



## UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS



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**Committee on Economic, Social, and Cultural Rights**

(Notes on sessions)

- 24th session, 13 November to 1 December 2000
  - 23rd (extraordinary) session, 14 August - 1 September 2000
  - 22nd session, 25 April to 19 May 2000
  - 21st session, 15 November - 3 December 1999
  - 20th session, 26 April to 21 May 1999
  - 19th session, 16 November to 4 December 1998
  - 18th session, 27 April to 15 May 1998
  - 17th session, 17 November to 5 December 1997
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**Note on the twenty-fourth session**

13 November to 1 December 2000

The Committee on Economic, Social and Cultural Rights held its 24th session from 13 November to 1 December 2000.

During the session, the Committee considered the reports submitted by Portugal, Finland, Belgium and Morocco and adopted Concluding Observations regarding their reports (state party reports and concluding observations). The Federal Republic of Yugoslavia requested postponement at the last moment. In this regard, the Committee, after careful deliberation decided, in order to assist the State party in drafting a new report to the Committee, to send a letter to the new Government of Yugoslavia and to attach to it the adopted Preliminary Recommendations and a Revised List of Issues.

In addition, under the follow-up procedure, the Committee made the following decisions. With regard to Israel, from which the additional information was requested in the Concluding Observations of November 1998, the Committee sent a letter to the Permanent Mission of Israel, requesting such additional information to be submitted to the Committee no later than 31 March 2001, as it would consider this additional information, and any other reliable material with which it is provided on the Occupied Palestinian Territories at its 25th session, on May 4, 2001. With regard to Nigeria, the Committee requested the second periodic report to be submitted by 1 November 2001, which was initially requested by the Committee in its Concluding Observations of April-May 1998 to be submitted by 1 January 2000.

The Committee held its Day of General Discussion, on Monday, 27 November 2000, organised in co-operation with the World Intellectual Property Organisation, 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 International Covenant on Economic, Social and Cultural Rights). The discussion paper prepared by Dr. Audrey Chapman (E/C.12/2000/12) and background documents submitted by Specialized Agencies, United Nations Programmes and individual experts (E/C.12/2000/13, 14, 15, 16, 17, 18, 19) have been published in all working languages of the Committee. The Day of General Discussion was attended by representatives of interested intergovernmental and non-governmental organisations, academic institutions, as well as individuals experts who actively participated in the discussion. The Committee particularly appreciated co-operation of the World Intellectual Property Organisation and active participation in its discussion of UNESCO and WTO. The Committee decided, as a follow-up to the discussion held, to commence the drafting of a General Comment on Art.15.(1)(c).

The Committee decided to devote its next Day of General Discussion to be held on Monday, 7 May 2001, to consultations with the international financial institutions and development agencies to discuss matters of common interest and concern.

The Committee's Pre-session Working Group (4 - 8 December 2000) discussed and adopted Lists of Issues with respect to the following reports: the initial report of Nepal (E/1990/5/Add.45), the second periodic report of Senegal (E/1990/6/Add.25), the fourth periodic reports of Germany (E/C.12/4/Add.3), Sweden (E/C.12/4/Add.4) and Colombia (E/C.12/4/Add.6).

The Committee scheduled for consideration at its next 25th session (23 April – 11 May 2001) the following reports: the initial reports of Honduras (E/1990/5/Add.40), China:Hong Kong (E/1990/5/Add.43), Bolivia (E/1990/5/Add.44); the second periodic reports of Venezuela (E/1990/6/Add.19) and the Republic of Korea (E/1990/6/Add.23). The Committee's Pre-session Working Group will meet from 14-18 May 2001, to discuss and adopt Lists of Issues with regard to the following reports: the initial reports of Croatia (E/1990/5/Add.46) and the Czech Republic (E/1990/5/Add.47); the second periodic reports of Algeria (E/1990/6/Add.26), France (E/1990/6/Add.27), Jamaica (E/1990/6/Add.28) and Ireland (E/1990/6/Add.29).

The Committee also decided to schedule for consideration at its 26th (extraordinary) session to be held from 13 to 31 August 2001 the following reports: the initial report of Nepal (E/1990/5/Add.45); the second periodic reports of Japan (E/1990/6/Add.21), Panama (E/1990/6/Add.24) and Senegal (E/1990/6/Add.25); the third periodic report of the Syrian Arab Republic (E/1994/104/Add.23); and fourth periodic reports of Ukraine (E/C.12/4/Add.2) and Germany (E/C.12/4/Add.3).

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### **Note on the 23rd (extraordinary) session**

14 August - 1 September 2000

The Committee on Economic, Social and Cultural Rights held its 23rd (extraordinary) session from 14 August to 1 September 2000. This was the first of two extraordinary

sessions requested and accorded to the Committee by ECOSOC decision 1999/287 of 30 July 1999 and General Assembly resolution 54/251 of 23 December 1999. As requested by the ECOSOC, the Committee used the session entirely for the consideration of States parties' reports in order to reduce the backlog of reports pending consideration .

During the session, the Committee considered the reports submitted by Jordan, Mongolia, Sudan, Kyrgyzstan and Australia and adopted Concluding Observations regarding their reports. Mongolia requested postponement at the last moment, which, after careful deliberation, was not agreed to by the Committee. The Committee thus considered the third periodic report of Mongolia in the absence of a State party delegation (state party reports and concluding observations).

The Committee expressed its appreciation to all staff members of the Activities and Programs Branch of the Office of the High Commissioner for Human Rights who provided oral and/or written information with regard to a particular country under consideration during the 23rd session and the Pre-Sessional Working Group meeting. The Committee found this input extremely useful and decided to request the Secretariat to continue and strengthen the cooperation between APB and the Committee.

