



**Economic and Social
Council**

Distr.
GENERAL

E/C.12/CRI/CO/4
4 January 2008

Original: ENGLISH

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT**

COSTA RICA

**Draft concluding observations of the Committee on
Economic, Social and Cultural Rights**

1. The Committee on Economic, Social and Cultural Rights considered the combined second, third and fourth periodic report of Costa Rica on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/CRI/4) at its 33rd, 34th and 35th meetings, held on 6 and 7 November 2007 (E/C.12/2007/SR.33, 34 and 35), and adopted, at its 51st meeting, held on 19 November 2007, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the combined second, third and fourth periodic report of the State party, which was generally prepared in conformity with the Committee's guidelines. It regrets, however, the 13-year delay in its submission.

3. The Committee welcomes the frank and constructive dialogue with the State party's delegation and thanks the delegation for the detailed written replies and the additional information provided orally in response to the Committee's numerous questions.

B. Positive aspects

4. The Committee notes with satisfaction the State party's ratification of relevant international treaties and the adoption of a National Policy for Gender Equality and Equity (PIEG), among other legal and institutional measures, to promote gender equality and combat discrimination against women, in particular in the workplace.

5. The Committee welcomes the recent entry into force of the Act Criminalising Violence Against Women, as well as the implementation of the Comprehensive Care Programme for Domestic Violence and the institutional measures adopted by the State party to offer social, legal and psychological redress to victims of this practice, including safety shelters.
6. The Committee welcomes achievements of the Costa Rican Electrical Institute (ICE) regarding the extent and quality of electrical and telecommunications coverage throughout the country, with 98 per cent of electrical energy coming from renewable resources. It also welcomes the measures undertaken by the State party to preserve its natural heritage and to address increasing threats to the country's biodiversity, mainly deforestation, agricultural overexploitation of land and pollution of waters, in order to guarantee an adequate standard of living.
7. The Committee notes with satisfaction the State party's efforts to promote further the cultural development for the indigenous population, including the creation of the Department of Indigenous Education in the Ministry of Education, which has contributed to the revival of indigenous languages, as well as the reflection of indigenous culture in school curricula and the adoption of programmes to promote bilingual education in the indigenous language and Spanish.
8. The Committee commends the incorporation of ethics, aesthetics and civics, as well as human rights education, in school curricula.
9. The Committee welcomes the high literacy rate (97 per cent of the population), as well as the sustained legislative, policy and institutional measures adopted by the State party to improve access to and the quality of education, particularly of indigenous communities.
10. The Committee welcomes the establishment of the National Commission on Indigenous Affairs (CONAI).

C. Factors and difficulties impeding the implementation of the Covenant

11. The Committee notes the absence of any significant factors or difficulties preventing the effective implementation of the Covenant in the State party.

D. Principal subjects of concern

12. The Committee notes that the State party has not provided enough case law to demonstrate that the provisions of the Covenant are consistently applied in practice, in spite of the fact that, according to article 7 of the Constitution of Costa Rica, international human rights treaties take precedence over domestic legislation, including constitutional provisions, and can be directly invoked in the courts.
13. The Committee notes with concern that racial discrimination is not criminalized as a specific offence and is only punished by a fine.
14. The Committee notes with concern that CONAI does not fully represent the interests of all indigenous populations.

