(Excerpt from)
Fact Sheet No.16 (Rev.1),
The Committee on Economic, Social and Cultural Rights

All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.


... The two Covenants are international legal instruments. Thus, when Member and non-Member States of the United Nations ratify a Covenant and become a "State party" to it, they are willfully accepting a series of legal obligations to uphold the rights and provisions established under the text in question.

When a State ratifies one of the Covenants, it accepts a solemn responsibility to apply each of the obligations embodied therein and to ensure the compatibility of their national laws with their international duties, in a spirit of good faith. Through the ratification of human rights treaties, therefore, States become accountable to the international community, to other States which have ratified the same texts, and to their own citizens and others resident in their territories.

... Under international human rights law (as well as in terms of its application at the national level), civil and political rights have, in many respects, received more attention, legal codification and judicial interpretation, and have been instilled in public consciousness to a far greater degree, than economic, social and cultural rights. It is therefore sometimes wrongly presumed that only civil and political rights (right to a fair trial, right to equality of treatment, right to life, right to vote, right to be free from discrimination, etc.) can be subject to violation, measures of redress and international legal scrutiny. Economic, social and cultural rights are often viewed as effectively "second-class rights"-unenforceable, non-justiciable, only to be fulfilled "progressively" over time.

Such perspectives, however, overlook a postulate of the global human rights system formulated as long ago as 1948 with the adoption of the Universal Declaration of Human Rights, namely, that the indivisibility and interdependence of civil and political rights and economic, social and cultural rights are fundamental tenets of international human rights law. This point of view has been repeatedly reaffirmed, most recently at the World Conference on Human Rights in 1993.
Economic, social and cultural rights are fully recognized by the international community and throughout international human rights law. Although these rights have received less attention than civil and political rights, far more serious consideration than ever before is currently being devoted to them. The question is not whether these rights are basic human rights, but rather what entitlements they imply and the legal nature of the obligations of States to realize them.

Economic, social and cultural rights are designed to ensure the protection of people as full persons, based on a perspective in which people can enjoy rights, freedoms and social justice simultaneously. In a world where, according to the United Nations Development Programme (UNDP), "a fifth of the developing world's population goes hungry every night, a quarter lacks access to even a basic necessity like safe drinking-water, and a third lives in a state of abject poverty - at such a margin of human existence that words simply fail to describe it," the importance of renewed attention and commitment to the full realization of economic, social and cultural rights is self-evident.

Despite significant progress since the establishment of the United Nations in addressing problems of human deprivation, well over one billion people live in circumstances of extreme poverty, homelessness, hunger and malnutrition, unemployment, illiteracy and chronic ill health. More than 1.5 billion people lack access to clean drinking-water and sanitation, some 500 million children don't have access to even primary education; and more than one billion adults cannot read and write. This massive scale of marginalization, in spite of continued global economic growth and development, raises serious questions, not only of development, but also of basic human rights.

Of all global human rights standards, the International Covenant on Economic, Social and Cultural Rights provides the most important international legal framework for protecting these basic human rights.

3. International Covenant on Economic, Social and Cultural Rights

The International Covenant on Economic, Social and Cultural Rights (see annex I) was adopted and opened for signature, ratification and accession by General Assembly resolution 2200 A (XXI) of 16 December 1966, following almost 20 years of drafting debates. It finally gained the force of law a decade later, entering into force on 3 January 1976.

The Covenant contains some of the most significant international legal provisions establishing economic, social and cultural rights, including rights relating to work in just and favourable conditions, to social protection, to an adequate standard of living, to the highest attainable standards of physical and mental health, to education and to enjoyment of the benefits of cultural freedom and scientific progress.

As at 12 April 1996, 133 States had ratified the Covenant (see annex II) thereby voluntarily undertaking to implement its norms and provisions.

Compliance by States parties with their obligations under the Covenant and the level of implementation of the rights and duties in question is monitored by the Committee on Economic, Social and Cultural Rights.