The Committee's Pre-sessional Working Group (4 to 8 September 2000) discussed and adopted Lists of Issues with respect to the following reports: the initial report of Bolivia (E/1990/5/Add.44), the second periodic reports of the Republic of Korea (E/1990/6/Add.23) and Panama (E/1990/6/Add.24), and the fourth periodic reports of Finland (E/C.12/4/Add.1) and Ukraine (E/C.12/4/Add.2).

The Committee scheduled for consideration at its next 24th session (13 November - 1 December 2000) the following reports: the second periodic reports of Belgium (E/1990/6/Add.18), Yugoslavia (E/1990/6/Add.22), and Morocco (E/1990/6/Add.20); the third periodic report of Portugal (E/1994/104/Add.20), and the fourth periodic report of Finland (E/C.12/4/Add.1). The Committee's Pre-sessional Working Group will meet from 4 - 8 December 2000, to discuss and adopt Lists of Issues with regard to the following reports: the initial report of Nepal (E/1990/5/Add.45), the second periodic report of Senegal (E/1990/6/Add.25), and the fourth periodic reports of Germany (E/c.12/4/Add.3), Sweden (E/C.12/4/Add.4) and Colombia (E/C.12/4/Add.6).

Finally, the Committee confirmed that its next Day of General Discussion , to be held on Monday, 27 November 2000, during its 24th session, will be organised in co-operation with the World Intellectual Property Organisation and will be devoted to 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 International Covenant on Economic, Social and Cultural Rights). The Committee invited interested governmental, intergovernmental and non-governmental organisations and institutions, as well as individual to contribute to the Day of General Discussion. Further information on the Day of General Discussion may be obtained from the Secretary of the Committee (tel. (41)(22)-917-93-21).

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## **Note on the twenty-second session**

25 April to 19 May 2000

1. The Committee on Economic, Social and Cultural Rights held its 22nd session from 25 April to 12 May 2000. During the session, the Committee considered the reports submitted by Egypt, Georgia and Italy and adopted Concluding Observations regarding their reports. The reports of Jordan and Portugal which were originally scheduled for consideration during this session, at the request of States parties concerned have been postponed for consideration by the Committee in August 2000, during the 23rd (extraordinary) session (Jordan) and in November 2000, during the 24th session (Portugal) (state party reports and concluding observations).

2. The Committee also further reviewed, in cooperation with relevant Specialized Agencies, other United Nations organs and non-governmental organizations, the status of economic, social and cultural rights in a non-reporting State party, the Republic of the Congo. The delegation of the State party attended Committee's meetings and provided the Committee with some information on the state of implementation of the Covenant in the Republic of the Congo and declared that the initial report would be submitted soon.

3. On Monday, 8 May 2000, under agenda item 3 'Substantive issues arising in the implementation of the International Covenant on Economic, Social and Cultural Rights', the Committee considered draft General Comment No. 14 on the right to health (article 12 of the Covenant). Statements were made by representatives of United Nations Specialized Agencies, of Non-governmental organizations and by individual experts. The General Comment N.14 was adopted by the Committee on 11 May 2000.

4. The Committee expressed its deep appreciation to those experts who provided their comments on the draft General Comment both before the session in writing and orally in the course of its discussion on 8th May 2000. The Committee was particularly grateful to the World Health Organisation for the expert advice provided at all stages of the drafting process.

Special thanks were addressed to the following United Nations Specialized Agencies, Non-governmental organisations and individual experts: Pan-American Health Organisation(PAHO), ILO, UNICEF, UNESCO, UNAIDS, World Bank; American Association for the Advancement of Science, FIAN International, COHRE, Habitat International Coalition, Commonwealth Medical Association(CMA), Rights and Humanity, Child in need-India(CINI), International Anti-Poverty Centre(IAPLC), Centro de Asesoría Laboral del Perú(CEDAL), Lawyers Committee for Human Rights and Physicians for Human Rights; Dr. Brigit Toebes (The Hague, Netherlands), Dr. Fons Coomans, Maastricht University (Maastricht, the Netherlands), Dr. Jean Martin, Médecin cantonal (Lausanne, Switzerland), Dr. Aart Hendriks, Health Research and Development Council of the Netherlands (the Hague, Netherlands), Dr. George Kent, University of Hawai'i (Honolulu, USA) and Ms. Alicia Ely Yamin, Columbia University (New York, USA) for their valuable and longstanding cooperation with the Committee and contribution to the drafting of the General Comment.

5. In accordance with ECOSOC decision 1999/287 of 30 July 1999 and General

Assembly resolution 54/251 of 23rd December 1999, the Committee will have two extraordinary sessions in August - September 2000 and 2001 respectively. As requested by the ECOSOC, the Committee will use these two sessions entirely for the consideration of States parties' reports in order to reduce the backlog of reports pending consideration. Accordingly, the Committee decided to schedule for consideration at each of these extraordinary sessions seven reports.

6. The Committee's Pre-session Working Group (15- 19 May 2000) discussed and adopted Lists of Issues with respect to the following reports: the initial report of Hong Kong: Special Administrative Region of the People's Republic of China (E/1990/5/Add.43); the second periodic reports of Venezuela (E/1990/6/Add.19), Morocco (E/1990/6/Add.20), Japan (E/1990/6/Add.21) and Yugoslavia (E/1990/6/Add.22); and the third periodic reports of Australia (E/1994/104/Add.22) of the Syrian Arab Republic (E/1994/104/Add.23).

