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THE WIDENING GAP

A study of the realization of economic, social  
and cultural rights

by

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PART ONE. NATIONAL NORMS AND STANDARDS

NOTE

The designations employed and the presentation of the material in this document do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations concerning the legal status of any country or territory or of its authorities, or concerning the delimitation of its frontiers.

## INTRODUCTION

1. This part of the report, which deals solely with the national norms and standards governing the realization of economic, social and cultural rights, is limited to constitutional aspects. To be complete, it should have extended to the legislation in force in the various countries. Such a task, however, would have vastly exceeded the scope and space allotted to this report, the purpose of which is to present the fundamental features of an extremely complex situation. Moreover, new and comprehensive reports would have been required from Governments to bring up to date and to a comparable level the information previously communicated to the Commission on Human Rights (notably in documents E/CN.4/1011, E/CN.4/1012, E/CN.4/1023, E/CN.4/1024 and E/CN.4/1025 and their respective addenda). Attempts were made to make use of this information without requesting further data from Governments, but they showed clearly that, in the absence of a fresh, full-scale inquiry based on detailed questionnaires, the result would have proved to be uneven, outdated and altogether unsatisfactory.

2. Constitutions, on the other hand, by the very fact that they are designed to proclaim fundamental rules, provide a more permanent basis for an assessment of the place occupied by economic, social and cultural rights in the countries' legal systems. In many cases they reveal a high degree of solicitude for the respect of these rights. This is particularly true of the charters formulated in the middle of the twentieth century. The human rights included in earlier constitutions, with a few exceptions in the early twentieth century, were mainly concerned with those of a civil and political character. It is only relatively recently that attention has been given to economic, social and cultural rights as such, and not simply as a by-product of civil and political rights. It is of interest to note here that for historical reasons, the less-developed countries, particularly those which have recently acquired independence, are strongly represented in this category. The adoption in 1948 of the Universal Declaration of Human Rights had, of course, a powerful effect on the trend to treat economic, social and cultural rights as a legitimate subject of constitutional action; but even before then, a number of countries had felt the need to include in their fundamental charters principles governing the matters now covered by the Covenant. Among those enacted before the Second World War may be mentioned the Political Constitution of the United Mexican States of 1917; the Declaration of the Rights of the Labouring and Exploited Masses of 16 January 1918, which became part of the Constitution of the Russian Socialist Federal Soviet Republic of 10 July 1918; the General Principles set forth in that Constitution (subsequently superseded by the Constitution of the Russian Soviet Federative Socialist Republic of 1937); the Weimar Constitution of Germany of 1919; the Constitution of the Spanish Republic of 1931; the 1936 Constitution of the Union of Soviet Socialist Republics, and the Constitution of Ireland of 1937.

3. The review made here is purely factual and descriptive. It does not cover the application of the norms referred to, and no attempt is made to evaluate their effectiveness. This limitation needs to be underlined. In other parts of

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the report, however, information is provided on situations involving their application. Inasmuch as many of the rights concerned are in the nature of policy objectives whose realization can only be gradual, depending as it does on economic and social advances, their impact on national life can be more correctly ascertained from an analysis of their actual implementation - which appears in other parts of this report - than by a scrutiny of their legal substance. The exploration of constitutional and similar measures must be conceived merely as a background to the main task of assessing the extent to which the economic, social and cultural rights proclaimed in the Universal Declaration and the International Covenant on Economic, Social and Cultural Rights are effectively put into practice. It should accordingly not be assumed that mention of a norm here necessarily means that it has been translated into reality, or, on the contrary, that its absence from the constitution is necessarily a sign of inaction.

4. But there are other limitations. A review of the economic and social developments that condition the realization of economic, social and cultural rights would by far exceed the scope of this part of the report. Furthermore, the rights set forth in the Covenant do not all lend themselves to a legalistic approach. Some of them can only be expressed in actual policies or in social attitudes. The right to the continuous improvement of living conditions, for example, is no doubt subscribed to by all countries, but it is ensured by the determination of the community that all its members should share in economic progress rather than by legal statutes. By contrast, the right to social security can hardly be enjoyed in the absence of concrete provisions of a legal character.

5. It should also be remembered that in some common law countries, individual rights are assumed, and constitutional and other similar measures, when needed, are designed to protect them against abuses rather than to affirm their existence. Situations of this kind can be found, for example, in the United Kingdom of Great Britain and Northern Ireland, Canada, Australia and New Zealand.

6. The situation of federal states also raises problems. Many of the powers needed to give effect to economic, social and cultural rights may be vested in the components, as in the United States of America, and remain outside the purview of the federal authorities. On the other hand, legislation reported for the USSR is applicable also to the Byelorussian SSR and the Ukrainian SSR; in order to avoid repetition, norms mentioned for the USSR are not always referred to again in connexion with the other two republics.

7. The brief review of constitutions that appears below should therefore be read in the light of the preceding considerations. There are in a number of them provisions of an over-all nature which dominate the entire field of the rights set forth in the Universal Declaration and in the Covenant. A first section, therefore, deals with general pronouncements of this kind, and specific rights are covered in a second section. In the first, the review is, by necessity, by country; in the second, it is, more conveniently, by substantive subject. However, since constitutional principles are mostly of a general character, the subdivision by subject had to be conceived on broad lines so as to avoid excessive repetition.

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8. Finally, and for practical reasons, while the international instruments, in so far as they have been ratified or accepted, provide an essential basis for the corresponding constitutional rules, their status is shown not in this part but in annex II to the report (see E/CN.4/1108/Add.7).

A. NORMS OF A GENERAL CHARACTER<sup>1/</sup>

9. The constitution of Algeria (11) proclaims its attachment to the Universal Declaration of Human Rights of 1948. In Burma (preamble) the maintenance of order is to be sought on the basis of justice, liberty and equality. The constitution of Burundi (preamble) rests on the principles set forth in the Universal Declaration and in the Charter of the United Nations. In Cameroon the constitution (1) affirms its adherence to the Universal Declaration and the Charter. Canada has in its constitution no general statement of human rights; British law and customs prevail. The 1960 Canadian Bill of Rights is not interpreted by the courts as overriding the provisions of earlier federal statutes, nor does it provide constitutional limitation of the legislative powers of the Parliament. The constitution of the Central African Republic (preamble) recognizes the existence of inviolable and inalienable rights of man as the foundation of the human community. In Chad, the constitution (preamble) proclaims its attachment to the principles of democracy as defined by the 1789 Declaration of the Rights of Man and of the Citizen and by the Universal Declaration of 1948. The constitution of Czechoslovakia (19) states that the rights, freedoms and duties of citizens shall serve both the free and complete expression of the personality and the strengthening and growth of the socialist society. In Dahomey the constitution (preamble) proclaims its attachment to the principles of democracy and to the rights of man as defined by the 1789 Declaration and the Universal Declaration of 1948. The constitution of Ecuador (33) recognizes, guarantees and fosters the rights of man. It protects them against abuses of the public powers and of private persons. In France the constitution (preamble) proclaims the country's attachment to the rights of man as defined by the 1789 Declaration. So does the constitution of Gabon (preamble) in reaffirming the rights and liberties set forth in the 1789 and 1948 Declarations. In Guyana (3) every person is entitled to the fundamental rights and freedoms of the individual without any distinction. In the Ivory Coast the constitution (preamble) asserts its devotion to the principles of democracy and of the rights of man as defined by the 1789 and 1948 Declarations. The constitution of Jamaica (13) states that every person in the country is entitled to the fundamental rights of the individual person without distinction of any kind. The constitution of Japan (11-12) also guarantees the enjoyment of the fundamental human rights. In Kenya (14) every person is entitled to the fundamental rights and freedoms of the individual. The constitution of Laos (preamble) recognizes as fundamental principles the rights of the people, especially to equality before the law. In Liberia (1) the constitution requires observance of the natural rights of man. In Madagascar the constitution (preamble) specifically