The Committee works on the basis of many sources of information, including reports submitted by States parties and information from United Nations specialized agencies - International Labour Organisation, United Nations Educational, Scientific and Cultural
Organisation, World Health Organization, Food and Agriculture Organization of the United Nations-from the Office of the United Nations High Commissioner for Refugees, and from the United Nations Centre for Human Settlements (Habitat) and others. It also receives information from non-governmental and community-based organizations working in States which have ratified the Covenant, from international human rights and other non-governmental organizations, from other United Nations treaty bodies, and from generally available literature.


**Self-determination**

Article 1 of the Covenant is worded in precisely the same terminology as article 1 of its sister text, the International Covenant on Civil and Political Rights. The self-determination provisions in common article 1 are particularly important because the realization of this right is a fundamental prerequisite for the effective guarantee and observance of individual human rights and is pivotal in securing and strengthening human rights protection measures.

The right to self-determination is a cornerstone of the international legal system, and has been a premier concern of the international community since the creation of the United Nations in 1945, particularly in regard to issues such as independence, non-interference and democracy. This right has both external and internal dimensions and has been the subject of some controversy in recent years, as it is increasingly asserted by groups within countries, as distinct from ex-colonies and occupied countries.

As far as the rights contained in the Covenant are concerned, the right of peoples freely to pursue their economic, social and cultural development includes freedom to carry on economic, social and cultural activities.

**Obligations of States parties**

*Article 2*

1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin property, birth or other status.

3. Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals.
Article 2 is one of the most important articles of the Covenant because it outlines the nature of States parties’ legal obligations under the Covenant and determines how they must approach the implementation of the substantive rights contained in articles 6 to 15.

Any analysis of obligations relating to economic, social and cultural rights cannot be isolated from the obligations inherent in securing the individual entitlements of the beneficiaries of the right(s) in question. Most frequently, obligations are divided into "layers" reflecting duties to (a) respect, (b) protect, (c) promote, and (d) fulfill each of the rights contained in the Covenant. Each of these legal responsibilities can take on more specific obligations of "conduct" (e.g. action or inaction) and obligations of "result" (e.g. ends).

"undertakes to take steps . . . by all appropriate means, including particularly the adoption of legislative measures"

This provision from article 2, paragraph 1, requires all States parties to begin immediately to take measures towards the full enjoyment by everyone of all the rights in the Covenant. The adoption of legislation will, in many cases, be indispensable if economic, social and cultural rights are to be made real, but laws alone are not a sufficient response at the national level. Administrative, judicial, policy, economic, social and educational measures and many other steps will be required by Governments in order to ensure these rights to all.

Under article 2, paragraph 1, States parties are legally obliged to undertake legislative action in some instances, particularly when existing laws are clearly incompatible with the obligations assumed under the Covenant. This would be the case when, for instance, a law in a given country was patently discriminatory or had the express effect of preventing the enjoyment of any of the rights in the Covenant, or when legislation allowed the violation of rights, especially in terms of negative duties of States. Laws allowing Governments forcibly to remove people from their homes, evicting them without due process of law, would have to be amended in order to bring domestic legislation into conformity with the Covenant.

"to [achieve] progressively the full realization of the rights"

The "progressive obligation" component of the Covenant is often mistakenly taken to imply that only once a State reaches a certain level of economic development must the rights established under the Covenant be realized. This is not the intent of this clause. Rather, the duty in question obliges all States parties, notwithstanding their level of national wealth, to move immediately and as quickly as possible towards the realization of economic, social and cultural rights. This clause should never be interpreted as allowing States to defer indefinitely efforts to ensure the enjoyment of the rights laid down in the Covenant.

Whereas certain rights, by their nature, may be more apt to be implemented in terms of the "progressive obligation" rule, many obligations under the Covenant are clearly required to be implemented immediately. This would apply especially to non-discrimination provisions and to the obligation of States parties to refrain from actively violating economic, social and cultural rights or withdrawing legal and other protection relating to those rights.