7. The Committee scheduled for consideration at its next 23rd (extraordinary) session (14 August - 1 September 2000) the following reports: the second periodic report of Jordan (E/1990/6/Add.17), the initial report of Honduras (E/1990/5/Add.40), the third periodic report of Mongolia (E/1994/104/Add.21), the initial report of Sudan (E/1990/5/Add.41), the initial report of Kyrgyzstan (E/1990/5/Add.42), the third periodic report of Australia (E/1994/104/Add.22), and the second periodic report of Belgium (E/1990/6/Add.18).

8. The Committee's Pre-session Working Group will meet from 4 - 8 September 2000, to discuss and adopt Lists of Issues with regard to the following reports: the initial report of Bolivia (E/1990/5/Add.44), the second periodic reports of the Republic of Korea (E/1990/6/Add.23) and Panama (E/1990/6/Add.24), and the fourth periodic reports of Finland (E/C.12/4/Add.1) and the Ukraine (E/C.12/4/Add.2).

9. The Committee decided that its next Day of General Discussion 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)" would be held on Monday, 27 November 2000 (24th session).

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### **Note on the twenty-first session**

15 November - 3 December 1999

1. The Committee on Economic, Social and Cultural Rights held its 21st session from 15 November to 3 December 1999. During the session, the Committee considered the reports submitted by Bulgaria, Argentina, Armenia, Cameroon and Mexico, and adopted Concluding Observations regarding their reports. The Committee also further reviewed, in cooperation with relevant Specialised Agencies, other United Nations organs and non-governmental organisations, the status of economic, social and cultural rights in a non-reporting State party, the Solomon Islands, and is now awaiting for the submission of its initial report (state party reports and concluding observations).

2. On 29 November 1999, as a follow-up to a previously held Day of General Discussion on the right to education (30 November 1998), the Committee considered and adopted General

Comment No. 13 'The Right to Education (Article 13 of the Covenant).'

3. The Committee expressed its deep appreciation to those experts who provided their comments on the draft both in writing and orally in the course of the discussion. Special thanks were addressed to UNESCO, ILO, Dr. Katarina Tomasevski, (Commission on Human Rights Special Rapporteur on the right to education), Organisation Internationale pour le Développement de la liberté d'enseignement (OIDE), American Association for the Advancement of Science (AAAS), International Anti-Poverty Law Center (IAPLC), World University Service (WUS), Association Mondiale pour l'Ecole Instrument de Paix, Dr. Fons Coomans (Maastricht University, Netherlands), Professor Jaap Doek (member of the Committee on the Rights of the Child), Professor Giorgio Malinverni (University of Geneva, Switzerland), Professor Patrice Meyer-Bisch (University of Fribourg, Switzerland), Professor Vassil Mratchkov (former member and Rapporteur of the Committee on Economic, Social and Cultural Rights, University of Sofia, Bulgaria), Professor Yogesh K. Tyagi (Jawaharlal Nehru University, India), for their valuable and longstanding cooperation with the Committee and contribution to the drafting of the General Comment.

4. The Committee decided to submit the above mentioned General Comment as its initial contribution to the World Conference on Racism, Racial Discrimination, Xenophobia and Related Intolerance and to its Preparatory Committee. The Committee also decided that, in its consideration of States parties' reports, it would request States parties to provide information on measures taken within the framework of the preparatory activities for the World Conference and after the World Conference on follow-up at the national level to the recommendations adopted by the Conference, in particular regarding its implications for the effective promotion and protection of the economic, social and cultural rights enshrined in the Covenant.

5. The Committee discussed and adopted a Statement addressed to the World Trade Organisation (WTO) Ministerial Conference meeting held in Seattle, USA. The Statement was sent to the Conference through the Director-General of the WTO, Mr. M. Moore.

6. In response to ECOSOC decision 1999/287 and in accordance with its own practice, the Committee continued to explore ways and means to improve the efficiency of its methods of work, particularly as far as its dialogue with States parties and the problems of the backlog of reports pending consideration are concerned. Within the framework of this discussion, the Committee considered the paper entitled 'Draft Guidelines for drafting General Comments' which had been prepared by the Secretariat. The Committee expressed its satisfaction with the quality of the draft, and noted the usefulness of the Guidelines in assisting those drafting General Comments on substantive rights. The Committee indicated that the Guidelines provided useful signposts, a checklist of issues, to be considered in the process of drafting a General Comment. In this respect, the Guidelines would assist in ensuring consistency in the content, format and ambit of General Comments to be adopted by the Committee. The Guidelines will assist in ensuring consistency and clarity in the structure of General Comments, thus promoting their accessibility, and strengthening the authoritative interpretation of the Covenant provided by the Committee through its General Comments. The Committee decided to continue its discussion of methods of work at its next session.

7. On 25 November 1999, an informal consultation took place between members of the Committee, representatives of the United Nations Development Programme (UNDP) and representatives of the Office of the High Commissioner for Human Rights (OHCHR), within

the context of the OHCHR/UNDP Memorandum of Understanding with the aim of identifying concrete areas/enhancing for further cooperation between the Committee and UNDP. The Committee and UNDP agreed that the following were deemed to be suitable for short-term implementation:

- 1) The systematic provision of documents of the Committee to UNDP;
- 2) Selection of one or two countries per year where UNDP would focus its efforts with respect to the reporting and implementation process;
- 3) Regular provision of the UNDP Human Development Report to the Committee;
- 4) Continuation of the informal meetings between the Committee and UNDP.