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<sup>1/</sup> The references in parentheses denote the relevant articles of the instrument referred to, which, if not otherwise stated, is the constitution of the country concerned.

refers to the Universal Declaration. The constitution of Malawi (11) states that every person is entitled to the fundamental rights and freedoms of the individual. Mali (preamble) reaffirms the rights and liberties of man as consecrated by the Universal Declaration. The constitution of Mauritania (preamble) proclaims its attachment to the principles of democracy as defined by the 1789 and 1948 Declarations. In Morocco the constitution (preamble) subscribes to the principles, rights and obligations arising out of the charters of the international organizations of which the country is a member. The Niger (preamble) proclaims its attachment to the principles of democracy and to the rights of man as defined by the 1789 and 1948 Declarations. The constitution of Rwanda (13) guarantees the fundamental liberties defined by the Universal Declaration. The constitution of Senegal (preamble) acknowledges the rights defined by the 1789 Declaration and by the Universal Declaration; it also proclaims respect and guarantees for economic and social rights. In Sierra Leone, according to the constitution (11), everyone is entitled to the fundamental rights and freedoms of the individual. Somalia affirms in its constitution (7) that it will comply with the provisions of the Universal Declaration wherever applicable. The constitution of Togo (preamble) asserts its attachment to the principles of democracy and to the rights of man as defined by the Universal Declaration. In Turkey, according to the constitution (10), every individual is entitled to the fundamental rights and freedoms of man; they may be restricted only by law in conformity with the letter and spirit of the constitution. The constitution of Uganda (17) entitles every person to the fundamental freedoms and rights of the individual without any distinction. The constitution of the Upper Volta (preamble) proclaims its devotion to the principles of democracy and to the rights of man as defined by the 1789 and 1948 Declarations. In the United Kingdom the protection of the citizens lies in the ordinary laws of the land, which apply equally to all. In the United Republic of Tanzania the constitution (preamble) proclaims the inherent dignity of man and the inalienable rights of all members of the human family as the foundation of freedom, justice and peace; it also proclaims the country's intention to safeguard and respect economic and social rights. The constitution of the United States of America, which is based on English heritage and on the idea of natural rights, provides for an area of freedom within which no government may legally act; this area traditionally includes political and civil rights. In addition, the federal structure leaves many of the economic, social and cultural rights to the legislative competence of the component states. In Yugoslavia (32) the freedoms and rights of man and of the citizen are part of the socialist and democratic relations protected by the constitution. The constitution of Zaire (preamble) proclaims its adherence to the Universal Declaration. Finally, the constitution of Zambia (13) entitles every person to the enjoyment of the fundamental rights and freedoms of the individual.

#### B. SPECIFIC RIGHTS<sup>2/</sup>

10. The prevention of discrimination is one of the overriding principles that affect many of the specific rights listed in the International Covenants on Human Rights. It must accordingly be reviewed first.

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<sup>2/</sup> See note 1.

11. Prevention of discrimination is often expressed in its positive counterpart, that is, the principle of equality before the law, with or without specific reference to distinctions of race, origin, colour, creed or sex.

12. Among the countries which exclude discrimination by simply proclaiming the principle of equality before the law are Albania (14), Austria (7), Belgium (6), Brazil (150), Bulgaria (71), the Byelorussian SSR (97), Canada (Bill of Rights, 1), Chile (10), the Congo (1), Costa Rica (33), Cuba (20), Czechoslovakia (20), Dahomey (13), the Democratic People's Republic of Korea (11), the Democratic Republic of Viet-Nam (22), Egypt (24), El Salvador (150), Finland (5), the German Democratic Republic (6), Greece (3), Haiti (16), Honduras (51), Indonesia (22), Iran (Supplementary Constitution, 8), Iraq (19), Ireland (40), Israel (Declaration of the Establishment of the State of Israel), Italy (3), the Ivory Coast (6), Lebanon (7), Liechtenstein (31), Luxembourg (11), Madagascar (preamble), Mongolia (76), Nepal (10), the Netherlands (4), Nicaragua (36), Paraguay (51), Peru (23), Portugal (5), the Republic of Korea (9), Romania (17), Rwanda (16), Senegal (7), Somalia (3), Switzerland (4), the Syrian Arab Republic (7), Tunisia (6), Turkey (12), the Ukrainian SSR (103), the USSR (123), the United States of America (14th Amendment), the Upper Volta (6), Uruguay (8), Western Samoa (15), Yemen (22) and Zaire (14).

13. Some of the constitutions, however, while proclaiming equality before the law, prohibit nevertheless discrimination as such. Among them are those of Afghanistan (25), Albania (14), Algeria (10), Argentina (16), Barbados (11), Bolivia (6), Burma (13), Burundi (6), Ceylon (29), Chad (preamble), China (86), Cyprus (6), Ecuador (25), Ethiopia (38), the Federal Republic of Germany (3), Guinea (45), Guyana (15), Hungary (49), India (15), Jamaica (24), Jordan (6), Malaysia (8), Malta (46), Nepal (10), Nigeria (28), Poland (69), Sierra Leone (11), Spain (2), Trinidad and Tobago (1), Uganda (29), Venezuela (61) and Zambia (25).

#### 1. The right to work

14. The right to work, in some cases to employment, is recognized in many constitutional charters. In Afghanistan (37) work is considered as a right and as a precept for every Afghan who has the capacity to work. In Albania (13) work is both a duty and an honour and the constitution (25) further guarantees the right to work for a remuneration according to quality and quantity. The constitution of Argentina (14) recognizes the right of working in and practising any lawful industry; labour shall enjoy the protection of the law. The constitution of Bolivia (7) guarantees the right to work; labour is also held as a duty (156). In Bulgaria (73) the right to work is guaranteed by the national planning of the economy and by the development of production; work is both a duty and a matter of honour for every citizen. In Burma the constitution (14) recognizes the right to equal opportunity in public employment and in any occupation, trade or business. In the Byelorussian SSR (93) the citizens have the right to work which is guaranteed by the availability of employment and must be remunerated in accordance with quantity and quality. In Cameroon the constitution (preamble) states that labour should be protected by law. The constitution of the Central African Republic (preamble) contains a similar provision. So does the constitution of Chad (preamble). Chile (10) guarantees

the protection of labour; no labour or industry can be prohibited unless it is contrary to good usage, to public security, to health or to the national interest. In China the constitution (16) proclaims that work is a matter of honour; it also guarantees (91) the right to work and lays upon the State the duty to create employment. The constitution of Colombia (17) views labour as a social obligation and places it under the special protection of the State; it also (39) ensures freedom of choice. The constitution of Costa Rica (56) states that labour is a right of the individual and his obligation to society; the State should endeavour to see that everyone has employment with fair remuneration; free choice is guaranteed. Cyprus (25) recognizes the right to practise any profession or to carry on any occupation, trade or business. In Czechoslovakia (21) everyone has the right to work and to be paid in accordance with the quality and quantity of his work; the right to employment is ensured by the socialist system guaranteeing the absence of any unemployment. Dahomey (8) recognizes the right to work. The Democratic People's Republic of Korea (16) holds that work is a duty and a matter of honour for the Korean people. Denmark (74) recognizes no restraint to the free access to trade that is not based on the public weal; the State should make every effort to afford work to every able-bodied citizen. In the Dominican Republic (11) the right to work is guaranteed. Ecuador (28) also ensures the right to the exercise of any occupation or profession; the constitution (61) further guarantees the right to work and to remuneration. In Ethiopia (47) the right to work is confirmed. Finland (6) places the labour of all citizens under the special protection of the State. Gabon (1) guarantees the right to work. In the German Democratic Republic (15) labour enjoys the protection of the State; the right to work is guaranteed. The Federal Republic of Germany prescribes recognition of the right to choose a trade or profession and a place of work; no compulsory work is allowed except within the framework of public services. Guinea (44) also recognizes the right to work. In Haiti (23) the freedom of work is to be exercised under the control of the State and regulated by law. The constitution of Honduras (92) guarantees the freedom of labour; it upholds (123) the right to work for every person; every person is entitled to obtain paid employment (39). The constitution of Hungary guarantees the right to work with a remuneration based on the quality and quantity of work; this right is implemented by the planned development of the forces of production. In Iceland (69) no restriction is placed upon freedom of employment. India (19) recognizes the right to practise any profession or to carry on any occupation, trade or business. Indonesia (27) similarly acknowledges the right to work. In Ireland (45) the State is directed to ensure that citizens may through their occupations be able to make reasonable provision for their domestic means. The constitution of Italy (4) affirms the right to work. In Japan (37) all people have the right and obligation to work. The constitution of Jordan (6) lays upon the State the responsibility to ensure that everyone can work in accordance with his capacities and to provide for employment by promoting economic progress and raising the standard of living. In Liechtenstein the right to work is safeguarded by the constitution (19). It is similarly guaranteed in Luxembourg (11). The constitution of Madagascar (preamble) states that work is a right and duty for all. In Mali (preamble) the right to work is recognized. Malta (7) recognizes the right to work. The constitution of Mexico (4) provides that no person can be prevented from engaging in a profession or occupation of his



