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SOCIAL, HUMANITARIAN AND HUMAN RIGHTS QUESTIONS: REPORTS OF
SUBSIDIARY BODIES, CONFERENCES AND RELATED QUESTIONS:
HUMAN RIGHTS QUESTIONS

Extract of the report of the Committee on Economic, Social
and Cultural Rights on its twelfth session
(Geneva, 1-19 May 1995)

Chapter I

DRAFT RESOLUTIONS AND DECISIONS RECOMMENDED FOR ADOPTION
BY THE ECONOMIC AND SOCIAL COUNCIL

DRAFT RESOLUTION

Annual sessions of the Committee on Economic, Social
and Cultural Rights

The Economic and Social Council,

Recalling its resolution 1985/17 of 28 May 1985 by which it decided to establish the Committee on Economic, Social and Cultural Rights to assist it in relation to the various functions entrusted to it under the International Covenant on Economic, Social and Cultural Rights,

Recalling also that in its resolution 1985/17 it decided to review the composition, organization and administrative arrangements of the Committee every five years beginning in 1990,

Noting that since its first session in 1987 the Committee has held 12 sessions, examined 103 reports of States parties and adopted five very detailed general comments,

Recognizing that the Committee has succeeded in developing constructive and effective methods of work, including in relation to its dialogue with States parties,

Recalling the emphasis contained in the Programme of Action of the World Summit for Social Development on the important role of the Committee in monitoring those aspects of the Declaration and Programme of Action that relate to compliance by States parties with the Covenant,

Noting that the number of States parties to the Covenant has increased by more than 50 per cent since the Council resolved to establish the Committee and that there are now 131 States parties,

Noting also that the Committee has consistently needed to hold two annual sessions in recent years in order to cope with its workload and that it continues to be faced with a backlog of reports to be considered,

1. Authorizes the holding of two annual sessions by the Committee, in May and November-December, each of three weeks duration, in addition to a pre-sessional working group of five members to meet for five days immediately after each session to prepare the list of issues for consideration at the subsequent session;

2. Requests the Committee to give careful consideration to the possible means by which it might contribute to the implementation of the Copenhagen Declaration on Social Development and Programme of Action of the World Summit for Social Development, having particular regard to the commitments contained

in the latter concerning the adoption of national strategies for social development and the definition of time-bound goals and targets for reducing overall poverty.

DRAFT DECISION I

Payment of honoraria to members of the Committee on Economic, Social and Cultural Rights

The Economic and Social Council, noting that members of the Human Rights Committee, as well as of the Committee on the Elimination of Racial Discrimination and the Committee on the Rights of the Child, all receive a modest honorarium for their services, and that as a result of measures approved by the General Assembly members of two of the remaining three human rights treaty bodies will also do so, and recognizing that it is inequitable for the one remaining committee to be treated differently in this respect, urges the General Assembly to authorize payment to each member of the Committee on Economic, Social and Cultural Rights of an honorarium equivalent to that payable to the members of other relevant treaty bodies.

DRAFT DECISION II

Resources to enable the Committee on Economic, Social and Cultural Rights to obtain access to specialized expertise in its work

The Economic and Social Council endorses the proposal made by the Committee on Economic, Social and Cultural Rights that an amount of 10,000 dollars annually be included within the overall budget of the Centre for Human Rights, to enable the Committee to bring in specialists to participate in its days of general discussion and to commission papers dealing with those technical dimensions of its work, especially relating to indicators, which require expert elaboration. The Council notes that this accords with the recommendation of the World Conference on Human Rights in relation to indicators, that the relevant funds would not be spent on members of the Committee and would only be committed with the approval of the head of the Centre for Human Rights.