15. The Committee regrets that indigenous communities and Afro-descendants suffer from higher levels of poverty and unemployment than the national average. Additionally, indigenous communities suffer from high illiteracy rates, limited access to water, housing, health and education.
16. The Committee further regrets that indigenous communities are not represented at high-level positions in the public service.
17. The Committee is concerned about the persisting wage gap between men and women and the high unemployment rate among women.
18. The Committee is concerned about disadvantageous working conditions affecting in particular domestic workers, most of whom are migrant women, who are paid the lowest minimum wage, working over 8 hours a day with inadequate rest, pensions and vacations.
19. The Committee is concerned about the high proportion of workers in the informal sector, affecting disadvantaged and marginalized groups and individuals, including immigrants and refugees, mainly Nicaraguan and Colombian, as well as ethnic minorities and persons with disabilities. It is further concerned about poor working conditions in rural and remote areas, which contribute to the increasing migration from rural to urban areas.
20. The Committee is concerned about reported cases of harassment, blacklisting and dismissal of trade unionists, in particular in the banana industry, where dismissals of unionized workers in large numbers have been reported. The Committee regrets that the State party has failed to effectively implement the Committee's previous recommendations regarding the incompatibility of restrictions placed on the participation of foreigners in trade unions with article 8 of the Covenant.
21. The Committee is concerned about the continuing insufficient coverage in the social pension system, particularly for the marginalized and disadvantaged individuals and groups, including domestic, agricultural and migrant workers, despite the progress made in the coverage of the national health system.
22. The Committee regrets that various legal and institutional measures taken by the State Party to offer redress to victims of domestic violence have been insufficient to address the increase in domestic violence against women and children.
23. The Committee is concerned about the fact that corporal punishment within the family, in the form of "moderate correction", is still allowed under article 143 of the State party's Family Code.
24. The Committee is deeply concerned about the increase in sexual and commercial exploitation, sex tourism and trafficking in persons, especially women and girls, in the State party, despite institutional measures and plans of action to combat this scourge. The Committee is concerned about the lack of any specific legislation and case law on human trafficking and the lack of disaggregated data on the nature, extent and causes of this phenomenon.

25. The Committee is deeply concerned about the increasingly high rate of teenage pregnancies, in spite of the State party's policies and programmes on sexual and reproductive health, as well as the fact that no exceptions are provided to the general prohibition of abortion.

26. The Committee is concerned that, despite the State party's efforts to address housing shortage, a high percentage of dwellings, especially those inhabited by indigenous peoples, Afro-descendants and migrants, is in poor condition, often without access to drinking water and adequate sanitation, and that many of these communities still live in slums and squats, sometimes on river banks and in other high-risk areas. The Committee is also concerned about the lack of disaggregated data on the number of forced evictions in the State party.

27. The Committee notes with concern the potential impact of the entry into force of the Central American Free Trade Agreement (CAFTA) on the State party's obligations under the Covenant and, in particular, on traditional agriculture, labour rights, access to health, social security and the intellectual property regimes protecting, inter alia, access to generic medicines, biodiversity, water and the right of indigenous communities associated to these resources.

28. The Committee is concerned about the quality of health care provided, in particular in remote and rural areas.

29. The Committee notes with concern that illiteracy rates among indigenous communities remain significantly higher than the national average, despite of the fact that the State party's adoption of legislation, policies and programmes to make education accessible to those communities.

30. The Committee is concerned about the increase in the percentage of the secondary school drop-out rate caused, inter alia, by family disintegration, lack of pedagogical attention and child labour and drug abuse, in spite of its institutional measures and policies adopted in this regard.

31. The Committee is concerned that the budget of the Ministry of Culture, Youth and Sports has drastically decreased in recent years.

E. Suggestions and recommendations

32. The Committee recommends that the State party ensure that the provisions of the Covenant are directly applicable in the domestic legal order and requests the State party to provide in its next periodic report information on case law regarding the implementation of the Covenant.

33. The Committee urges the State party to ensure that racial discrimination be criminalized as a specific offence and punished according to the seriousness of the crime, that acts of racial discrimination be identified and its perpetrators duly prosecuted, that training be provided to public officials to enhance their awareness in matters of racial discrimination and that campaigns to combat racial discrimination be undertaken to sensitize the public on this issue.

34. The Committee recommends that the State party ensure that the interests of all indigenous communities be fully represented on the board of the National Commission on Indigenous Affairs and that this institution receives sufficient financial and institutional State support necessary for its functioning.