choice. Mongolia (77) guarantees the right to work and to remuneration in accordance with quality and quantity; realization of this right is ensured by the socialist system of the economy, which gives everyone an opportunity to work according to his ability. In Morocco (13) all citizens have an equal right to work. The constitution of Panama (63) considers labour as a right and a duty; it requires the State to employ the resources at its disposal to provide employment and to ensure conditions of work sufficient to ensure a decent living. Paraguay (55) recognizes the right of everyone to engage in an occupation with no condition other than his qualifications; labour is to be given a special protection (105). The constitution of Poland guarantees the right to employment paid in accordance with the quantity and quality of work (58); it is ensured by the social ownership of the means of production and the planned growth of productive forces, as well as by the abolition of unemployment. In Portugal (8) the right to work is recognized within the terms prescribed by the law. The constitution also guarantees freedom of choice. The Republic of Korea (41) guarantees the right to work and to free choice of employment; work is a duty for every citizen, and the State must endeavour to make employment available to all on equitable terms. The constitution of Romania (18) affirms the right to work; every citizen should be given the possibility to carry on an activity in the economic, administrative, social or cultural fields; remuneration should be determined by the quantity and quality of the work. The Charter of Spain (24) proclaims that all Spaniards have the right to work and the duty to occupy themselves in socially useful activities. In the Syrian Arab Republic (18) all citizens have the right and duty to work. The constitution of Turkey (42) proclaims a similar right. In the Ukrainian SSR the constitution (98) proclaims the right to guaranteed employment and to remuneration based on the quality and quantity of the work; this right is ensured by the socialist organization of the economy, by the steady growth of productive forces and by the abolition of unemployment. The constitution of the USSR (118) proclaims the same principles. In Uruguay (53) labour is under the protection of the law and it is the duty of everyone to apply his energies in a manner that will benefit the community; the State should endeavour to afford, with preference given to citizens, the possibility for everyone to earn his livelihood. The constitution of Venezuela (51) considers labour as a duty; it further recognizes (84) the right of everyone to work; the State should endeavour to secure employment for everyone so as to provide him with a decent living; the freedom of choice should not be restricted other than by law. In Yemen (38) all citizens have the right to work and the State shall endeavour to provide opportunities for employment. In Yugoslavia, the constitution (36) gives all citizens the right to work; it guarantees that conditions towards the realization of this right shall be provided by the development of the productive forces and by the promotion of concern for the interests of the working man.

15. An important aspect of the right to work is the prohibition of forced labour. Provisions to that effect are found in the constitutions of Barbados (19), Burma (19), Cyprus (10), Ecuador (61), El Salvador (155), Guyana (6), India (23), Jordan (13), Kenya (16), Libya (13), Malawi (13), Malaysia (6), Mali (preamble), Malta (36), Mexico (5), Nepal (13), Pakistan (6), Peru (55), Republic of Korea (42), Rwanda (40), Sierra Leone (15), Somalia (11), Western Samoa (8), Yugoslavia (36) and Zambia (16).

16. The Covenant, in addition to proclaiming the right to work, prescribes equitable conditions of work. Several constitutions contain general provisions to that effect. Afghanistan (37) assigns to legislation the duty to protect the rights and interests of the workers, to provide suitable conditions of work and to ensure that employment may be freely chosen. The constitution of Argentina (14) requires dignified and equitable conditions of work. In China (91-92) the State has the duty to create steadily improving conditions of work and of remuneration. The Dominican Republic (11) prescribes that the law may establish all provisions necessary for the assistance and protection of the workers. The constitution of Ecuador (64) provides that the law shall regulate employment. In Egypt the constitution (40) requires for the workers a just treatment guaranteed by the State. The constitution of Honduras (123) prescribes equitable and satisfactory working conditions as well as appropriate protection against unemployment. In India (38) equitable conditions of work are a matter of public policy. The constitution of Ireland provides that the State shall ensure protection of the strength and health of workers, and that the tender age of children shall not be abused through avocations unsuited to age, strength and sex. In Japan the constitution (27) provides that the standards for wages, hours, rest and other working conditions shall be fixed by law. The constitution of Jordan (23) requires the State to protect labour and to legislate on conditions of work. In Pakistan the constitution (8) considers the provision of just and humane conditions of work as a principle of policy. The constitution of the Syrian Arab Republic (18) prescribes that the State shall protect labour. In Turkey (42) the State is similarly required to protect the workers and to promote employment by adopting social, economic and financial measures designed to ensure for all a decent existence and a stable employment. In Venezuela the constitution (85) places labour under the special protection of the State.

17. Some constitutions provide for special measures to fight unemployment. In Brazil, article 158 requires security of employment with sufficient compensation for discharged workers. The constitution of Yugoslavia (36) affirms the right to material security during unemployment.

18. Equitable conditions of work also include the provision of an adequate remuneration. In Argentina the constitution (14) requires a system of fair remuneration and the establishment of a flexible minimum essential wage. Bolivia (7) similarly recognizes the right to an equitable remuneration ensuring a decent existence; it further provides (157) for the establishment of minimum wage machinery. In Brazil the constitution (158) lists a minimum wage and family allowances among the basic rights to be guaranteed. In Costa Rica (57) every worker is entitled to remuneration providing a decent living, as well as a minimum wage. Cuba (61) also guarantees a minimum wage. In Ecuador the constitution provides (64) that the law shall regulate the establishment of basic wages and family allowances sufficient for the fundamental necessities of the worker and of his family. In the German Democratic Republic (18) wages must be paid in accordance with the work done and ensure an adequate standard of living. Guatemala (114) likewise requires the periodic fixing of a minimum wage. In Haiti the constitution (24) provides that every worker is entitled to a fair wage. Italy (36) requires that remuneration be fixed in proportion to the quality

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and quantity of the work and be sufficient to provide for a free and dignified existence. In Nicaragua (95) the constitution requires the establishment of a minimum wage. Panama (64) similarly guarantees a minimum wage. In Spain the Labour Charter (III) demands a remuneration sufficient for a decent existence. In the Syrian Arab Republic (18) the State is required to guarantee a fair salary. The constitution of Turkey (45) proclaims the need for decent wages. The constitution of Uruguay (54) gives to the legislation the duty to recognize the right of everyone to a just remuneration. In Venezuela the constitution (87) also prescribes a system of minimum wages and a decent level of remuneration.