Chapter II

REVIEW OF THE WORK OF THE TWELFTH SESSION

A. Follow-up to recommendations of the Commission on Human Rights

1. Seminar with the international financial institutions

1. In 1992 the recommendations contained in the final report of the Special Rapporteur of the Subcommission on Prevention of Discrimination and Protection of Minorities on the realization of economic, social and cultural rights emphasized the importance of involving the World Bank and the International Monetary Fund in discussions in relation to the promotion of these rights (E/CN.4/Sub.2/1992/16, para. 238). This proposal was taken up by the Subcommission in its resolution 1992/29 (para. 11 (c)). Subsequently, the Commission on Human Rights, in its resolution 1993/14 (para. 18) requested the

Secretary-General "to invite the international financial institutions to consider the possibility of organizing an expert seminar on the role of the financial institutions in the realization of economic, social and cultural rights". At its ninth session, in 1993, the Committee on Economic, Social and Cultural Rights endorsed this proposal "in very strong terms" and urged "that every effort should be made to organize such a seminar" (E/1994/23-E/C.12/1993/19, para. 388).

2. Correspondence ensued between the Centre for Human Rights and the World Bank in which the latter expressed its willingness to assist in that endeavour. Since that time, despite the adoption of two subsequent resolutions by the Commission (resolution 1994/20, para. 17 and resolution 1995/15, para. 17), nothing has eventuated.

3. The Committee deeply regrets the continuing and unacceptable delays involved and calls upon the High Commissioner and the Assistant Secretary-General for Human Rights to take immediate action to give effect to the repeated recommendations of the Commission. The Committee believes that it would be entirely appropriate for such a seminar to be held, on the basis of expert participation from the concerned bodies and for subsequent consideration to be given to the holding of a public seminar.

2. Seminars on indicators for economic, social and cultural rights

4. The Committee also notes that one of the very few specific recommendations relating to economic, social and cultural rights endorsed by the World Conference on Human Rights concerned the importance of using indicators as a means of measuring or assessing progress in the realization of human rights. Pursuant to this endorsement the Commission on Human Rights recommended that "the Centre for Human Rights convene expert seminars for chairpersons of the human rights treaty monitoring bodies and representatives of specialized agencies and non-governmental organizations, as well as representatives of States, focused on specific economic, social and cultural rights, with a view to clarifying the particular content of these rights" (resolution 1994/20, para. 9). Despite this request, no such seminars were held in the course of 1994. The Commission therefore reiterated its recommendation in its resolution 1995/15 (para. 9). The Committee on Economic, Social and Cultural Rights has not been consulted in any way in relation to this initiative and, as far as can be ascertained, the Centre for Human Rights has still not undertaken the organization of even one such seminar.

5. In view of the extraordinarily limited resources devoted by the Centre for Human Rights to the only body dealing expressly with economic, social and cultural rights within the entire United Nations system, the Committee calls upon the Centre to take immediate steps to rectify this situation and requests the Assistant Secretary-General to report to the Committee at its thirteenth session as to the arrangements that have been made.

B. Other matters

1. Staffing for the Committee

6. The Committee on Economic, Social and Cultural Rights has for the past several years sought to draw attention to the fact that there is not a single specialist in these rights within the Centre for Human Rights. As a result, the Committee has been unable to call upon any specialist expertise for any of its many research and related needs. It considers this situation to be a negation of the oft-proclaimed equality of the two sets of rights and calls upon the Secretary-General to take urgent measures designed to ensure the availability of, at the very least, a minimal amount of expert assistance to the Committee.

2. Office facilities for members of the treaty bodies

7. For the past seven years the Committee on Economic, Social and Cultural Rights, as well as the regular biennial meetings of persons chairing the human rights treaty bodies, have persistently called for both the establishment of a resource and documentation facility and the provision of an office for use by members of the treaty bodies when their committees are in session in Geneva. The Committee is delighted to note that some progress has been promised in relation to the former proposal. It regrets, however, that successive heads of the Centre for Human Rights have made no attempt to provide any facilities whatsoever for the members of the treaty bodies. The result is that there is no place to leave voluminous and often confidential or private papers except in the conference rooms, which remain entirely open to the public. There is no place to leave equipment such as lap-top computers, there is no place to obtain access to a computer or to a printer. There is not even a place where expert members can obtain access to copies of the Committee's own past documentation.