There was general agreement that in the long-term, co-operation between the Committee and UNDP should be enhanced and maintained in a structural manner. In the future, meetings should be held between the Committee members and UNDP, on a regular and informal basis, in order to further discuss strategies of co-operation and to consult on issues regarding States parties to the ICESCR

8. The Committee scheduled for consideration at its next 22nd session (25 April to 12 May 2000) the following reports: third periodic reports of Italy (E/1994/104/Add.19) and Portugal (E/1994/104/Add.20), second periodic report of Jordan (E/1990/6/Add.17) and the initial reports of Georgia (E/1990/5/Add.37) and Egypt (E/1990/5/Add.38). The Committee will also review the state of implementation of economic, social and cultural rights in a non-reporting State party, the Republic of Congo.

9. The Committee's Pre-sessional Working Group, which met from 6 to 10 December 1999, considered and adopted a List of issues with respect to: initial reports of Honduras (E/1990/5/Add.40), Sudan (E/1990/5/Add.41) and Kyrgyzstan (E/1990/5/Add.42); second periodic report of Belgium (E/1990/6/Add.18); and third periodic report of Mongolia (E/1994/104/Add.21). All these reports are tentatively scheduled for consideration by the Committee at its 23rd session to be held from 13 November to 1 December 2000.

10. The Committee's next Pre-sessional Working Group (15 to 19 May 1999) will discuss and adopt a List of issues with respect to the following reports: second periodic reports of Venezuela (E/1990/6/Add.19), Morocco (E/1990/6/Add.20), Japan (E/1990/6/Add.21) and Yugoslavia (E/1990/6/Add.22), and the third periodic report of Australia (E/1994/104/Add.22).

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## IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (ICESCR)

Outline for drafting General Comments on specific rights of the ICESCR  
(Adopted by the Committee on ESCR at its 21st session, 15 November-3 December 1999)

### I. Introduction

- Basic premises and principles
- Drafting history (Travaux Préparatoires) of the specific provision in the Covenant (Relevant records of the Commission on Human Rights, ECOSOC and General Assembly during the drafting of the Covenant)
- The right in international human rights law context:
- Global and regional human rights instruments - other General Comments and relevant documents of the Committee on Economic, Social and Cultural Rights
- Jurisprudence and other relevant documents of the other UN treaty bodies

## II. Normative contents of the right

- Core content
- Elements of the right other than the core content
- Vulnerable groups (mothers, children, disabled, elderly, (ethnic) minorities etc.)
- Entitlements ensuing from the right
- Justiciable aspects of the right

## III. State party's obligations

Determination of State obligations and recommendations for action on the basis of the following methods of categorization, (ethnic) minorities etc.)

- Entitlements ensuing from the right
- Justiciable aspects of the right

## III. State party's obligations

Determination of State obligations and recommendations for action on the basis of the following methods of categorization:

- Obligations of immediacy - obligations of progressive realization
- Obligations of conduct - obligations of result
- Obligations to respect, to protect and to fulfil, and obligation to promote

IV. Obligations of other relevant actors: other States parties, Economic and Social Council, other United Nations organs, the relevant Specialized Agencies (Arts.2.1, 2.3, 18, 19, 20,21,22 and 23 of the Covenant), and civil society.

Y. Violations (reference to the Limburg Principles 70-73, and Maastricht Guidelines) (not exhaustive list)

- Violations ensuing from acts of commission or omission



- Violations relating to elements of the minimum core content of the right
- Discrimination (Article 2(2) ICESCR)
- Non-compliance for reasons within the State's control
- Retrogressive measures

## VI. Recommendations for SPs

Some of the relevant issues to be addressed with regard to State obligations and possible recommendations for action (not exhaustive):

- The legal, administrative and judicial framework (e.g. legislation and domestic application of the ICESCR and other international instruments; State policies; institutions; legal remedies, reparation and case law)
- Monitoring obligations at the national level
- Reporting obligations
- National plans of action/State policies and directives
- Use of indicators and the setting of national benchmarks

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### **Note on the twentieth session**

26 April to 21 May 1999

1. The Committee on Economic, Social and Cultural Rights held its 20th session from 26 April to 21 May 1999. During the session, the Committee considered the reports submitted by Denmark, Iceland, Ireland and Tunisia. The consideration of the report of Bulgaria was postponed to 21st session at the request of Bulgarian Government. The Committee also considered the implementation of economic, social and cultural rights in a non-reporting State Party, the Solomon Islands. The Committee adopted Concluding Observations with respect to all of those States Parties (state party reports and concluding observations).

2. On May 10 1999, as a follow-up to previously held Days of General Discussion on the Right to Education and the Right to Food, the Committee considered and adopted two General Comments: General Comment No.11 "Plans of Action for Primary Education (Article 14 of the Covenant)" and No.12 "The Right to Adequate Food (Article 11 of the Covenant)".

3. The Committee expressed its deep appreciation to all external experts who provided their comments on two drafts both in writing and orally in the course of the discussion. Special thanks were addressed to FAO, FIAN (Food International Action Network), ACC Sub-Committee on Nutrition group of experts coordinated by professor Asborn Eide, former Chairperson of the Committee Professor Philip Alston, UNESCO and ILO for their valuable and longstanding cooperation with the Committee and contribution to the drafting of General Comments.

4. The Committee, following the decision taken at its previous session concerning the possibility of organizing a workshop on indicators for the right to education, discussed and adopted paper entitled "Proposal for a Workshop on indicators, benchmarks and the right to education".