The Committee on Economic, Social and Cultural Rights has asserted that this duty exists independently of an increase in available resources and thus recognizes that all existing resources must be devoted in the most effective way possible to the realization of the rights enshrined in the Covenant.
"to the maximum of its available resources"

Like the "progressive realization" provision, this standard is also used to justify the non-enjoyment of rights. However, as recognized in the Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights, this requirement obliges States parties to ensure minimum subsistence rights for everyone, regardless of the level of economic development in a given country.

The term "available resources" applies both to domestic resources and to any international economic or technical assistance or cooperation available to a State party. In the use of available resources, due priority should be given to the realization of rights recognized in the Covenant, considering the need to assure to everyone the satisfaction of subsistence requirements, as well as the provision of essential services.

"without discrimination"

Article 2, paragraph 2, requires States parties to ensure the provision of judicial review and other recourse procedures should discrimination occur. Importantly, the grounds of discrimination mentioned in this provision are not exhaustive and thus certain other forms of unfair discrimination negatively affecting the enjoyment of the rights enunciated in the Covenant (for instance, on the basis of sexual orientation) must be prevented.

According to the Limburg Principles, special measures taken for the sole purpose of securing adequate advancement of certain groups or individuals requiring protection in order to ensure their equal enjoyment of economic, social and cultural rights are not considered discrimination, provided that such measures do not lead to the maintenance of separate rights for different groups and are not continued after their objectives have been achieved. This applies, for example, to affirmative-action program.

This provision not only obliges Governments to desist from discriminatory behaviour and to alter laws and practices which allow discrimination, it also applies to the duty of States parties to prohibit private persons and bodies (third parties) from practising discrimination in any field of public life.

Equal rights for men and women

Women often suffer substantial and disproportionate difficulties in securing human rights, including economic, social and cultural rights. Article 3 guarantees that men and women possess precisely the same legal entitlement to the rights set forth in the Covenant and that, if necessary, special measures will be employed by States parties to ensure that this position of equality is attained.

The Covenant provides a framework for instigating progressive and immediate measures such that women may enjoy on an equal footing rights which have often been denied them. For instance, the housing rights provisions in article 11, paragraph 1, of the Covenant must apply to men and women equally, and thus women must be accorded equal rights to housing inheritance-something which is still not the case in many countries. Together, article 3 and article 2, paragraph 2, thus provide significant legal protection against all forms of discrimination in the pursuit of economic, social and cultural rights.

Limitations
Article 4

The States Parties to the present Covenant recognize that, in the enjoyment of those rights provided by the State in conformity with the present Covenant, the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.

Article 5

1. Nothing, in the present Covenant may be interpreted as implying for any State group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights or freedoms recognized herein, or at their limitation to a greater extent than is provided for in the present Covenant.

2. No restriction upon or derogation from any of the fundamental human rights recognized or existing in any country in virtue of law, conventions, regulations or custom shall be admitted on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

Articles 4 and 5 were not intended by the drafters of the Covenant to be overly permissive of the imposition of limitations by the state on the rights provided for. Rather, these provisions are formulated in such a manner as to be protective of the rights of individuals. They are also not designed to introduce limitations on rights affecting the subsistence or survival of the individual or the integrity of the person.

If a State party finds it necessary to invoke the provisions of these articles, it may do so only if this is provided for by law and only if the measures in question are consistent with the Covenant. Such measures cannot be applied in an arbitrary, unreasonable or discriminatory way. Moreover, individuals should have legal safeguards and effective remedies against illegal or abusive imposition of limitations on economic, social and cultural rights.

The term "democratic society" (art. 4) further restricts the imposition of limitations under the Covenant and thus the burden rests on the State to prove that any limitations do not impair the democratic functioning of society.

