirit of the Covenant, the processes of preparation and submission of reports by States can, and indeed should, serve to achieve a variety of objectives.

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3. A second objective is to ensure that the State party monitors the actual situation with respect to each of the rights on a regular basis and is thus aware of the extent to which the various rights are, or are not, being enjoyed by all individuals within its territory or under its jurisdiction. From the Committee's experience to date, it is clear that the fulfilment of this objective cannot be achieved only by the preparation of aggregate national statistics or estimates, but also requires that special attention be given to any worse-off regions or areas and to any specific groups or subgroups which appear to be particularly vulnerable or disadvantaged. Thus, the essential first step towards promoting the realization of economic, social and cultural rights is diagnosis and knowledge of the existing situation. The Committee is aware that this process of monitoring and gathering information is a potentially time-consuming and costly one and that international assistance and cooperation, as provided for in article 2, paragraph 1 and articles 22 and 23 of the Covenant, may well be required in order to enable some States parties to fulfil the relevant obligations. If that is the case, and the State party concludes that it does not have the capacity to undertake the monitoring process which is an integral part of any process designed to promote accepted goals of public policy and is indispensable to the effective implementation of the Covenant, it may note this fact in its report to the Committee and indicate the nature and extent of any international assistance that it may need.

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9. A seventh objective is to enable the Committee, and the States parties as a whole, to facilitate the exchange of information among States and to develop a better understanding of the common problems faced by States and a fuller appreciation of the type of measures which might be taken to promote effective realization of each of the rights contained in the Covenant. This part of the process also enables the Committee to identify the most appropriate means by which the international community might assist States, in accordance with articles 22 and 23 of the Covenant. In order to underline the importance which the Committee attaches to this objective, a separate general comment on those articles will be discussed by the Committee at its fourth session.

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- ICESCR General Comment 2 (Fourth session, 1990): Article 22: International Technical Assistance Measures E/1990/23 (1990) 86 at para. 9.

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9. A matter which has been of particular concern to the Committee in the examination of the reports of States parties is the adverse impact of the debt burden and of the relevant adjustment measures on the enjoyment of economic, social and cultural rights in many countries. The Committee recognizes that adjustment programmes will often be unavoidable and that these will frequently involve a major element of austerity. Under such circumstances, however, endeavours to protect the most basic economic, social and cultural rights become more, rather than less, urgent. States parties to the Covenant, as well as the relevant United Nations agencies, should thus make a particular effort to ensure that such protection is, to the maximum extent possible, built-in to programmes and policies designed to promote adjustment. Such an approach, which is sometimes referred to as "adjustment with a human face" or as promoting "the human dimension of development" requires that the goal of protecting the rights of the poor and vulnerable should become a basic objective of economic adjustment. Similarly, international measures to deal with the debt crisis should take full account of the need to protect economic, social and cultural rights through, *inter alia*, international cooperation. In many situations, this might point to the need for major debt relief initiatives.

- ICESCR General Comment 11 (Twentieth session, 1999): Article 14: Plans of Action for Primary Education, E/2000/22 (1999) 99 at para 9.

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9. Obligations. A State party cannot escape the unequivocal obligation to adopt a plan of action on the grounds that the necessary resources are not available. If the obligation could be avoided in this way, there would be no justification for the unique requirement contained in article 14 which applies, almost by definition, to situations characterized by inadequate financial resources. By the same token, and for the same reason, the reference to "international assistance and co-operation" in article 2.1 and to "international action" in article 23 of the Covenant are of particular relevance in this situation. Where a State party is clearly lacking in the financial resources and/or expertise required to "work out and adopt" a detailed plan, the international community has a clear obligation to assist.

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- ICESCR General Comment No. 13 (Twenty-first session, 1999): Article 13: The Right to Education, E/2000/22 (1999) 111 at para. 56.

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56. In its General Comment 3, the Committee draws attention to the obligation of all States parties to take steps, "individually and through international assistance and co-operation, especially economic and technical", towards the full realisation of the rights recognised in the Covenant, such as the right to education. <sup>28/</sup> Articles 2(1) and 23 of the Covenant, article 56 of the Charter of the United Nations, article 10 of the World Declaration on Education for All, and para. 34 of the Vienna Declaration and Programme of Action, all reinforce the obligation of States parties in relation to the provision of international assistance and co-operation for the full realisation of the right to education. In relation to the negotiation and ratification of international agreements, States parties should take steps to ensure that these instruments do not adversely impact upon the right to education. Similarly, States parties have an obligation to ensure that their actions as members of international organisations, including international financial institutions, take due account of the right to education.

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### Notes

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<sup>28/</sup> See the Committee's General Comment 3, paras. 13-14.

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- CRC General Comment 1 (Twenty-sixth session, 2001): Article 29 (1): The Aims of Education, CRC/C/103 (2001) 150 at para. 28.