5. In response to a letter of the President of the ECOSOC transmitting the Council decision 1998/293 for Committee's consideration and action, the Committee reconsidered its requests (Draft decisions I-IV) made during its sixteenth session in 1996 (Committee report, E/1998/22, chapter I). It resolved to proceed further with only one request, to which it accords highest priority, e.i. to be granted a third regular session per year. It adopted a Draft decision for adoption by the Economic and Social Council at its substantive session of 1999.

6. The Committee scheduled for consideration at its next 21st session (15 November to 3 December 1999) the following reports: third periodic reports of Bulgaria ([E/1994/104/Add.16](#)) and Mexico ([E/1994/104/Add.18](#)), second periodic report of Argentina ([E/1990/6/Add.16](#)) and the initial reports of Cameroon ([E/1990/5/Add.35](#)) and Armenia ([E/1990/5/Add.36](#)).

7. The Committee's Pre-sessional Working Group, which met from 17 to 21 May 1999, considered and adopted List of issues with respect to the following reports submitted by States parties: initial reports of Egypt ([E/1990/5/Add.38](#)) and Georgia ([E/1990/5/Add.37](#)); second periodic report of Jordan ([E/1990/6/Add.18](#)); and third periodic reports of Italy ([E/1994/104/Add.19](#)) and Portugal ([E/1994/104/Add.20](#)). All these reports are tentatively scheduled for consideration by the Committee at its 22nd session to be held from 24 April to 12 May 2000.

8. The Committee's Pre-sessional Working Group (6 to 10 December 1999) will consider initial reports of Honduras ([E/1990/5/Add.40](#)), Sudan ([E/1990/5/Add.41](#)) and Kirgizstan ([E/1990/5/Add.42](#)), second periodic report of Belgium ([E/1990/6/Add.18](#)) and the third periodic report of Mongolia ([E/1994/104/Add.21](#)).

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### **Note on the nineteenth session**

16 November to 4 December 1998

1. The Committee on Economic, Social and Cultural Rights held its 19th session from 16 November to 4 December 1998. During the session, the Committee considered the reports submitted by Israel, Cyprus, Switzerland, Germany and Canada and adopted Concluding Observations with respect to all of those reports.

2. The Committee also adopted its [General Comments No. 9 \(1998\)](#) on "The Domestic application of the Covenant" and [No. 10 \(1998\)](#) on "The role of the national human rights institutions in the protection of economic, social and cultural rights".

3. On November 30 1998, the Committee held a Day of General Discussion devoted to the right to education as enshrined in articles 13 and 14 of the Covenant on Economic, Social and Cultural Rights ([E/C.12/1998/SR.49](#) and [E/C.12/1998/SR.50](#)).

4. Representatives of UN organs and specialized agencies (UNESCO, UNICEF and UNDP), individual experts and representatives of NGOs attended the meeting as participants. Numerous observers also followed the debate. An important number of background papers were made available to Committee experts ([E/C.12/1998/11](#), [E/C.12/1998/13](#), [E/C.12/1998/14](#), [E/C.12/1998/15](#), [E/C.12/1998/16](#), [E/C.12/1998/17](#), [E/C.12/1998/18](#), [E/C.12/1998/19](#), [E/C.12/1998/20](#), [E/C.12/1998/21](#), [E/C.12/1998/22](#), [E/C.12/1998/23](#)).

5. At the invitation of the Committee, Dr. Katarina Tomasevski, the Special Rapporteur of the Commission on Human Rights on the right to education and Dr. Mustapha Mehedi, member of the Sub-Commission on Prevention of Discrimination and Protection of Minorities participated in the Day of General Discussion.

6. The debate covered the following aspects:

- education as a human right and the right to education in relation to indivisibility of human rights
- cooperation among specialized agencies and UN organs, including the human rights treaty bodies; partnership to realize the right to education
- relevance of the normative approach
- core content of the right to education
- nature of States obligations, indicators and benchmarks
- financial aspects.

7. Given the importance of the issues discussed, the Committee requested the Office of the High Commissioner for Human Rights to consider the possibility of organizing a workshop to identify key right to education benchmarks and indicators which might be utilized by the Committee, and other UN treaty-bodies and human rights organs, UN specialized agencies and programmes. The workshop participants should include representatives of this Committee, the Committee on the Rights of the Child, CEDAW, CERD, Human Rights Committee, Commission on Human Rights and its Sub-Commission, UNESCO, UNICEF, UNDP and the World Bank. The Committee considered that such a workshop might be the first of a series of meetings designed to identify key benchmarks and indicators in relation to each of the rights in the Covenant.

8. The Committee's report on the General Discussion will be included in its next annual report to the ECOSOC.

9. The Committee scheduled for consideration at its 20th session (26 April to 14 May 1999) the following reports : third periodic reports of Denmark ([E/1994/104/Add.15](#)) and Bulgaria ([E/1994/104/Add.16](#)), second periodic reports of Tunisia ([E/1990/6/Add.14](#)) and Iceland ([E/1990/6/Add.15](#)), and the initial report of Ireland ([E/1990/5/Add.34](#)). The Committee also decided to review the status of implementation of the Covenant in one non-reporting state: Solomon Islands.

10. The Committee's Pre-sessional Working Group (17 to 21 May 1999) will consider

initial reports of Georgia (E/1990/5/Add.37) and Egypt (E/1990/5/Add.38), second periodic report of Jordan (E/1990/6/Add.17) and the third periodic reports of Italy (E/1994/104/Add.19) and Portugal (E/1994/104/Add.20).

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### **Note on the eighteenth session**

27 April to 15 May 1998

1. The Committee on Economic, Social and Cultural Rights held its 18th session from 27 April to 15 May 1998. It considered 6 reports submitted by Nigeria, Sri Lanka, Poland and Netherlands (Kingdom of the Netherlands, Aruba and Netherlands Antilles) and adopted Concluding observations with respect to all of those reports.