19. Many constitutions guarantee the right to a limitation of working hours, to rest and leisure. Albania (25) ensures that right through a limitation of working hours, annual vacations with pay and the provision of rest homes. Argentina (14) similarly requires the regulation of working time, paid days of rest and vacations. Bolivia (157) prescribes definition by the State of the maximum working time and of the right to paid weekly and annual days of rest. Brazil (158) proclaims that the working day shall not exceed 6 hours and that weekly rest periods and annual vacations must be provided. Bulgaria (74) guarantees the right to a limited working day, to paid annual leave and to rest homes. Burma (32) requires the State to direct its policies towards ensuring the right to rest and to leisure. The Byelorussian SSR (94) prescribes observance of the right to rest, through the limitation of the working day, the provision of annual leave with pay and the availability of rest homes. China (91-92) affirms the right to rest and leisure. Costa Rica (57 and 59) ensures the right to weekly rest and to annual vacations with pay. Czechoslovakia (21) proclaims a policy of gradual reduction of working hours and upholds the right to leisure through the regulation of working hours and of paid holidays. The Democratic People's Republic of Korea (16) provides for an eight-hour working day and for a 30-day annual vacation with pay. The Democratic Republic of Viet-Nam recognizes the right to rest: the law provides for the duration of work and holidays. In the Dominican Republic (11), the constitution prescribes that the State shall establish the maximum working day and determine the days of rest and of vacation. In Ecuador (64), the responsibility of regulating hours of work and periods of rest is laid upon the State. Egypt (40) similarly entrusts to legislation the duty to fix hours of work, rest periods and vacations. The constitution of El Salvador (182) requires that the Labour Code provide for the determination of hours of work, periods of rest and paid vacations. The German Democratic Republic (16) recognizes to everyone the right to rest, leisure and annual paid vacations. Guatemala (114) limits working hours to eight per day and 48 per week and provides for rest periods and holidays with pay. Guinea (44) proclaims the right to rest. The constitution of Haiti (24) ensures the right to rest and leisure and to annual paid vacations. In Honduras (124) the maximum working hours are fixed at eight per day and 48 per week. The constitution of Hungary (46) asserts the right to rest, implemented by the legal determination of working hours, holidays with pay and organization of rest and recreation facilities. Italy (36) prescribes that the maximum working time shall be fixed by law and guarantees weekly rest and annual vacations with pay. Jordan (23) requires the State to legislate on hours of work, weekly rest and holidays with pay. Luxembourg (11) ensures the right to rest by way of legislation. Mali recognizes the right to rest. In Malta (14) the hours of work, as well as the entitlement to weekly rest and to holidays with pay, are to be defined by law. The constitution of Mexico (123) limits the maximum working day

to eight hours, with one day of rest every week. In Mongolia (78), the right to leisure is ensured by an eight-hour maximum working day, by weekly rest and by the provision of holidays with pay. The constitution of Nicaragua (95) requires an obligatory weekly rest and an annual holiday with pay of 15 days. In Panama (69) the hours of work are limited to eight per day and 48 per week. The constitution of Poland (59) proclaims the right to leisure and rest, to be assured by the reduction of the hours of work, through the application of the maximum eight-hour day and annual holidays with pay. In Romania the constitution (19) affirms the right to leisure, guaranteed by a maximum eight-hour working day, weekly rest and paid holidays. Somalia (36) prescribes weekly rest and annual holidays with pay; working hours are established by law. In Spain, the Labour Charter (II) provides for weekly rest and holidays with pay. The constitution of the Syrian Arab Republic entrusts the State with the duty to guarantee the limitation of working hours. Turkey (44) also affirms the entitlement to weekly rest and paid annual holidays. Both the Ukrainian SSR (99) and the USSR (119) guarantee the right to rest and leisure, with a maximum of seven hours for the working day (less for arduous trades) and annual vacations with pay. The constitution of Uruguay (54) requires that the law recognize the right of everyone to a limitation of working hours and to a weekly day of rest. In Venezuela (86) the working hours must be limited to eight per day and to 48 per week; weekly rest periods and vacations with pay are to be provided, and a progressive diminution of the working hours is to be promoted. The constitution of Yugoslavia (37) provides that the working week is to be limited to 42 hours and that the workers are entitled to daily and weekly rest periods and, under conditions determined by law, to paid vacations.

20. Fair remuneration involves the principle of equal pay for equal work, to which the Covenant gives a special place. While inherent in many general rules, it is nevertheless specifically mentioned in the constitutions of Albania (17), Argentina (14), Brazil (158), Bulgaria (71), Burma (15), Costa Rica (52), Cuba (62), the Democratic People's Republic of Korea (15), the Democratic Republic of Viet-Nam (24), Ecuador (61), El Salvador (182), the German Democratic Republic (18), Guatemala (114), Honduras (124), India (38), Italy (37), Malta (15), Mexico (123), Nicaragua (95), Poland (66), Romania (18), Somalia (36), the Ukrainian SSR (102) and the USSR (122).

21. The right to form and join trade unions of one's choice is widely recognized, frequently in the form of the right of association. Such is the case in Afghanistan (32). Albania, on the other hand, specifically guarantees (21) the right to participate in unions. Algeria (20) also upholds union rights. Argentina (14) similarly guarantees the right to form trade unions as well as the freedom to bargain collectively. Barbados (21) protects the freedom of association. So does Belgium (20). In Bolivia (7), unionization is ensured and union leaders are protected while carrying out their duties (159). Brazil (150) affirms the right of association. In Bulgaria (87) this right is protected subject to the requirements of public order as established by the constitution. Burma (17) upholds the freedom of association and the right to form and join unions. The Byelorussian SSR (101) recognizes the right of workers to unite in trade unions. In Cambodia (10) the right of association is likewise acknowledged. The

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Central African Republic proclaims it in the preamble to its constitution. Chile (10) guarantees the exercise of this right. China (87) also affirms freedom of association. The Congo (preamble and 14) proclaims the respect for and guarantees the right of association. Costa Rica (25) recognizes the right of association and (60) the right to organize freely for obtaining economic, social or occupational benefits. In Cuba (69) the right to associate is affirmed and the competent authority must within 30 days pass on a request for registration. Cyprus (21) acknowledges the right of association, including the right to join trade unions, which nobody, however, can be forced to join. Dahomey (9) recognizes the freedom of association. The Democratic People's Republic of Korea also provides for freedom of association, including the right to form unions. In Denmark (78) associations may be formed for lawful purposes without previous authorization. The Dominican Republic (11) provides for unrestricted union organization subject to the principles laid down in the constitution. In Ecuador (64) the right to form unions is guaranteed without prior authorization. In Egypt (41) the right to create trade unions is guaranteed. El Salvador (191) affirms the workers' right to associate freely for the protection of their interests. Ethiopia (45) recognizes the right of association subject to the conditions prescribed by law, and specifically upholds (47) the freedom to form or join trade unions. In the German Democratic Republic (14) all citizens have the right to join associations striving for the improvement of conditions of work; decisions relating to production, wages and other conditions of employment are arrived at with the full participation of workers and employees (17). The Federal Republic of Germany (9) provides for the right to form associations to safeguard and improve economic and working conditions. In Greece (11) the right of association is restricted only for governmental or semi-governmental employees. Guatemala (114) confirms the right to organize for the protection of one's interests. In Guinea (40 and 44) the right of association, and particularly of forming or joining trade unions, is guaranteed. Guyana (13) proclaims the freedom of association, including the right to trade unions. In Haiti (24), workers may protect their interests through trade unions. Honduras (88) guarantees the freedom of association, provided it is not contrary to the security of the State or to good customs; workers are entitled to associate for the protection of their interests (124) within the framework of the law. In Hungary (56) the right to trade unions is recognized. India (19) upholds the right to form associations or unions. In Indonesia (28) the freedom of association is guaranteed. Iran (21) also provides for the right of association, if not prejudicial to the public order. Ireland (40) recognizes the right to form unions. So does Italy (18 and 39). In Jamaica (23) the right of association is guaranteed. Japan provides for both freedom of association (21) and the right to organize and bargain collectively (28). Jordan (16) acknowledges the right of association. Kenya (24) protects the right to form unions. In Kuwait (43) the freedom to form unions is ensured on a national basis; no one may be compelled to join a union. In Libya (26) the right to peaceful association is recognized. Liechtenstein (41) guarantees the freedom of association. In Luxembourg, the constitution (11) provides that the law shall guarantee union freedom, which is not subject to prior authorization (26). In Malawi (53) the freedom of association and of participation in unions is provided. Malaysia recognizes the right of association, except where restricted by law. Mali's constitution (preamble) affirms the right to form unions. Malta (43) protects the freedom of association, including trade unions. In Mongolia (82) the workers have the right to associate in trade unions. The Netherlands (9) likewise recognizes