None of the provisions in the law relating to any limitation may be interpreted in such a way as to nullify any of the rights or freedoms recognized in the Covenant. The main purpose of article 5, paragraph 2, is to ensure that no provision of the Covenant is interpreted so as to prejudice provisions of domestic law or any other legal instrument already in force, or which may come into force, under which more favourable treatment would be accorded to persons protected.

The right to work

Freely chosen work remains an essential part of being human. For many people, whether employed in the formal or informal sectors, work represents the primary source of income on which subsistence, survival and life depend. The right to work is fundamental to the enjoyment of certain subsistence and livelihood rights such as food, clothing, housing, etc. Moreover, one's working status may easily affect the enjoyment of other rights relating to
health and education. The right to work is increasingly important as Governments the world over continue to withdraw from the provision of basic services, leaving these to market forces and non-governmental actors.

The right to work is fundamental to ensuring the dignity and self-respect of the beneficiaries of the rights contained in the Covenant. Article 6 obliges States parties to refrain from instigating or allowing forced labour. The Committee on Economic, Social and Cultural Rights has examined this article in terms of the implementation of policies and measures aimed at securing work for all who are available to work. This right encompasses, therefore, both the right to enter into employment and the right not to be unjustly deprived of work. Although unemployment persists in all States parties, these States must apply the basic principles set out in article 2 for ensuring the full realization of the right to work.

The right to just and favourable conditions of work

Article 7 establishes a right to a minimum remuneration for employment, stipulating fair wages sufficient to guarantee a decent living, as well as working conditions that are just and favourable. Wages must be equitable and just in order to be considered fair.

This article relates closely to a large number of conventions adopted by the International Labour Organisation, including the Minimum Wage Fixing Convention (No. 131, 1970) and the Equal Remuneration Convention (No. 100, 1951).

People must be afforded minimum conditions of occupational health and safety, and States parties are responsible for adopting policies and laws to that end. A coherent national policy in this regard is incumbent on all States parties.

The standards laid down in article 7 also relate to the duties of States parties to reduce the working week in a progressive manner and to ensure that workers enjoy adequate rest and holidays. For all aspects of this article, States parties must establish a baseline or minimum standard below which the working conditions of no worker should be allowed to fall; they must also develop enforcement measures guaranteeing these rights.

... The right to social security and social insurance

A large number of States do not maintain adequate social security or social insurance provisions under domestic laws protecting people in circumstances such as old age, disability, ill health or other situations not allowing them to earn a decent living. At the same time, many countries which do provide such protection are beginning to transfer responsibility for these matters from the state to the private sector. These issues raise serious concerns regarding enjoyment of the rights contained in the Covenant.

The Committee on Economic, Social and Cultural Rights specifically asks States parties whether they maintain social security schemes in the following areas: medical care, cash sickness benefits, maternity benefits, old-age benefits, invalidity benefits, survivors' benefits, employment injury benefits, unemployment benefits and family benefits.
The Committee has devoted particular attention to enjoyment of the rights provided for in article 9 by women, older persons (General Comment No. 6 (1995)),(6) and persons with disabilities (General Comment No. 5 (1994)).(2)

... The right to an adequate standard of living

Article 11

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing- and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent.

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international cooperation, the measures, including specific programmes, which are needed:

(a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;

(b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

Article 11 incorporates a broad range of concerns relating to the lives and livelihoods of residents of States parties, in particular food, clothing and housing. The Committee on Economic, Social and Cultural Rights has devoted extensive attention to this article, particularly as it relates to the human right to adequate housing. To date, the right to adequate housing is the only right in the Covenant which has had an entire general comment devoted to it (General Comment No. 4 (1991)).(8)

General Comment No. 4 reveals the extensive nature of the protection included under article 11 and elaborates legal interpretations of the right to adequate housing which go far beyond restricted visions of this right as simply a right to shelter. In it, the Committee, which has given more attention to the right to housing than to any other right under the Covenant, states:

... the right to housing, should not be interpreted in a narrower restrictive sense which equates it with, for example, the shelter provided by merely having a roof over one's head. Rather it should be seen as the right to live somewhere in security, peace and dignity... (Para. 7.)
The Committee has defined the term "adequate housing" to comprise security of tenure, availability of services, affordability, habitability, accessibility, location and cultural adequacy.