2. The Committee's Day of General Discussion, on 11 May 1998, on "Globalization and its impact on the enjoyment of economic and social rights" was attended by representatives of the United Nations organs, specialized agencies and numerous non-governmental organizations. Following that discussion the Committee adopted a Statement entitled "Globalization and Economic, Social and Cultural Rights".

3. The Committee decided to devote its next Day of General Discussion, on 30 November 1998, to "The right to education" (articles 13-14 of the International Covenant on Economic, Social and Cultural Rights) and that the Special Rapporteur on the Right to Education, to be designated by the Chairman of the Commission on Human Rights, should also be invited to participate.

4. The Committee also had a useful discussion with staff members of the Research & Right to Development Branch on the United Nations Development Assistance Framework (UNDAF) process. In this respect the Committee, on 15 May 1998, adopted a paper entitled "The incorporation of economic, social and cultural rights into the United Nations Development Assistance Framework (UNDAF) process".

5. The Committee scheduled for consideration at its 19th session (16 November to 4 December 1998) the following reports: the initial reports of Israel and Switzerland and the third periodic reports of Germany, Cyprus and Canada. It will also review the implementation of the Covenant in one non-reporting State: the Solomon Islands.

6. The Committee's Pre-session working group (7-11 December 1998) will consider the reports of Ireland, Cameroon, Argentina, Armenia and Mexico.

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### **The Incorporation of Economic, Social and Cultural Rights into the United**

## **Nations Development Assistance Framework (UNDAF) Process**

Comments adopted by the Committee on Economic, Social and Cultural Rights,  
15 May 1998

### **A. Human rights and development**

1. The Committee considers that development activities which do not contribute to respect for human rights, either directly or indirectly, are not worthy of the name. It therefore welcomes the commitment of the Secretary-General to ensure that human rights, including economic, social and cultural rights, are part of the mainsteam of all United Nations activities.

2. Similarly the Committee welcomes the statement by the United Nations High Commissioner for Human Rights to the Round-table on Human Rights and Extreme Poverty, in Geneva, 24 March 1998, in which she suggested that decisions as to appropriate priorities in the quest for development “can be made easier by using the language and standards of human rights and placing the decision making process firmly in the context of the government's international human rights obligations. These obligations stretch also to international organisations ... “.

### **B. United Nations reform and the UNDAF process**

3. One of the most important manifestations of this new approach has been the establishment of the United Nations Development Group (UNDG) Ad Hoc Working Group on the Right to Development to develop a common approach for enhancing the human rights dimension in development operations in the process of elaborating a United Nations Development Assistance Framework (UNDAF) to apply in relation to the country level activities of the United Nations, including in the work of UNDP, UNICEF and UNFPA. This process was initiated by the Secretary-General with a view to achieving “goal-oriented collaboration, programmatic coherence and mutual reinforcement” and has been endorsed by the General Assembly.

4. One of the major steps has been the development of a set of “Provisional Guidelines” for the process. These are currently being tested in relation to 18 countries which agreed to participate in a pilot phase. It is expected that in due course the Guidelines will be refined in light of experience gained in this phase and will be adopted and applied generally.

### **C. The place of economic, social and cultural rights in the process**

5. The Committee welcomes these steps but it notes with surprise that the Provisional Guidelines contain no explicit reference to the Covenant on Economic, Social and Cultural Rights, although mention is made, appropriately, of the Convention on the Rights of the Child. The principal reference document that appears to be used in relation to human rights is the Declaration on the Right to Development. This Declaration is of major importance but it was not designed to be operational in a

context such as this. Its great strength lies more in stating broad principles rather than identifying specific measures to be taken at the country level. The Declaration rightly emphasises the hitherto long-neglected international dimensions of human rights promotion. When addressing individual rights concerns and the matters that are of operational significance in the development process at the national level, the Declaration correctly relies upon the existing categories of rights, particularly those contained in the two International Covenants. Thus the UNDAF process should proceed on the basis of the broad principles contained in the Declaration and add to those the operational dimension to be found in the core human rights treaties.

6. The Committee therefore urges the High Commissioner for Human Rights and the other participants in the UNDAF process to pay particular and explicit attention to economic, social and cultural rights in general, and the framework of the Covenant in particular, in the future elaboration of the Guidelines. In this regard, attention could be given to the incorporation of these rights in the statement of objectives to be sought and the specific policy issues to be addressed. This would involve the elaboration of benchmarks for the realization of these rights and the development of specific programs to achieve these goals in line with the human rights obligations of the States concerned. In relation to States which are parties to the Covenant, account should also be taken of any relevant concluding observations adopted by the Committee. In this regard, the Committee will henceforth include a paragraph in its concluding observations in relation to countries in which the UNDAF process is being applied that the United Nations partners should take full account of the observations in their activities.

7. In concrete terms therefore the Committee recommends that the UNDAF Guidelines be revised to:

- (a) make specific reference to the International Covenant on Economic, Social and Cultural Rights as part of the essential framework;
- (b) require States to establish specific benchmarks against which they propose to measure their own performance in promoting realization of economic, social and cultural rights and particularly in relation to those issues which are at the heart of the UNDAF process such as non-discrimination and the rights to adequate food, adequate housing, health care, and primary and secondary education;
- (c) provide that the concluding observations of the six human rights treaty bodies be treated as essential reference documents in the drawing up of country-specific UNDAF strategies.