the right to associate. Nicaragua (91) provides that unions may be established for lawful purposes. In Nigeria, the constitution (26) upholds the freedom of association and the right to form unions. Pakistan (6) acknowledges the freedom of association. In Panama (67) the right to form unions is recognized for the exclusive purpose of promoting economic and social improvement. Paraguay (109) guarantees the freedom of association. So does Peru (27). In the Philippines (3), the right to form associations for lawful purposes is not to be abridged. Poland (72) guarantees the right of association, including trade unions. Portugal (8) similarly proclaims the freedom of association. The Republic of Korea affirms the freedom of association (18) together with the right of workers to form unions for collective bargaining and action (22) except for public employees. Romania (27) confirms the right to associate in unions. In Rwanda (19) the right to freely form associations is subject only to legal formalities; the right of workers to form unions of their choice is acknowledged (42). The constitution of Senegal (preamble) proclaims respect for and guarantees trade union liberties; it also provides (20) that workers may belong to unions of their choice. Sierra Leone (22) supports freedom of association, including trade unions. Somalia (13) recognizes the right to form and join trade unions. In Spain the Charter (16) provides that Spaniards may associate freely for lawful purposes. In Switzerland (56) the right of association is guaranteed. The constitution of the Syrian Arab Republic (18) provides that the State is to regulate the right to form unions. In Togo, the constitution (preamble) safeguards trade union rights. Trinidad and Tobago (1) proclaim the right of association. So does the constitution of Tunisia (8). In Turkey (46) the right to establish unions and federations without prior authorization is recognized. The Ukrainian SSR (106) and the USSR (126) both guarantee the right to associate in trade unions. Uruguay (57) provides that legislation shall promote the organization of unions. In Venezuela (91) the creation of unions is not subject to other restrictions than those established by law for the purpose of ensuring their proper functioning. In Western Samoa (13) the right to form associations or unions is ensured. Yemen (39) guarantees the right of association. Yugoslavia (preamble, II) confirms the right of working people to associate freely. So does Zaire (29). Zambia (23) proclaims freedom of association.

22. The right to strike is specifically affirmed by the Covenant. It is sometimes withheld from workers in public or essential services. It is recognized in Algeria (20) and in Argentina (14). In Bolivia (159) it is established as a legal right. In Brazil, its exercise is precluded in essential public services (157-158). In Cameroon (preamble) the right to strike is to be used within the framework of the law; it may not infringe upon the liberty to work. The Central African Republic (preamble) has a similar rule. Colombia (18) recognizes the right to strike except in public services. The constitution of the Congo (preamble) proclaims the right to strike. It is similarly recognized in Costa Rica (61). In Cyprus (27) its exercise is to be regulated by law; it is excluded from the armed forces, the police and the gendarmerie. The constitution of Dahomey (9) recognizes the right, to be used under the conditions stipulated by law. The constitution of the Dominican Republic (11) acknowledges the right, except in public services and utilities; it is to be exercised in conformity with the law. Ecuador (64) likewise recognizes this right, subject to the regulations

established by law. The right to strike is also acknowledged in El Salvador (192). In the German Democratic Republic (14), the right to strike is guaranteed to the unions. It is prohibited in Greece (11) for civil servants and semi-governmental employees. In Guatemala (114) the right is acknowledged and must be exercised as provided by the law. Guinea (44) upholds the right to strike. In Italy (18) it must be exercised within the framework of the legislation. In Madagascar (preamble) the right is recognized for the defence of professional interests and within the framework of the law. Mali (preamble) confirms the right to strike. Mexico (123) states that strikes are legal when designed to attain an equitable balance between the various factors of production. Morocco (14) guarantees the right to strike within the framework of the law. In Panama (68) strikes are authorized subject to special restrictions in public services. Paraguay (110) guarantees the right, but solely for the defence of union interests. In Rwanda (42) the right to strike is acknowledged, but not for civil servants or agents of public bodies. Somalia (27) affirms this right, to be exercised within the limits laid down by law. In Uruguay (59) the right is likewise recognized and its use is regulated by law. The constitution of Venezuela (92) prescribes that the right to strike may be used in conditions determined by law, particularly in respect of public services. Zaire (29) guarantees the exercise of this right except for the armed forces, the police and the gendarmerie.

## 2. The right to social security

23. "Social security" has come to include many of the rights formulated in the Covenant. Its progressive extension to income maintenance, health protection and family care has had the result of pre-empting many of the measures required for the realization of the right to an adequate standard of living, the enjoyment of the highest possible standards of health, and the protection of the family. The interpenetration of these rights should be kept in mind, so that a clear picture may be obtained of the steps taken in respect of each of them by the countries concerned. It should therefore be noted that, in order to avoid unnecessary repetition, measures listed under the heading of social security are not mentioned again under the headings relating to standards of living and of health and to the protection of the family. Moreover, in view of the necessarily general character of constitutional provisions, no distinction can be made here between the individual components of the complex notion of social security.

24. Albania (25) guarantees through social insurance the material means of subsistence in old age, illness and disability. Argentina (14) provides social security benefits through compulsory participation in a social security scheme and a flexible system of retirement pay and pensions. Bolivia (7) ensures the right to social security as determined by the relevant constitutional and legislative provisions; the constitution (158) provides for a social security system based on universal coverage, covering illness, maternity, occupational hazards, disability, old age, unemployment, family support and housing. In Brazil (159), the constitution places workers under social security in respect of unemployment, maternity protection, illness, old age, disability, survivors' benefits and workmen's compensation. Bulgaria (75) guarantees through social

insurance and medical assistance the right to pensions and to illness, accident, disablement, unemployment and old-age benefits. Burma (33) has a policy of ensuring the right to maintenance in old age, sickness or incapacity. In the Byelorussian SSR (95) the constitution enforces the right to maintenance in old age, sickness and disability through social insurance, free medical services and the provision of a network of health resorts. The constitution of Chile (10) guarantees the right to social security so as to give every individual a minimum of well-being adequate to the satisfaction of his needs and of those of his family. In China (93) working people have the right to material assistance in old age, illness and disability. The constitution of Colombia (19) proclaims that public aid is a function of the State and that it is to be granted to all those who lack the means of subsistence and are unable to work. In Costa Rica (72) the State is to provide unemployed workers with the necessary protection; social security is to be established (73) for manual and intellectual workers to cover illness, disability, maternity, old age, death and other contingencies as determined by law. In Cuba (65) the social security system is established as an inalienable right to protection against illness, disability, old age and unemployment and to retirement and survivors' pensions. The constitution of Cyprus (9) states that every person has the right to a decent existence and to social security. In Czechoslovakia (23) all people have the right to material security in old age and incapacity. In the Democratic People's Republic of Korea (17) all citizens subject to social insurance have the right to material assistance as provided by the social security system. In the Democratic Republic of Viet-Nam (32) working people have the right to material assistance in old age, illness and disability; the State is to expand gradually social insurance, social assistance and public health services. In Denmark (75) any person unable to support himself and his family is entitled to receive public assistance. The constitution of the Dominican Republic (11 and 17) requires the State to encourage the progressive development of social security so as to protect everyone against unemployment, sickness, disability and old age. Ecuador (65) all inhabitants have the right to be protected against risks of unemployment, disability, illness, old age and the loss of the breadwinner. According to the constitution of Egypt (20) the State guarantees social insurance protection in case of old age, sickness, incapacity and unemployment. In El Salvador (186), social security is considered as a social service in which participation is compulsory. The German Democratic Republic ensures maintenance in case of sickness and old age; an all-embracing system of social insurance provides for the preservation of health and of the capacity to work, protects mother and child and provides for old age, disability, unemployment and other contingencies. Guinea (44) proclaims the right to social assistance. In Haiti (24) every worker is entitled to the protection of social security to the extent commensurate with the economic development of the country. In Honduras (139) every person is entitled to the security of his economic means of support in the event of incapacity; social security is to cover illness, maternity protection, family allowances, old age, orphanhood, unemployment, occupational accidents and diseases and other similar contingencies. Hungary's constitution (47) protects the health of workers and provides them with assistance in sickness or disability; this protection is implemented through a comprehensive system of social insurance and the availability of medical care. In Iceland (70), anyone unable to provide for himself and his dependents is entitled to public