8. This could be remedied by setting aside a single office, with several lockable desks in it, a computer and a printer, and some basic documentation for use by the 97 members of the various treaty bodies when they are in Geneva. While the Committee recognizes the shortage of office space available to the Centre, it does not accept the implied position of the Centre that the treaty bodies can be given no access whatsoever to even the most basic facilities. The Committee calls upon the Centre to reconsider this matter urgently.

3. Fourth World Conference on Women (Beijing, 1995) and Habitat II (Istanbul, 1996)

9. The Committee emphasizes the importance which it attaches to the Fourth World Conference on Women. For this reason it appointed a drafting group during its twelfth session which was responsible for the preparation of a statement for the Committee to consider sending to the Conference as an official document both of the Committee and of the Conference. The group consisted of Mrs. Virginia Bonoan-Dandan, Mrs. María Jiménez Butragueño and Mr. Juan Alvarez Vita. The statement, as revised, was adopted by the Committee and is contained in annex I to the present report. In view of the importance of the Conference and the central relevance of the Covenant to its

work, the Committee believes that it is essential that it be represented at the Conference by its Rapporteur, Mrs. Bonoan-Dandan, as well as by Mrs. Jiménez Butragueño. It asks the Secretariat to make all the necessary arrangements to facilitate their attendance.

10. The Committee also takes note of the Habitat II Conference to be held in June 1996. It decided to request one of its members, Mr. Philippe Texier, to draft a statement to be adopted by the Committee at its thirteenth session with a view to its being transmitted to the meeting of the Preparatory Committee, as well as to the Conference itself. The statement will, in particular, emphasize the importance which the Committee attaches to full implementation of the right to adequate housing which is recognized in a wide range of international instruments including the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights. It will also note the importance of ensuring that the general policy framework for the Conference takes full account of the importance of that human right.

4. Draft optional protocol

11. The Committee held a brief discussion on this issue at its twelfth session and agreed to request Mr. Philip Alston to submit a revised report to it at its thirteenth session. The report should reflect the discussions held at the Committee's eleventh and twelfth sessions and should provide the basis upon which the Committee could complete its consideration of this matter, with a view to forwarding a final report to the Commission on Human Rights at its fifty-second session.

5. Day of general discussion

12. The Committee decided that, in view of the time pressures to which it will be subject at its thirteenth session, it will devote its day of general discussion to the adoption of its report on a draft optional protocol. In order to ensure the availability of as much time as possible for this purpose, the Committee decided that participation by non-members of the Committee should be extremely limited.

6. Draft general comment

13. The Committee continued to examine a draft general comment on "the economic, social and cultural rights of older persons". It adopted paragraphs 1-20, as revised, for the purposes of first reading. The Committee decided to continue its examination of the draft at its thirteenth session and to make a particular effort to achieve its adoption at that time. It requested various of its members to examine the draft in relation to specific articles of the Covenant and to forward their observations as soon as possible to Mrs. Jiménez Butragueño in order to enable her to present a revised draft to the Committee at its thirteenth session.

14. The Committee noted that Mr. Simma had undertaken to prepare the first draft of a general comment on the application of the Covenant in domestic law and that Mr. Alston would prepare a draft general comment on the right to health.

7. Publicity

15. The Committee attached particular importance to the need to publicize its work and to undertake public information initiatives designed to improve understanding of the Covenant and the Committee's role in relation to it. The Committee recalled that it had requested more than two years ago that the Fact Sheet on Economic, Social and Cultural Rights, which it considered to be superficial and unhelpful, should be thoroughly revised and reissued. It noted with regret that no progress had been made in that regard and, once again, called upon the Centre for Human Rights to take the necessary measures as soon as possible.