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### **Globalization and Economic, Social and Cultural Rights**

Statement by the Committee on Economic, Social and Cultural Rights, May 1998

On 11 May 1998 the Committee on Economic, Social and Cultural Rights held a Day of General Discussion devoted to "Globalization and its impact on the enjoyment of economic and social rights". Participants included the United Nations High Commissioner for Human Rights, representatives of United Nations bodies, specialized agencies, non-governmental organizations and individual experts. On the basis of that discussion, the Committee adopted the following statement.

1. On the eve of the fiftieth anniversary of the Universal Declaration of Human Rights it is essential to reflect upon the impact of globalization upon the economic, social and cultural rights recognized in the Universal Declaration, and further developed in the International Covenant on Economic, Social and Cultural Rights. Although it is capable of multiple and diverse definitions, globalization is a phenomenon which has wrought fundamental changes within every society.

2. It is usually defined primarily by reference to the developments in technology, communications, information processing and so on that have made the world smaller and more interdependent in very many ways. But it has also come to be closely associated with a variety of specific trends and policies including an increasing reliance upon the free market, a significant growth in the influence of international financial markets and institutions in determining the viability of national policy priorities, a diminution in the role of the state and the size of its budget, the privatization of various functions previously considered to be the exclusive domain of the state, the deregulation of a range of activities with a view to facilitating investment and rewarding individual initiative, and a corresponding increase in the role and even responsibilities attributed to private actors, both in the corporate sector, in particular to the transnational corporations, and in civil society,

3. None of these developments in itself is necessarily incompatible with the principles of the Covenant or with the obligations of governments thereunder. Taken together, however, and if not complemented by appropriate additional policies, globalization risks downgrading the central place accorded to human rights by the United Nations Charter in general and the International Bill of Human Rights in particular. This is especially the case in relation to economic, social and cultural rights. Thus, for example, respect for the right to work and the right to just and favorable conditions of work is threatened where there is an excessive emphasis upon competitiveness to the detriment of respect for the labor rights contained in the Covenant. The right to form and join trade unions may be threatened by restrictions upon freedom of association, restrictions claimed to be "necessary" in a global economy, or by the effective exclusion of possibilities for collective bargaining, or by the closing off of the right to strike for various occupational and other groups. The right of everyone to social security might not be ensured by arrangements which rely entirely upon private contributions and private schemes. Respect for the family and for the rights of mothers and children in an era of expanded global labor markets for certain individual occupations might require new and innovative policies rather than a mere laissez-faire approach. If not supplemented by necessary safeguards, the introduction of user fees, or cost recovery policies, when applied to basic health and educational services for the poor can easily result in significantly reduced access to services which are essential for

the enjoyment of the rights recognized in the Covenant. An insistence upon higher and higher levels of payment for access to artistic, cultural and heritage-related activities risks undermining the right to participate in cultural life for a significant proportion of any community.

4. All of these risks can be guarded against, or compensated for, if appropriate policies are put in place. The Committee is concerned, however, that while much energy and many resources have been expended by governments on promoting the trends and policies that are associated with globalization, insufficient efforts are being made to devise new or complementary approaches which could enhance the compatibility of those trends and policies with full respect for economic, social and cultural rights. Competitiveness, efficiency and economic rationalism must not be permitted to become the primary or exclusive criteria against which governmental and inter-governmental policies are evaluated.

5. In calling for a renewed commitment to respect economic, social and cultural rights, the Committee wishes to emphasize that international organizations, as well as the governments that have created and manage them, have a strong and continuous responsibility to take whatever measures they can to assist governments to act in ways which are compatible with their human rights obligations and to seek to devise policies and programmes which promote respect for those rights. It is particularly important to emphasize that the realms of trade, finance and investment are in no way exempt from these general principles and that the international organizations with specific responsibilities in those areas should play a positive and constructive role in relation to human rights.

6. Thus, for example, the Committee welcomes the increasing importance being accorded to human rights in the activities of the United Nations Development Programme (UNDP) and hopes that appropriate emphasis will be accorded to economic, social and cultural rights. It also welcomes the initiatives taken by the Secretary-General of the United Nations Conference on Trade and Development (UNCTAD) to explore more fully the linkages between the principal concerns of that organization and respect for the full range of human rights.

7. The Committee calls upon the International Monetary Fund and the World Bank to pay enhanced attention in their activities to respect for economic, social and cultural rights, including through encouraging explicit recognition of these rights, assisting in the identification of country-specific benchmarks to facilitate their promotion, and facilitating the development of appropriate remedies for responding to violations. Social safety nets should be defined by reference to these rights and enhanced attention should be accorded to such methods to protect the poor and vulnerable in the context of structural adjustment programs. Effective social monitoring should be an integral part of the enhanced financial surveillance and monitoring policies accompanying loans and credits for adjustment purposes. Similarly the World Trade Organization (WTO) should devise appropriate methods to facilitate more systematic consideration of the impact upon human rights of particular trade and investment policies. In that regard the Committee urges the Secretary-General to undertake, if possible in collaboration with the WTO, a careful study of the potential impact upon respect for economic, social and cultural rights of the draft Multilateral Agreement on Investment (MAI) being negotiated within the OECD.



8. Finally, the Committee emphasizes the need for the Office of the High Commissioner for Human Rights to develop an enhanced capacity to monitor and analyze trends in relation to these issues. Regular briefings should be provided to the Committee to enable it to take full account of the relevant policies and trends in carrying out its responsibility for monitoring State Parties compliance with their obligations contained in the International Covenant on Economic, Social and Cultural Rights.