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support. Indonesia (34) provides that the poor and destitute children shall be assisted by the State. In Iraq (16), the State guarantees social security services and assistance in old age, illness and incapacity. In Italy (38) every citizen unable to work and lacking resources is entitled to private and social assistance; workers are entitled to social insurance covering accident, illness, disability, old age and unemployment. The constitution of Japan (25) give the State the duty to promote and expand social welfare and social security. In Kuwait (11) the State ensures aid for citizens in old age, sickness or incapacity; it provides them with social security, assistance and medical services. Liechtenstein (26) promotes insurance against sickness, old age and disability. In Luxembourg (11) the legislation is to provide for social security and health protection. In Madagascar (preamble) the State is given the responsibility to ensure to all, particularly to children, mothers and old workers, health protection and material security. The constitution of Mexico (123) requires as a matter of public interest the enactment of social security provisions covering disability, unemployment, sickness and other contingencies. In Mongolia (79) the right to maintenance in old age, disability, sickness and loss of breadwinner is ensured. The constitution of Nicaragua (97) requires the State to establish a social security system for the protection of workers against disease, disability, old age and unemployment. In Pakistan, the Principles of Policy (8) provide that everyone should be protected by compulsory insurance or by other means. In Panama (93) every individual has the right to the security of his means of existence in case of disability; social security is to cover illness, maternity and family protection, old age, widows and orphans, unemployment, occupational accidents and diseases. The constitution of Paraguay (108) provides that the law shall establish a general social security system to protect workers and their families, as well as a social welfare scheme with retirement pensions. The constitution of the Republic of Korea (30) prescribes that the State is to promote social security. Romania (20) ensures the right to material security in old age, sickness and incapacity through a system of social insurance and other forms of protection. In Somalia (37) the State is given the duty to promote social security and assistance. The Charter of Spain (28) guarantees the security of workers in distress and recognizes entitlement to assistance in old age, death, sickness, maternity, accidents, invalidity, unemployment and other similar occurrences. In Switzerland, the constitution (34 A) provides that the Confederation may introduce accident and sickness insurance and declare participation compulsory for specified categories of citizens. Article 34 C also empowers the Confederation to institute a system of old age and survivors' insurance as well as an invalidity insurance. The constitution of the Syrian Arab Republic (19) provides that all citizens and their families have the right to be insured against accidents, sickness, incapacity, loss of breadwinner and old age. Turkey (48) proclaims that every individual is entitled to social security. The constitution of the Ukrainian SSR (100) and of the USSR (120) both guarantee the right to maintenance in old age, sickness or disability, to be ensured by the development of social insurance, free medical care and the provision of medical facilities. In Uruguay (67) the constitution provides that a general retirement and social security system shall be organized to guarantee all workers adequate retirement pension and assistance in case of accident, sickness, disability, unemployment and

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death. Venezuela (94) provides for a social security system to cover progressively accidents, illness, disability, old age, unemployment and the loss of the breadwinner. Yugoslavia (38) provides that workers should be insured within a uniform system of social security, established by law to cover health protection, old age and survivors' benefits; provision is also to be made for other categories of citizens.

### 3. The right to an adequate standard of living

25. The right to an adequate standard of living includes in the Covenant (i) adequate food, (ii) adequate clothing and housing, (iii) social services and (iv) improvement of living conditions. The first three are of a concrete nature; the fourth, by contrast, is very broad in character. The continued improvement of living conditions is of course one of the major objectives of every government, and it is pursued by many means, but primarily through appropriate economic policies which cannot be properly analysed here. On the other hand, the other components are often covered elsewhere in the array of economic, social and cultural rights. Food is an essential factor. Health and social services are often made available under social security, health and education schemes. Here therefore, as elsewhere in this part, constitutional norms can be noted only under their most concrete aspects, which is to say that the right to social services and the right to the continued improvement of living conditions, in particular, are mentioned only in so far as they are not covered under other headings.

26. Argentina (14) directs the State to facilitate access to decent housing to families. In Bolivia (158), the State is to strive for improvement of living conditions of the family as a group. For Burma (36) the policy is to raise the standard of living. In Guatemala (115) the constitution prescribes that the State must ensure that workers' housing is adequate and meets the necessary health requirements; it is also to foster the building of homes. Japan (25) proclaims the right for people to maintain minimum standards of wholesome and cultural living. In Pakistan, the Principles of Policy (8) require that the well-being of people be ensured by the improvement of the standard of living; food, clothing and housing should be provided to citizens unable to earn their living on account of invalidity, sickness or unemployment. In Spain, the Labour Charter (III) calls for the gradual improvement of the standard of living. The constitution of Switzerland (31 A) empowers the Confederation to take the necessary measures for the welfare of the people and the economic security of all citizens. In Turkey (49), the State is to provide the poor and the low-income families with adequate dwellings, as well as (52) adequate food. The constitution of Uruguay (45) says that every inhabitant is entitled to a decent home and that the State must strive to ensure hygienic and economical housing; in addition (56), every enterprise is obliged to provide its workers with adequate food and lodging. In Yemen, the constitution (12) requires the State to ensure an appropriate standard of living based on the provision of food, dwelling, medical, social and cultural services.

4. The right to the enjoyment of the highest attainable standards of physical and mental health

27. The steps taken towards the realization of the highest possible standards of health are, to a great extent, ensured under social security systems. Furthermore, a number of provisions dealing with industrial hygiene have already been mentioned under the heading of the right to work. Only additional measures that have been adopted to define policies and provide institutions are reported here.

28. The right to health includes in particular the following components: (i) the reduction of the still-birth rate and of infant mortality and the health development of the child; (ii) the improvement of all aspects of environmental and industrial hygiene; (iii) the prevention, treatment and control of epidemic, endemic, occupational and other diseases, and (iv) the creation of conditions that would assure to all medical service and medical attention in the event of sickness. Yet, as in the case of many other rights, constitutional provisions are of an over-all character and must be considered in their totality.