16. Representatives of the Committee held a very constructive meeting during its twelfth session with Ms. Thérèse Gastaut, Director of the United Nations Information Service in Geneva, in relation to the Committee's request that a video be prepared which would provide an illustration of the way in which the Committee works in relation to its principal role of considering the reports of States parties. The Committee was informed that the proposal, made in December 1994, had reached the Department of Public Information too late to be included in the 1996/97 programme budget for the Department. The Director indicated, however, that existing resources would permit the work of the Committee to be featured in "World Chronicle", a regularly produced 30-minute television programme, and in "UN in Action" a 3-minute feature produced weekly. It was agreed that full advantage should be taken of these opportunities. In addition, it was agreed that a brief video, of perhaps five minutes' duration, could be prepared during the course of 1995 from within existing resources. This would draw upon available archival material and some filming of the Committee's session in November-December 1995. The Committee expresses its appreciation for these very helpful responses to its request.

17. It was also agreed that, in future, a press release containing some background information on the Committee and an indication of the main issues to be dealt with in relation to a specific country report would be issued by the United Nations Information Centre (UNIC) in the reporting country at least one month before the report was to be examined by the Committee. A copy of the report would be made available at the same time to the Centre and the summary records relating to the consideration of the report would be provided subsequently.

8. Access to specialized expertise

18. The Committee also decided that it would renew its request to the Economic and Social Council for an allocation in the amount of \$10,000 annually, within the overall budget of the Centre for Human Rights, to enable the Committee to bring in specialists to participate in its days of general discussion and to commission papers dealing with those technical dimensions of its work which required expert elaboration. Such funds would not be spent on members of the Committee and would only be committed with the approval of the head of the Centre for Human Rights. The Committee believed that such an allocation would enable it to operate more efficiently and to undertake more work towards the elaboration of indicators, as recommended by both the Commission on Human Rights and the World Conference on Human Rights.

9. Honoraria

19. The Committee recalled that it had on several occasions in the past drawn attention to the fact that while each member of other equivalent human rights treaty bodies received an honorarium, its members did not. It requested the Economic and Social Council to remedy this situation and for that purpose the Committee decided to include the issue in the draft decision to be proposed to the Council.

10. Twice-yearly sessions

20. The Committee noted that its workload in recent years had consistently required it to hold two sessions annually but that that has had to be approved on an exceptional basis on each occasion. It noted that no other committee (except the Committee on the Elimination of Discrimination against Women, which has proposed an amendment to the text of its Convention in order to extend the number of sessions held each year) is able to carry out its responsibilities in a single annual session. In view of the fact that it is clearly unable to discharge its responsibilities on the basis of a single annual session, it requested the Economic and Social Council to authorize it to hold, on a regular basis, two sessions per year, each of three weeks' duration. It noted that it had scheduled its pre-session working group meetings to follow its sessions in order to conserve resources through the elimination of additional air fares. The Committee took note in that regard of the statement of financial implications provided by the secretariat.

11. Role of non-governmental organizations

21. The Committee reaffirmed the importance that it attached to the receipt of detailed and reliable information from non-governmental organizations. It noted that its own deliberations had been greatly assisted in those cases in which pertinent information had been available from domestic NGOs based in the reporting State. Conversely, the Committee regretted the lack of such information in other cases. This was particularly to be regretted in relation to those countries in which there was a lively civil society but in which, for whatever reason, the relevant groups appeared to be unaware of the Committee's work. It noted that, for example, in recent consideration of reports submitted by Portugal, Sweden and the United Kingdom no information was provided to the Committee by domestic NGOs. For that reason, it requested its secretariat to make a greater effort to inform relevant NGO groups based in States whose reports were scheduled for consideration by the Committee. Such notification should be undertaken at the earliest possible moment on the basis of a letter from the Chairperson inviting the submission of relevant information, preferably in time to be taken into account by the pre-session working group. The letter should be accompanied by a copy of the report of the State party, a copy of chapter III of the Committee's annual report which outlines the procedures followed by the Committee, as well as any other pertinent information.