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28. Implementation of comprehensive national plans of action to enhance compliance with article 29 (1) will require human and financial resources which should be available to the maximum extent possible, in accordance with article 4. Therefore, the Committee considers that resource constraints cannot provide a justification for a State party's failure to take any, or enough, of the measures that are required. In this context, and in light of the obligations upon States parties to promote and encourage international cooperation both in general terms (arts. 4 and 45 of the Convention) and in relation to education (art. 28 (3)), the Committee urges States parties providing development cooperation to ensure that their programmes are designed so as to take full account of the principles contained in article 29 (1).

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- CRC General Comment 4 (Thirty-third session, 2003): Adolescent Health and Development in the Context of the Convention on the Rights of the Child, A/59/41 (2004) 102 at paras. 42 and 43.

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42. States parties should, where feasible, adopt a multisectoral approach to the promotion and protection of adolescent health and development by facilitating effective and sustainable linkages and partnerships among all relevant actors. At the national level, such an approach calls for close and systematic collaboration and coordination within Government, so as to ensure the necessary involvement of all relevant government entities. Public health and other services utilized by adolescents should also be encouraged and assisted in seeking collaboration with, *inter alia*, private and/or traditional practitioners, professional associations, pharmacies and organizations that provide services to vulnerable groups of adolescents.

43. A multisectoral approach to the promotion and protection of adolescent health and development will not be effective without international cooperation. Therefore, States parties should, when appropriate, seek such cooperation with United Nations specialized agencies, programmes and bodies, international NGOs and bilateral aid agencies, international professional associations and other non-State actors.

- CERD General Recommendation XXIX (Sixty-first session, 2002): On Article 1, Paragraph 1, of the Convention (Descent), A/57/18 (2002) 111 at para. ii. For text of General Recommendation, see **EQUALITY AND DISCRIMINATION - RACIAL DISCRIMINATION**.
- CERD General recommendation XXXI (Sixty-seventh session, 2005): The Prevention of Racial Discrimination in the Administration and Functioning of the Criminal Justice System, A/60/18 (2005) 98 at paras. 5 and 38. For text of General Recommendation, see **EQUALITY AND DISCRIMINATION - RACIAL DISCRIMINATION**.
- ICCPR General Comment 17 (Thirty-fifth session, 1989): Article 24: Rights of the Child, A/44/40 (1989) 173 at para. 8. For text of General Comment, see **CHILDREN'S RIGHTS - GENERAL**.
- ICCPR General Comment 29 (Seventy-second session, 2001): Derogations from provisions of the Covenant during a state of emergency, A/56/40 vol. I (2001) 202 at paras. 9-11 and

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17. For text of General Comment, see **DEROGATIONS**.

- ICESCR General Comment 3 (Fifth session, 1990): Article 2: The Nature of States Parties Obligations, E/1991/23 (1990) 83 at paras. 13 and 14. For text of General Comment, See **EFFECTIVE REMEDIES - GENERAL**.
- ICESCR General Comment 4 (Sixth session, 1991): Article 11(1): The Right to Adequate Housing, E/1992/23 (1991) 114 at paras. 10 and 19. For text of General Comment, see **ADEQUATE OR DECENT STANDARD OF LIVING - FOOD, CLOTHING, SHELTER**.
- ICESCR General Comment 12 (Twentieth session, 1999): Article 11: The Right to Adequate Food, E/2000/22 (1999) 102 at paras. 36-41. For text of General Comment, see **ADEQUATE OR DECENT STANDARD OF LIVING - FOOD, CLOTHING, SHELTER**.
- ICESCR General Comment 14 (Twenty-second session, 2000): Article 12: The Right to the Highest Attainable Standard of Health, E/2001/22 (2000) 128 at paras. 38-41, 45, 50, 57 and 63-65. For text of General Comment, see **HEALTH - GENERAL**.
- ICESCR General Comment 15 (Twenty-ninth session, 2002): The Right to Water (arts. 11 and 12 of the Covenant), E/2003/22 (2002) 120 at paras. 18, 22, 30-36, 38, 44(c), 47, 50, 52, 53 and 60. For text of General Comment, see **ADEQUATE OR DECENT STANDARD OF LIVING - FOOD, CLOTHING, SHELTER**.
- CRC General Comment 2 (Thirty-first session, 2002): The Role of Independent National Human Rights Institutions in the Promotion and Protection of the Rights of the Child, A/59/41 (2004) 82 at paras. 19(e), 19(h), 19(k), 20-24 and 27-29. For text of General Comment, see **CHILDREN'S RIGHTS - GENERAL**.
- CRC General Comment 3 (Thirty-second session, 2003): HIV/AIDS and the Rights of the Child, A/59/41 (2004) 89 at paras. 13, 14, 40(b), 41 and 42. For text of General Comment, see **CHILDREN'S RIGHTS - GENERAL**.
- CRC General Comment 5 (Thirty-fourth session, 2003): General measures of implementation

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of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6), A/59/41 (2004) 114 at paras. 6, 7, 17 and 60-64. For text of General Comment, see **CHILDREN'S RIGHTS - GENERAL**.

- CRC General Comment 6 (Thirty-ninth session, 2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin, A/61/41 (2005) 15 at paras. 14-16, 43, 45, 49, 60 and 64. For text of General Comment, see **CHILDREN'S RIGHTS - GENERAL**.