29. Afghanistan (36) assigns to the State the duty to provide, within the limits of its means, balanced facilities for the prevention and treatment of diseases. In Albania, the constitution (28) provides that the State is to take care of the health of people by setting up and supervising the necessary health services. In Bolivia (158) the State is entrusted with the obligation to protect the health of the population and to ensure the livelihood of disabled persons. In Brazil (159), workers are entitled to health assistance, including hospitalization and preventive medicine. Bulgaria (81) ensures that public health shall be promoted by the State through the organization of health services and by propagating health education. For Burma (38) it is State policy to promote the improvement of public health. Chile (10) lays upon the State the duty to foster public health and welfare. In Czechoslovakia (23), all people have the right to the protection of their health and to medical care. In Egypt (42), health protection is a right to be enjoyed by all Egyptians; it is guaranteed through the establishment of the necessary institutions. The constitution of El Salvador (206) prescribes that the State is to give assistance to sick indigents, and to all inhabitants when the objective is to prevent the spread of communicable diseases. In Haiti (24) every worker is entitled to health protection to the extent commensurate with the economic development of the country; furthermore (182), the State must provide free medical assistance to the sick and strive to prevent the spread of contagious diseases. Iraq (36) sees health preservation as a right for all Iraqis; it is ensured by the construction of hospitals and similar institutions. Italy (32) provides health safeguards as a basic right of the individual and grants free medical assistance to the poor. In Japan (25) it is the duty of the State to foster public health. In Kuwait (15) the State is to care for public health and for the means of preventing illnesses. In Liechtenstein (18), the State must promote the maintenance of public health and assist institutions for the care of sick people. Nicaragua (95) guarantees medical assistance to workers by the means of institutions created for this purpose. In Panama (92) an essential function of the State is to concern itself with public health; it must promote activities to fight contagious diseases

and mother and infant mortality, to supplement nutrition and ensure medical care for school children, to establish hospitals and similar institutions. In Paraguay (93) all inhabitants have the right to health protection and promotion; provision must be made by law for the care of sick persons when indigent, and for disabled and old people. In Poland (60) the right to health protection is ensured through the social security system. In the Syrian Arab Republic (19) the State has the duty to protect the health of its citizens and to ensure the availability of medical care. Turkey (49) assigns to the State the responsibility of ensuring that everyone may lead a healthy life and receive adequate medical attention. Uruguay (44) provides that the State shall legislate on all questions of public health so as to achieve physical, moral and social improvement for all. In Venezuela (76), everyone is entitled to protection of his health. In Yemen (40) all citizens are entitled to medical assistance, ensured by the creation and gradual development of hospitals and similar institutions.

5. The right of the family, motherhood and childhood to protection and assistance

30. Albania (17) grants special protection to mother and child; marriage and the family are a special concern of the State (19). Algeria (17) sees the family as the basic unit of society and places it under the protection of the State. The constitution of Argentina (14) prescribes that the State must protect the family and provide for its welfare. In Bolivia (193) matrimony, the family and maternity are similarly protected by the State. Brazil (167) states that the family is entitled to the protection of the public powers; assistance to mothers, infants and adolescents is to be provided by law. In Bulgaria (72), marriage and the family are under the protection of the State; in addition (72) working women enjoy special facilities in the form of nurseries and of maternity leave with pay. In Burma (37) the policy of the State is to protect infants and nursing mothers. The Byelorussian SSR (97) likewise safeguards the interests of mother and child, by providing maternity leave with full pay, maternity homes, nurseries and kindergartens. Cameroon (preamble) and the Central African Republic (preamble) see in marriage and family the natural basis of society and place them under the special protection of the State. China (96) protects marriage, the family, mother and child. The Congo (11) places marriage and the family under the protection of the State. In Costa Rica (51) the family, as the natural basis of society, is entitled to special protection. Cuba (43) likewise ensures the protection of the family, motherhood and childhood. So does Czechoslovakia (26). The constitution of the Dominican Republic (15) provides that the family shall enjoy the broadest possible protection from the State. In Ecuador (29), the State recognizes the family as the basic unit of society and protects it, together with marriage and motherhood; the child is protected from the moment of conception (30). Egypt (19) guarantees the consolidation of the family and the protection of motherhood and childhood. In El Salvador (179) the family is viewed as the fundamental element of society and is given special protection by the State; the constitution (182) also prescribes that the Labour Code is to prohibit employment of those under 14 years of age and to enact restrictions regarding dangerous or unhealthy work in respect of women and juveniles. The

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Democratic People's Republic of Korea (23) protects marriage and the family. In the Democratic Republic of Viet-Nam (24), the State has the duty to protect children, marriage and the family. In Gabon (1) the State guarantees, in so far as possible, to child and mother the protection of their health, material security, rest and leisure; marriage and family form the natural basis of society and are entitled to the special protection of the State. In the German Democratic Republic (18 and 30) women and children enjoy special protection in employment; marriage and the family, as basic elements of the communal life, are protected by the State; maternity is given special attention. In the Federal Republic of Germany (6) marriage and the family enjoy the special protection of the State; every mother is entitled to the support and care of the community. The constitution of Guatemala (85) provides that the State shall legislate for the protection of the family as the fundamental element of society; maternity and childhood are to be afforded special protection and care; maternity leave with pay is provided, and there are special restrictions relating to women and juveniles at work. In Honduras (109) the family, marriage and motherhood are under the safeguard of the State; the State has the duty (118) to look after the physical, mental and moral health of children, and child protection is a public concern; special restrictions are provided (124) in respect of women and juveniles at work, and motherhood is to be given special consideration through maternity leave with pay and the provision of a nursing period during employment. In Hungary (51), marriage and the family are to be protected; motherhood is safeguarded by the grant of maternity leave and by the provision of maternity and child welfare institutions (50). In India (38) the care of the family is a policy principle. The constitution of Iraq (5) considers the family as the basic unit of society and entrusts the State (15) with the task of protecting motherhood and childhood. Ireland (41) recognizes the family as the natural, primary, fundamental unit of the society; it guarantees its protection. Italy (29) views the family as a natural association founded on marriage; safeguards are to be provided (37) to maternity, infancy and youth, by promoting and encouraging the creation and maintenance of the institutions necessary for that purpose. The constitution of Kuwait (9) regards the family as the cornerstone of society; the law shall preserve its integrity and safeguard the interests of motherhood and childhood. Libya (33) likewise views the family as the basis of society and ensures its protection by the State. For Madagascar (preamble), the family is the natural base of society. Malta (17) restricts the employment of minors. Mexico (123) forbids dangerous, unhealthy and night work for women and juveniles and provides maternity leave with pay as well as nursing periods for mothers at work. Nepal (19) prohibits abuse of children's health. In Nicaragua (76) marriage, the family and motherhood are under the safeguard of the State; special provisions (95) restrict the employment of women and minors. In Pakistan, the Principles of Policy (8) forbid the employment of women and children in occupations unsuited to their age and sex; maternity benefits are provided for women at work. Panama (54) protects marriage, motherhood and family and guarantees the rights of children until adolescence; all work is prohibited under 14 years of age, and restricted until 16 (69); the employment of women and minors in dangerous or unhealthy occupations is proscribed; maternity leave is provided with pay (71). In Paraguay, the constitution (81) recognizes the family as the fundamental element of society; motherhood is safeguarded by law (85); childhood

is protected from the moment of conception; minors are subject to special legislation and the rights of maternity are preserved during employment (106). In Poland (67) marriage and the family are under the protection of the State; maternity is granted special care and assistance through maternity leave and the provision of nurseries and other facilities. In Portugal (12) the State ensures formation and protection of the family as a source of preservation and development of the people; it also protects maternity (14). The Republic of Korea (31) guarantees special facilities for women and children at work. The constitution of Romania (23) protects marriage and family; maternity leave is provided (20). In Rwanda (26) the family is viewed as the primary base of society. For Senegal (14) it is the natural and moral foundation for the human community and is placed under the protection of the State. The same policies prevail in Somalia (31). In Spain, the Charter (22) recognizes and protects the family as the natural and fundamental institution of society. In Switzerland (34 D) the family is the concern of the Confederation. In the Syrian Arab Republic (20) the family is considered as the fundamental element of the society and is placed under the safeguard of the State. Turkey (35) has a similar approach, and the State is required to adopt measures to protect family, mother and child; young people and women are accorded special protection while at work (43). In the Ukrainian SSR (102), the State protects mother and child and grants maternity leave with pay, and nurseries and similar facilities to women at work. The constitution of Uruguay (40) considers the family as the basis of society and provides that the State shall safeguard its moral and material stability; it further requires that the law (41) shall provide the necessary measures for the protection of infants and juveniles against neglect and abuse, and prescribes (42) that maternity is to be protected by society; it limits (54) the employment of women and of young persons under 18 years of age. In Venezuela (73), the State protects the family as the fundamental nucleus of society; it ensures (74) the protection of mother and child and safeguards (93) the needs of women and juvenile workers. In Yemen (6) the family is treated as the basis of society and the State is required (13) to ensure its support as well as the protection of motherhood and childhood.