Article 11 does not imply a stagnant state of affairs, but also includes a right "to the continuous improvement of living conditions" (para. 1) and the possibilities associated with international cooperation in the event of States parties being unable to guarantee the rights in question. This is particularly relevant in times of food crises or famine.

The Committee has decided on several occasions that certain States parties had violated provisions of article 11, particularly as a result of the practice of forced evictions. This is indicative of the seriousness which the Committee accords article 11.

The right to the highest attainable standard of physical and mental health

Recognition of the right to health obviously does not mean that beneficiaries of this right have a right to be healthy. Rather, the Covenant stresses the obligation of States parties to ensure for their citizens "the highest attainable standard of . . . health".

Article 12 therefore places emphasis on equal access to health care and minimum guarantees of health care in the event of sickness.

The Committee on Economic, Social and Cultural Rights has spent increasing energy on clarifying and monitoring health rights, having held a general discussion on the topic and adopted a general comment on the rights of persons with disabilities (General Comment No. 5 (1994)). The rights of people with HIV/AIDS have also received increasing attention from the Committee in recent years.

The right to education

Articles 13 and 14 recognize that education is a fundamental precondition for the enjoyment and assertion of human rights and that education strengthens human rights and basic democratic principles. The international community has long recognized these basic truths and has proclaimed the decade 1995-2004 the United Nations Decade for Human Rights Education. The Committee on Economic, Social and Cultural Rights held a general discussion on this topic in 1994.

These two articles guarantee all children a right to free and compulsory primary education, wherever they may live. They also enshrine the right to equal access to education and equal enjoyment of education facilities; the freedom to choose education and to establish educational institutions; the protection of pupils against inhuman disciplinary measures; and academic freedom.

6. Monitoring the implementation of the Covenant: the Committee on Economic, Social and Cultural Rights

Creation and composition of the Committee
Unlike the five other human rights treaty bodies, the Committee on Economic, Social and Cultural Rights was not established by its corresponding instrument. Rather, the Economic and Social Council (ECOSOC) created the Committee, following the less than ideal performance of two previous bodies entrusted with monitoring the Covenant.

The Committee was established in 1985, met for the first time in 1987 and has to date held 14 sessions. Meeting initially on an annual basis, the Committee currently convenes twice a year, holding two three-week sessions, generally in May and November/December. It holds all its meetings at the United Nations Office at Geneva.

The Committee is comprised of 18 members who are experts with recognized competence in the field of human rights. Members of the Committee are independent and serve in their personal capacity, not as representatives of Governments. At present, the Committee is made up of 13 men and five women. The Committee itself selects its chairperson, three vice-chairpersons and rapporteur.

Members of the Committee are elected by ECOSOC for four year terms, and are eligible for re-election if renominated. The Committee is thus a subsidiary organ of ECOSOC and derives its formal authority from that body. Elections take place in a secret ballot from a list of nominees proposed by States parties to the Covenant. States which have not ratified the Covenant cannot, therefore, nominate their own nationals for positions on the Committee. The principles of equitable geographical distribution and the representation of different social and legal systems guide the selection process. The Committee is serviced by the United Nations Centre for Human Rights.

**What does the Committee do?**

The primary function of the Committee is to monitor the implementation of the Covenant by States parties. It strives to develop a constructive dialogue with States parties and seeks to determine through a variety of means whether or not the norms contained in the Covenant are being adequately applied in States parties and how the implementation and enforcement of the Covenant could be improved so that all people who are entitled to the rights enshrined in the Covenant can actually enjoy them in full.