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### **Note on the seventeenth session**

17 November to 5 December 1997

The Committee on Economic, Social and Cultural Rights held its 17th session from 17 November to 5 December 1997. During the session, the Committee considered the reports submitted by the Dominican Republic, Iraq, Azerbaijan, the United Kingdom of Great Britain and Northern Ireland, Uruguay and Luxembourg, as well as the situation in Saint Vincent and the Grenadines in the absence of a report from the State party. It also adopted its report on the mission in the Dominican Republic, its General Comment No. 8 (1997) dealing with the relationship between economic sanctions and respect for economic, social and cultural rights, and devoted a Day of General Discussion to the normative content of the right to food under article 11 of the Covenant.

#### Consideration of States parties' reports

It is to be noted that particular media attention and coverage was given to the consideration by the Committee of the third periodic reports of Iraq and the United Kingdom of Great Britain and Northern Ireland and to the Concluding Observations adopted thereon.

With respect to the report of Iraq, the Committee noted that, although the State party was facing many difficulties pertaining to two consecutive armed conflicts and sanctions imposed by the Security Council, and it cited in this respect resolution 1997/35 adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, Iraq remained responsible to implement its obligations under the Covenant. The main issues of concern of the Committee were the deterioration of the economic, social and cultural rights in Iraq; reports of discrimination against members of minorities, including the Kurds and the Marsh people, and against women; the prohibition of independent trade unions; the increasing use of child labour; the situation of squatters and the problem of forced evictions; the non-availability of food, medicines and safe drinking water in many rural areas; and the increasing illiteracy rate and the right to primary education in general terms.

With respect to the report of the United Kingdom of Great Britain and Northern

Ireland, the Committee's principal areas of concern dealt with the unacceptable levels of poverty among certain segments of the population, despite the developed state of the British economy; the failure to incorporate the right to strike in law; the extent of racial discrimination and discrimination against women, as well as violence against women, including domestic violence; the extent of foster care and the need to devote more resources to the supervision of children's homes; the long hospital waiting lists for surgery; the persistence of corporal punishments in private schools; the need to promote integrated schools in Northern Ireland; the problem of homelessness and the lack of protection of certain groups, such as travelers and members of ethnic groups, against forced evictions; and the extent of school exclusions, affecting disproportionately students of African-Caribbean origin. Special mention should be made of the wealth of written and oral information submitted by numerous local non-governmental organisations, in particular within the NGO hearings held by the Committee at the beginning of the session.

### Mission to the Dominican Republic

The Committee also discussed and adopted its report on the mission conducted in the Dominican Republic. The Dominican Republic accepted in April 1997 that a mission, composed of two experts from the Committee -Mr. Philippe Texier and Mr. Javier Wimer Zambrano-, be conducted in the country, in accordance with repeated requests made by the Committee and endorsed by the ECOSOC. The mission, which took place from 19 to 27 September 1997, focused on the realization of the right to housing under article 11 of the Covenant, and on the situation of Haitian immigrants in the Dominican Republic. The Committee noted with appreciation the active cooperation it received during the mission from the authorities, including at the highest levels of the Government, numerous non-governmental organisations, various United Nations specialised agencies, and in particular the United Nations Development Programme, and the Inter-American Commission for Human Rights. Furthermore, the Committee noted with appreciation the importance attached by authorities to the implementation of the Covenant in the Dominican Republic and to co-operation with the Committee in this respect, as evidenced by the meeting organised between members of the mission team and the President of the Republic.

### General Comment No. 8 (1997)

Furthermore, the Committee adopted a General Comment No. 8 (1997) on the relationship between economic sanctions and respect for economic, social and cultural rights. This General Comment received extensive press coverage and great deal of interest from States parties to the Covenant. It focuses on the dramatic impact sanctions always have on the rights recognized in the Covenant and underlines that, despite the inclusion of humanitarian exemptions in the sanction regimes established by the Security Council in order to ensure basic respect for economic, social and cultural rights, a number of recent United Nations reports and studies show that these exemptions do not have the expected effect. It concludes by suggesting that three steps be taken, which follow from the recognition of economic, social and cultural rights: -these rights must be fully taken into account when a sanction regime is being designed; -effective monitoring should be undertaken throughout the period that sanctions are in force; and -the party or parties responsible for the imposition, maintenance or implementation of the sanctions have the obligation "to take steps,

individually and through international assistance and co-operation, especially economic and technical", in accordance with article 2, paragraph 1, of the Covenant, in order to respond to any disproportionate suffering experienced by vulnerable groups within the targeted country.

#### Day of General Discussion

The Committee, in close co-operation with FAO, held its Day of General Discussion on 1 December 1997, on the normative content of the right to food, under article 11 of the Covenant, as a follow up to the World Food Summit, which was held from 13 to 17 November 1996 at FAO headquarters, and its outcome, i.e. the Rome Declaration on World Food Security and the World Food Summit Plan of Action. The meeting, which was opened by the High Commissioner, was attended by representatives of specialized agencies, numerous non-governmental organisations and individual experts, who actively participated in the debates, and an important number of background papers were made available to Committee experts. It is to be noted that the Committee's Day of General Discussion was followed on 2 December by a seminar on the subject organised by the Office of the High Commissioner.

The Committee's report on the discussion will be included in its next annual report to the ECOSOC.

#### Programme for the next session

Finally, the Committee decided to schedule at its 18th session consideration of the following reports: Sri Lanka, Nigeria, Poland, Netherlands, and Netherlands with respect to Aruba and the Netherlands Antilles.

It also decided that the Day of General Discussion to be held at its next session would be devoted to the issue of globalization, and the impact it may have on the enjoyment of economic, social and cultural rights in the countries affected.

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