12. Consideration of situation in non-reporting States parties

22. In accordance with its long-standing policy of requesting reports from States parties which have ratified the Covenant many years ago and have failed to submit any reports, as required under the Covenant, the Committee decided to consider at its fourteenth session the situation in Guinea which ratified in 1978 and whose initial report was due in 1980 and in Sri Lanka which ratified in 1980 and whose initial report was due in 1982. The Committee expressed the hope that each of those States would be able to submit a report as soon as possible but decided that it would, in the absence of any such report, proceed to a detailed examination of the situation in each State party on the basis of all available information.

13. Working methods

23. The Committee agreed that, despite the time pressures involved, it would consider reports from five States parties at its thirteenth session. They are the reports of Ukraine, Colombia, Norway, Mauritius and Algeria. It resolved to consider making use of sessional working groups for purposes yet to be determined.

14. Follow-up

24. In view of the importance of ensuring that the Committee followed up on all of the specific recommendations that it made, both those related to its own work and to the reports of States parties, the Committee requested its secretariat to provide it with a document at each session which provided a brief indication of all outstanding requests of a specific nature to which responses had not been received.

Annex

**STATEMENT TO THE FOURTH WORLD CONFERENCE ON WOMEN BY
THE COMMITTEE ON ECONOMIC SOCIAL AND CULTURAL RIGHTS**

1. The Committee on Economic, Social and Cultural Rights held its first session in 1987, and was preceded by a working group of governmental experts of the Economic and Social Council which had functioned since 1979, six years before the last World Conference on Women was held at Nairobi in 1985. The Committee is mandated to monitor compliance by States parties with their obligations set forth under the International Covenant on Economic, Social and Cultural Rights. The Committee is composed of 18 independent experts who are each elected for a term of four years by the Economic and Social Council.
2. The monitoring mechanism provided for under the International Covenant on Economic, Social and Cultural Rights consists of the consideration of States parties' reports on the implementation of the Covenant. These reports are prepared and submitted to the Committee every five years on all the articles of the Covenant.
3. The International Covenant on Economic, Social and Cultural Rights is the only legally-binding international treaty of the United Nations that deals exclusively with economic, social and cultural rights. The Covenant articulates a wide-ranging set of human rights: the right to work; the right to fair wages and to just working conditions; the right to strike and to freedom of association; the right to social security; the protection of the family; the right to an adequate standard of living and to freedom from hunger; the right to physical and mental health; the right to education; and the right to take part in cultural life and to enjoy the benefits of scientific progress and creative activity.
4. The guiding principles governing the application of the Covenant are expressed in article 2 which provides that States parties are obligated to achieve progressively the full realization of the rights set forth in the Covenant by all appropriate means without discrimination of any kind, and in article 3 which guarantees the equal right of men and women to the enjoyment of all the economic, social and cultural rights enshrined in the Covenant.
5. The Committee has long recognized the reality that violations of economic, social and cultural rights result in some of the most persistent forms of inequality and of discrimination particularly against women, the elderly, the disabled and other vulnerable and disadvantaged groups. Almost 50 years after the adoption of the Universal Declaration of Human Rights, women today continue to bear the burden of particular obstacles to the enjoyment of their economic, social, cultural, civil and political rights.
6. In its fifth session in 1990, the Committee adopted new guidelines regarding the form and content of reports to be submitted by States parties under articles 16 and 17 of the Covenant (E/C.12/1991/1), with a view to ensuring that principal concerns would be elaborated methodically. The guidelines provide a uniform framework for reports, thus enabling the Committee to conduct a constructive dialogue with States parties in a

consistent manner. They focus on issues which the Committee regards as indicative of the extent to which economic, social and cultural rights are enjoyed by all constituents of States parties to the Covenant.