Drawing on the legal and practical expertise of its members, the Committee can also assist Governments in fulfilling their obligations under the Covenant by issuing specific legislative, policy and other suggestions and recommendations such that economic, social and cultural rights are more effectively secured.

**How do States parties report to the Committee?**

Under articles 16 and 17 of the Covenant, States parties undertake to submit periodic reports to the Committee-within two years of the entry into force of the Covenant for a particular State party, and thereafter once every five years-outlining the legislative, judicial, policy and other measures which they have taken to ensure the enjoyment of the rights contained in the Covenant. States parties are also requested to provide detailed data on the degree to which the rights are implemented and areas where particular difficulties have been faced in this respect.
The Committee has assisted the reporting process by providing States parties with a detailed 22-page set of reporting guidelines specifying the types of information the Committee requires in order to monitor compliance with the Covenant effectively.

The reporting requirement is much more than simply a formalistic commitment. Although the reporting process is imbued with a number of difficulties, not the least of which are the non-submission of reports by a large number of States parties and problems relating to resource constraints of States, this mechanism has a number of important functions. Among these are the initial review function, the monitoring function, the policy formulation function, the public scrutiny function, the evaluation function, the function of acknowledging problems and the information-exchange function.\(^{(16)}\)

The Committee has emphasized that reporting obligations under the Covenant fulfil seven key objectives. In its General Comment No. 1 (1989), the Committee stated these objectives as follows:

1. to ensure that a State party undertakes a comprehensive review of national legislation, administrative rules and procedures, and practices in order to assure the fullest possible conformity with the Covenant;

2. to ensure that the State party regularly monitors the actual situation with respect to each of the enumerated rights in order to assess the extent to which the various rights are being enjoyed by all individuals within the country;

3. to provide a basis for government elaboration of clearly stated and carefully targeted policies for implementing the Covenant;

4. to facilitate public scrutiny of government policies with respect to the Covenant's implementation, and to encourage the involvement of the various sectors of society in the formulation, implementation and review of relevant policies;

5. to provide a basis on which both the State party and the Committee can effectively evaluate progress towards the realization of the obligations contained in the Covenant;

6. to enable the State party to develop a better understanding of problems and shortcomings impeding the realization of economic, social and cultural rights;

7. to facilitate the exchange of information among States parties and to help develop a fuller appreciation of both common problems and possible solutions in the realization of each of the rights contained in the Covenant.\(^{(17)}\)

The Committee typically considers some five or six reports of States parties during any given session. If a State party which has submitted a report that is scheduled for the Committee's consideration at a given session seeks to defer the presentation of the report at the last minute, the Committee does not grant such a request, and proceeds with its consideration, even in the absence of a State party representative.

The Committee has also had to grapple with problems relating to the non-submission of reports and reports which are considerably overdue. In response to such situations, the Committee has notified States parties whose reports are long overdue of its intention to consider these reports at specified future sessions. If no report is forthcoming, the
Committee then proceeds to consider the status of economic, social and cultural rights in the States concerned in the light of all available information.

**Submission of reports and the pre-sessional working group**

When States parties submit their reports, a standard procedure of consideration is followed by the Committee. Once received, processed and translated by the Secretariat, States parties' reports are initially reviewed by the Committee's five-person pre-sessional working group, which meets six months prior to a report being considered by the full Committee. The pre-sessional working group gives a preliminary consideration to the report, appoints one member to give particular consideration to each report, and develops written lists of questions based on disparities found in the reports which are submitted to the States parties concerned. The States parties are then required to reply in writing to these questions prior to their appearance before the Committee.