## 6. The right to education

31. In Afghanistan (34) education is the right of every citizen and is provided free of charge by the State; primary education is compulsory. The constitution of Albania (31) likewise provides for free and compulsory primary education. Algeria (10) proclaims the right to education, which is free, obligatory (18) and offered without discrimination. In Belgium (17) public education is free. Bolivia (8) affirms the duty for everyone to acquire at least an elementary education; public education is free and, in its elementary phase, compulsory (177). In Brazil (168) education is the right of everyone; it is compulsory and free from seven to 14 years of age, and thereafter free for those who possess the necessary abilities while lacking the means. Bulgaria (79) recognizes the right to education; elementary schooling is free and compulsory. In Burma (33) the State is to direct its policies towards enforcing the right to education. The constitution of Burundi proclaims (16) that education shall be free. The Byelorussian SSR (96) acknowledges the right to education, which is compulsory

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for eight years and free at all levels. The constitution of Cameroon (preamble) ensures that public schools are to be provided for the education of youth. In the Central African Republic (preamble) the State is given the right and duty to create the basic conditions required to guarantee education. The constitution of Chad (preamble) declares that education is to be free. China (94) recognizes the right to free education. In Colombia (41) elementary education is free in public schools and compulsory as determined by law. The constitution of the Congo (12) asserts that every child has a right to education. In Cuba (48) elementary education is compulsory for minors of school age; it is free at the elementary and higher levels, excluding specialized pre-university and university education. In Cyprus (20) the freedom of education is guaranteed, with free and compulsory schooling at the primary level. The constitution of Czechoslovakia proclaims (24) that all citizens have the right to education; it is to be free and compulsory at the primary level. The Democratic People's Republic of Korea (18) recognizes the right to education, which is to be universal and compulsory at the elementary level. The Democratic Republic of Viet-Nam (33) recognizes the right to education, to be enforced gradually by a system of compulsory schooling. In Denmark (76) all children of school age are entitled to receive free education at the primary level. In the Dominican Republic (16) elementary education is likewise compulsory; both the elementary and secondary levels are free. Ecuador (33) guarantees the right to education; elementary and basic education are compulsory and, when public, free. In Egypt (38) all citizens are entitled to education through the establishment of public schools. El Salvador (198) gives all inhabitants the right and the duty to receive a basic education; this includes the primary grades which, when provided by the State, are free. The constitution of Gabon (1) guarantees equal access to education; the State has the duty to provide public education without charge. The German Democratic Republic (35) recognizes the right of every citizen to education; public education is left to the competence of the Laender. In Greece (16) elementary schooling is compulsory for at least six years and must be provided free by the State. Guatemala (98) ensures that everybody has a right to education; elementary schooling is compulsory within the limits fixed by law (94). The constitution of Guinea (44) affirms the right to education. In Haiti (29) primary schooling is compulsory and public education is free at all levels; higher education is open to all. Honduras (150) also provides that public education is to be free, and compulsory at the elementary level. Hungary (48) ensures the right to education by providing free and compulsory schooling. In Iceland (71) education and maintenance are to be defrayed from public funds if parents are unable to provide for the education of their children. India (29-30) forbids discrimination in education. In Indonesia the constitution (31) prescribes that every citizen is entitled to education. In Iran (Supplementary Constitution, 18) learning and teaching are to be free. The constitution of Iraq (33) recognizes education as a right for all; it is guaranteed by the State through the construction of appropriate schools and institutions. In Ireland (42) the State is required to provide free primary education; the freedom of choice is ensured. Italy (34) prescribes free elementary education for at least eight years. The constitution of Japan (26) proclaims that all people shall have the right to receive equal education corresponding to their abilities. In Jordan (6) the State is given the responsibility to provide education within the limits of its possibilities;

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elementary schooling is to be free and compulsory (20). The constitution of Kuwait (13) acknowledges education as a fundamental requisite for the progress of society; education is a right for the citizens; it is to be compulsory and free in the elementary stage. In Lebanon (10) teaching is free in so far as it is not contrary to the public order and to morals. Libya (28) provides that every Libyan has a right to education and lays upon the State the duty to provide public schools. Liechtenstein (15) requires the State to devote particular attention to education and schooling, compulsory education is given free in public schools (16). Luxembourg (23) prescribes that the State is to provide for compulsory and free primary education. In Madagascar the constitution (preamble) declares that all children have a right to education and that the State has the duty to provide for public education. In Malta (11) primary education is compulsory and free. The same principle prevails in the constitution of Mexico (3 VI). Mongolia (80) provides for the right to education with free tuition. In Morocco (13) all citizens have the right to education. The constitution of Nepal (19) prescribes that free and compulsory education is to be provided as early as possible. Nicaragua (100) prescribes that elementary education is to be compulsory, and free in public schools. In Pakistan, the Principles of Policy (8) requires that illiteracy be eliminated and that free and compulsory education be provided as soon as possible. In Panama (78), elementary education is compulsory and education is free up to the secondary level. The constitution of Paraguay (89) likewise provides for compulsory primary education; all public schools are free. Peru (72) requires compulsory and free education at the primary level; secondary and higher schooling are to be provided with a move towards free education. Poland (61) proclaims the right to education; primary schooling is free, universal and compulsory. In Portugal (42) education and instruction are obligatory; the constitution further provides (43) that the State shall maintain primary, secondary and higher schools. In the Republic of Korea (27) all citizens have the right to receive equal education in accordance with their abilities; elementary schooling is to be free and compulsory. Romania (21) recognizes the right to education, to be ensured by compulsory schooling, free at all levels. Rwanda (31) prescribes that the State shall create the conditions required to guarantee education; the constitution recognizes both official and private education. In Senegal (16) the State is to create the conditions and institutions necessary to provide education. Somalia (35) provides free primary schooling. In Spain, the Charter (5) proclaims the right of all Spaniards to receive education and instruction. In the Syrian Arab Republic (17) every citizen has the right to education; primary schooling is free and compulsory. Trinidad and Tobago (1) ensures free choice of education. In Turkey (50) it is the foremost duty of the State to provide for educational needs; primary schooling is compulsory and free. In the Ukrainian SSR (101) and in the USSR (121) all children have the right to education, ensured by an eight-year compulsory schooling and by the provision of higher educational facilities, all free of charge. In Uruguay (70) primary and intermediate, agrarian or industrial education are compulsory and free. Venezuela (55) provides for compulsory schooling within the limits fixed by law; everyone has an equal right to education (78). In Yemen (35), schools are free within the limits of the law; all citizens have the right to education, enforced by the State through the gradual creation and development of educational institutions (36). Yugoslavia (44) declares that all citizens are entitled to

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acquire knowledge and training in any type of school; elementary schooling is compulsory for eight years and the community must provide the necessary facilities to that effect. The constitution of Zaire prohibits discrimination in education (15 and 36); it proclaims that all citizens have the right to education with freedom of choice; education is provided free (33).

7. The right to participate freely in cultural life

32. Except for the protection of intellectual property, the right to participate in cultural life and scientific progress is often considered one of the fundamental freedoms that do not necessarily require legal formulation. While some governments have embodied this right in their constitutions, many others have not felt the need to protect it by statute.

33. Bolivia (191) provides that historical monuments and archaeological objects are the property of the State, which is required to register all cultural assets for custody and conservation. In Brazil (150) the constitution requires that the interests of authors and inventors be protected by law. Colombia (35) likewise requires that literary and artistic property be safeguarded. In Costa Rica (47) the constitution protects literary, artistic and industrial property. Ecuador (24) guarantees free access to culture and free participation in cultural life (28); the right to intellectual property is protected. In Paraguay (58) every author, inventor or investigator has the exclusive right to his work for a period to be determined by law. Poland (61) proclaims that citizens have the right to enjoy cultural achievements and to participate in the development of the national culture. In Spain, the Labour Charter (II) give the workers access to all benefits of culture.

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