35. The Committee urges the State party to take all appropriate measures to ensure that the levels of poverty, illiteracy and unemployment of indigenous communities and Afro-descendants be reduced and that the indigenous communities have proper access to water, housing, health and education.
36. The State party should take positive measures to promote the increased representation of minorities at high-level positions in the public service.
37. The Committee recommends that the State party strengthen its efforts to promote effectively greater participation of women in the labour market and to ensure equal working conditions, including equal pay for work of equal value.
38. The Committee recommends that the State party take effective measures to improve the situation of domestic workers, in accordance with the provisions of article 7 of the Covenant.
39. The Committee urges the State party to intensify its efforts to reduce unemployment among marginalized and disadvantaged groups and individuals through specifically targeted measures, including by ensuring the strict application of anti-discrimination legislation by the judiciary, local governments and labour offices; introducing and effectively enforcing legal provisions requiring an ethnically balanced workforce in the public and private sectors; and enhancing professional training and sustainable employment opportunities in the remote areas where the indigenous population resides.
40. The Committee invites the State party to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Convention on the Rights of Persons with Disabilities.
41. The Committee urges the State party to expedite the adoption process of currently proposed reforms of article 60 of the Constitution and to ensure that the right of everyone to form and join trade unions and to take part in trade union activities is respected, in conformity with article 8, paragraph 1 (a), of the Covenant.
42. The Committee calls upon the State party to ensure that social security assistance is provided to all workers, in particular to persons belonging to disadvantaged and marginalized groups. The Committee also encourages the State party to ratify Conventions No. 103 concerning Maternity Protection (Revised, 1952) and No. 118 concerning Equality of Treatment in Social Security, 1962, of the International Labour Organization.
43. The Committee recommends that the State party undertake effective measures to implement existing legislation on domestic violence; that the police, other law enforcement officials and judges be given training to this end; and that information be provided in the next periodic report on the number and outcome of court cases related to domestic violence.
44. The Committee encourages the State party to expedite the adoption of currently existing proposals to amend article 143 of the Family Code and the law providing for an explicit prohibition of all corporal punishment that is currently under consideration.

45. The Committee urges the State party to address effectively sexual and commercial exploitation, sex tourism and human trafficking and recommends the adoption of an amendment to the Act against Commercial Sexual Exploitation for that purpose. The Committee further urges the State party to closely monitor the number of women and children trafficked to, from and through its territory each year and to provide mandatory training on trafficking for the police, prosecutors and judges. The State party is requested to include in its next periodic report updated and disaggregated data on an annual basis on reported trafficking cases, convictions and sentences imposed on perpetrators, the assistance and rehabilitation programmes provided to victims.

46. The Committee urges the State party to take preventive measures to address the problem of the high rate of teenage pregnancies and to provide for exceptions in its law relating to the general prohibition of abortion in cases where the mother's life is in danger (medical indication) or where the pregnancy is the result of rape or incest.

47. The Committee requests the State party to allocate sufficient funds to improving the infrastructure and to increase the availability of social housing, in line with the Committee's General Comment No. 4 (1991) on the right to adequate housing. It also urges the State party to ensure that the rights of individuals and groups subject to forced evictions are safeguarded and that adequate alternative housing is provided, in accordance with the Committee's general comment No. 7 (1997) on forced evictions, and to include disaggregated data on the number of forced evictions and arrangements for alternative housing in its next periodic report.

48. The Committee recommends that the State party undertake the measures necessary to assess the potential adverse impact of its commitments under CAFTA on economic, social and cultural rights and to ensure that Covenant rights, in particular labour rights, access to health, social security and generic medicines and the intellectual property regimes are not adversely affected.

49. The Committee recommends that the provision of health-care facilities, goods and services in remote and rural areas be improved and that disaggregated annual data in this respect be provided in its next periodic report.

50. The Committee encourages the State party to continue to improve the effective implementation of currently existing legislation, policies and programmes to eliminate illiteracy among indigenous communities.

51. The Committee recommends that the State party intensify its efforts to combat secondary school drop-out rate. The State party should also implement existing programmes to improve the quality of teaching in secondary schools.

52. The Committee encourages the State party to improve the quality of university teaching and to ensure that public universities perform as a mechanism for social mobility.

53. The Committee recommends that the State party take all appropriate measures to ensure the full implementation of the present recommendations, inter alia by transmitting them to the Council of Ministers and Parliament for appropriate consideration and further action.

54. The Committee further requests the State party to disseminate the present concluding observations widely among all levels of the society and, in particular, among State officials, the judiciary and civil society organizations in general, and to inform the Committee on all steps taken to implement them in its next periodic report. The Committee particularly encourages the State party to continue to engage the Ombudsman (*Defensoría de los habitantes*), non-governmental organizations and other members of civil society in the process of discussion at the national level prior to the submission of its next periodic report.

55. The Committee invites the State party to update its core document in accordance with the 2006 harmonized guidelines for the preparation of a Common Core Document (HRI/GEN/2/Rev.4).

56. The Committee requests the State party to submit its fifth periodic report by 30 June 2012.