7. The text of the guidelines reflects the Committee's abiding concern in its repeated reference to the specific situation of women under the rights protected by the Covenant. In their reports, States parties are asked to identify the persons or group of persons who are particularly vulnerable or disadvantaged with regard to the practical application of the Covenant, and to provide statistical indicators relevant to the situation.

8. The Committee's experience in its consideration of 103 reports thus far shows that women in particular continue to suffer the effects of poverty, of discrimination in education, in employment and in the family, of inequalities in health care, of sexual harassment, abuse and exploitation, of lack of access to economic opportunities, to social security and to adequate housing. The Committee cited the particular difficulties of single mothers and elderly women. It was regrettable that in many instances, customs and traditions assigned a role to women that was detrimental to the enjoyment of their human rights.

9. It was precisely for this reason that the Committee considered the economic, social and cultural rights of women to be a critical area of concern, and continued its efforts to induce States parties to protect and promote the economic, social and cultural rights of women for which they were accountable under the provisions set forth under the Covenant. In its concluding observations adopted after consideration of government reports, the Committee recommended specific measures to be taken by States parties to address principal concerns. To illustrate, the Committee had recommended to certain States parties that, among other things, "... the authorities should continue its efforts to ensure de facto equality between men and women, especially in the areas of access to employment, remuneration for equal work, working conditions, the rights to social security and participation in higher education" (E/1995/22-E/C.12/1994/20, para. 258); "... the Government should take immediate steps to introduce a comprehensive anti-discrimination legislation especially in relation to all forms of discrimination against women" (para. 298); "... efforts should include both legislative measures and educational activities aimed at overcoming the negative influence of certain traditions and customs" (para. 118); "... necessary measures [should] be adopted to accord greater priority to the education of women, including the eradication of female illiteracy"; (para. 141); and "... the obligation to ensure equal opportunities for women warrants particular attention especially in relation to the right to work, to family-related rights and the right to education" (E/C.12/1993/19, para. 129).

10. The Fourth World Conference on Women to be held in Beijing reaffirms in the Mission Statement to be adopted at the Conference, "the fundamental principle set forth in the Vienna Declaration adopted by the World Conference on Human Rights that the human rights of woman and of the girl child are an inalienable, integral and indivisible part of universal human rights".

11. The International Covenant on Economic, Social and Cultural Rights contains rights which are applicable to all persons including women of all ages, from the girl child to the elderly woman. It thus constitutes an indispensable element in any comprehensive framework for the promotion and protection of the rights of women.

12. The Committee on Economic, Social and Cultural Rights therefore enjoins the Fourth World Conference on Women to urge all States to ratify the International Covenant on Economic, Social and Cultural Rights and to set a goal of universal ratification by the year 2000.

13. In view of the central importance of the reporting mechanism provided for under the Covenant, the Committee therefore invites States parties to the Covenant to devote particular attention to the situation of women in the presentation of their reports. This will significantly contribute to a constructive and meaningful dialogue with the Committee in reference to the condition of women.

14. In addition to reports submitted by States parties, the Committee welcomes submissions of information from a wide range of sources. These include United Nations specialized agencies, intergovernmental organizations as well as non-government organizations, all of which are invited to participate during the Committee's annual sessions. These entities are therefore encouraged to provide the Committee with information on the situation of economic, social and cultural rights from a more gender-specific perspective.

15. In response to the recommendation of the 1993 World Conference on Human Rights and the request of the Commission on Human Rights, the Committee on Economic, Social and Cultural Rights is at present drafting an optional protocol to the Covenant. This protocol would enable individuals to submit complaints of the violation of their economic, social and cultural rights. It would provide an effective means towards the fulfilment of the rights of women. For this reason, the Committee therefore calls on the Fourth World Conference on Women to support this undertaking.