**Presentation of reports**

Representatives of reporting States are strongly encouraged to be present at meetings when the Committee considers their reports. Such delegations are virtually always present during this process, which is generally carried out over a two-day period. Delegations first provide introductory comments and responses to the pre-sessional working group's written questions. This is followed by the provision of information by the United Nations specialized agencies relevant to the report under consideration. Committee members then put questions and observations to the State party appearing before it. A further period of time is then allowed for representatives of States parties to respond, generally not on the same day, to the questions and views put to them, as precisely as possible. If the questions cannot be adequately dealt with, the Committee often requests a State party to provide it with additional information for its consideration at forthcoming sessions.

**Concluding observations: the Committee decides**

Upon completion by the Committee of its analysis of reports and the appearance by States parties, the Committee concludes its consideration of States parties' reports by issuing "concluding observations", which constitute the decision of the Committee regarding the status of the Covenant in a given State party. Concluding observations are divided into five sections: (a) introduction; (b) positive aspects; (c) factors and difficulties impeding the implementation of the Covenant; (d) principal subjects of concern; (e) suggestions and recommendations. Concluding observations are adopted in private session, and are released to the public on the final day of each session.

On a number of occasions, the Committee has concluded that violations of the Covenant had taken place, and subsequently urged States parties to desist from any further infringements of the rights in question.

All human rights are subject to violation, and economic, social and cultural rights are no exception. The Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights list the following circumstances amounting to violations of the Covenant by a State party (principle 72): (a) it fails to take a step which the Covenant requires it to take; (b) it fails to remove promptly obstacles which it is obligated to remove to permit the immediate fulfilment of a right; (c) it fails to implement without delay a right which the Covenant requires it to provide immediately; (d) it wilfully fails to meet a generally accepted international minimum standard of achievement, which is
within its powers to meet; (e) it applies a limitation to a right recognized in the Covenant in a manner not in accordance with the Covenant; (f) it deliberately retards or halts the progressive realization of a right, unless it is acting within a limitation permitted by the Covenant or it does so because of a lack of available resources; (g) it fails to submit reports as required under the Covenant.

While the Committee's concluding observations, in particular suggestions and recommendations, may not carry legally binding status, they are indicative of the opinion of the only expert body entrusted with and capable of making such pronouncements. Consequently, for States parties to ignore or not act on such views would be to show bad faith in implementing their Covenant-based obligations. In a number of instances, changes in policy, practice and law have been registered at least partly in response to the Committee's concluding observations.

In addition to concluding observations, letters from the chairperson are occasionally addressed to States parties informing them of the Committee's concerns.

The Committee also adopts draft decisions for eventual adoption by ECOSOC, when such approval is required. This is generally the case when the Committee requests a State party to issue it with an invitation to visit the country and provide the Government with technical and other assistance which it may require in order to implement more fully and enforce the norms of the Covenant. The Committee has to date twice requested invitations to visit the territories of States parties (Dominican Republic and Panama). Only in one of these instances (Panama), however, did the State issue the requisite invitation, and a mission took place in April 1995.

Generating interpretative clarity

(a) General comments

The Committee decided in 1988 to begin preparing "general comments" on the rights and provisions contained in the Covenant with a view to assisting States parties in fulfilling their reporting obligations and to provide greater interpretative clarity as to the intent, meaning and content of the Covenant. The Committee further views the adoption of general comments as a means of promoting the implementation of the Covenant, by drawing the attention of States parties to insufficiencies disclosed by a large number of States parties' reports, and by inducing renewed attention to particular provisions of the Covenant on the part of States parties, United Nations agencies and others with a view to achieving progressively the full realization of the rights established under the Covenant.

General comments are a crucial means of generating jurisprudence, providing a method by which members of the Committee may come to an agreement by consensus regarding the interpretation of norms embodied in the Covenant.

As of April 1996, the Committee has adopted six general comments. These are:

- General Comment No. 1 (1989) on reporting by States parties;
- General Comment No. 2 (1990) on international technical assistance measures (art. 22);
- General Comment No. 3 (1990) on the nature of States parties' obligations (art. 2, para. 1, of the Covenant);

- General Comment No. 4 (1991) on the right to adequate housing (art. 11, para. 1, of the Covenant);

- General Comment No. 5 (1994) on persons with disabilities;

- General Comment No. 6 (1995) on the economic, social and cultural rights of older persons.

It is likely that the Committee will consider the adoption of additional general comments in the near future on issues such as the right to health; the domestic application of the Covenant; forced evictions and the Covenant; the non-discrimination clauses of the Covenant (art. 2, para. 2); the right to food; and others.

(b) General discussions

At each of its sessions, the Committee holds a "day of general discussion" on particular provisions of the Covenant, particular human rights or other themes of direct relevance to the Committee in order to develop its understanding of the issues concerned. The Committee has sought to draw on a wide range of expertise during these discussions and has, therefore, engaged in dialogue with United Nations special rapporteurs, experts from relevant non-governmental organizations and representatives of United Nations specialized agencies.

General discussions to date have been held on the right to food (1989); the right to housing (1990); economic and social indicators (1991); the right to take part in cultural life (1992); the rights of the ageing and elderly (1993); the right to health (1993); the role of social safety nets as a means of protecting economic, social and cultural rights, with particular reference to situations involving major structural adjustment and/or transition to a free market economy (1994); human rights education (1994); the interpretation and practical application of the obligations incumbent on States parties (1995); and a draft optional protocol to the Covenant (1995).

7. Civil society and the work of the Committee

The World Conference on Human Rights affirms that extreme poverty and social exclusion constitute a violation of human dignity and that urgent steps are necessary to achieve better knowledge of extreme poverty and its causes, including those related to the problem of development, in order to promote the human rights of the poorest, and to put an end to extreme poverty and social exclusion and to promote the enjoyment of the fruits of social progress. It is essential for States to foster participation by the poorest people in the decision-making process b) the community in which they live, the promotion of human rights and efforts to combat extreme poverty.

VIENNA DECLARATION AND PROGRAMME OF ACTION(19) (Part 1, para. 25)

The Committee has long recognized the important contribution which can be made by civil society in the provision of information concerning the status of the Covenant within States parties. The Committee was the first treaty body to provide non-governmental organizations
(NGOs) with the opportunity to submit written statements and make oral submissions dealing with issues relating to the enjoyment or non-enjoyment of the rights contained in the Covenant in specific countries.

On the first day of each session of the Committee, the afternoon meeting is set aside to give international and national NGOs and community-based organizations (CBOs) an opportunity to express their views about how the Covenant is or is not implemented by States parties. The Committee will receive oral testimony from NGOs as long as the information focuses specifically on the provisions of the Covenant, is of direct relevance to matters under consideration by the Committee, is reliable and is not abusive. In recent years, NGOs and CBOs have taken increased advantage of this procedure and provided the Committee with written, audio and video materials alleging the non-enjoyment of economic, social and cultural rights in States parties.

The Committee has indicated that the purposes of the NGO procedure are to enable it to inform itself as fully as possible, to examine the accuracy and pertinence of information which would most probably be available to it anyway, and to put the process of receiving NGO information on a more transparent basis.

NGOs and CBOs wishing to provide reliable and new information to the Committee may write to the secretariat of the Committee several months prior to the beginning of a particular session, with a specific request to intervene during the NGO procedure. Groups with written materials may also send these to the secretariat, and may attend Committee sessions. NGOs in consultative status with the United Nations or other groups which have relations with such NGOs also may attend Committee sessions. NGOs with consultative status may, in accordance with the relevant ECOSOC resolutions, submit written submissions to the Committee at any time. Committee sessions are generally held in public, with the exception of meetings at which it prepares its concluding observations, which are held privately.

The active participation of NGOs in the work of the Committee has also proven fundamental in ensuring the wide distribution of information about the Covenant and the Committee at the national and local levels. In many instances, these organizations have generated substantial media attention in their countries following the adoption of concluding observations regarding the States in question.

Notes omitted.