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### HUMAN RIGHTS COMMITTEE

Sixty-fifth session

#### SUMMARY RECORD OF THE 1745th MEETING

Held at Headquarters, New York,  
on Monday, 5 April 1999, at 10 a.m.

Chairperson: Ms. MEDINA QUIROGA

later: Ms. EVATT  
(Vice-Chairperson)

later: Ms. MEDINA QUIROGA  
(Chairperson)

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The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (continued)

Fourth periodic report of Costa Rica (CCPR/C/103/Add.6)

1. At the invitation of the Chairperson, Ms. Nagel (Costa Rica) took a place at the Committee table.

List of issues

Constitutional and legal framework within which the Covenant is implemented (article 2)

2. The CHAIRPERSON read out the list of issues in relation to article 2 of the Covenant, namely: why the Constitutional Jurisdiction Act (para. 61) did not address habeas corpus and amparo proceedings against acts of subjects of private law, whether the bill on amparo (para. 83) had been adopted, whether Costa Rica intended to establish an independent human rights commission, what the jurisdiction of the Ombudsman was, and how many complaints the office received annually.

3. Ms. NAGEL (Costa Rica) said that it was important to note that while the habeas corpus remedy guaranteed personal freedom and integrity against acts or omissions by an authority of any kind, including a judicial authority, the amparo remedy was much broader. The Constitutional Jurisdiction Act specified that the latter remedy was available against actions or omissions of subjects of private law when they were exercising functions or were in a position of de jure or de facto authority and the normal legal remedies were inadequate. The habeas corpus remedy was designed to guarantee freedom under the rule of law; within that system, the police authorities were responsible for carrying out preventive and repressive functions. An individual whose personal freedom and integrity had been restricted could always appeal through regular channels, invoking title V of the Penal Code.

4. Costa Rica did not intend to establish an independent human rights commission because there were a number of other bodies which met that need. In particular, the Office of the People's Ombudsman was responsible for all matters relating to the protection of human and civil rights, on the basis of the principles of democracy, equity and social justice. Its primary mandate was to monitor the operation of the public sector, and channel complaints from individuals. The average number of complaints that it received each month had increased from 886 in 1994 to nearly 2,200 in 1997.

Gender equality and equal protection of the law (articles 3 and 26)

5. The CHAIRPERSON read out the questions relating to articles 3 and 26 of the Covenant, namely: what progress had been achieved with regard to women's participation in public life, and employment and pay equity in the public and private sectors; whether all working women were covered by the Labour Code; the

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incidence of violence against women, particularly domestic violence, what measures were in place and what results had been achieved; and why there appeared to be unequal obligations for men and women under the Family Code.

6. Ms. NAGEL (Costa Rica) said that although progress in the political participation of women in Latin American countries had been slow because of social and cultural factors, Costa Rica had made great strides. It believed in affirmative action and quotas as transitional measures to ensure equal treatment for women in the political sphere. The two Vice-Presidents were women and there were four women ministers. In the Legislative Assembly, 25 per cent of the deputies were women. One of the major political parties had determined that a minimum of 40 per cent of posts within the party structure must be occupied by women.

7. In 1998, a Ministry for Women had been established, replacing the national institute for women. Within the Ministry there was a national centre for the development of Women and the Family. There were national plans for equality of opportunities between men and women and for the prevention of domestic violence and a national plan for combating poverty, which included a component on women. At the national level, 99 committees representing the Ministry for Women had been established in different areas of Costa Rica. The Ministry for Women had four specific objectives: to formulate and promote national policy on gender equality; to protect the rights of women and overcome past inequalities; to coordinate and monitor public institutions which established and implemented national policies on gender equality; and to promote the social, political, cultural and economic participation of women.

8. The delegation for women, which had previously been part of the Ministry of Justice, had been transferred to the Ministry for Women; its office, which was located in San José, had opened in April 1997. The delegation was working in four specific areas: legal aid, psychological support, social rehabilitation and prevention. It had taken up 2,299 complaints in 1994, 5,442 complaints per month in 1995 and 8,595 complaints in the first half of 1997. Another institution for the protection of women's rights was the Office for the Protection of Women, which worked in conjunction with the Office of the People's Ombudsman.

9. The Costa Rican Labour Code was perhaps the most equitable in the region; in addition, equality in the workplace, including equal pay for work of equal value, was guaranteed by the Constitution. Domestic violence was a problem in most Latin American countries; her Government believed that it could best be combated through prevention, education, awareness-raising, and legislation to protect the victims. Act No. 7586, to combat domestic violence, had been adopted in 1996. Under a series of executive decrees, a commission had been established in the health sector for the implementation of a national plan for the treatment and prevention of domestic violence; a national day of non-violence against women had been declared; and a national council for the prevention of violence and crime, including domestic violence, had been set up within the Ministry of Justice. There were also national and regional programmes.

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10. Under the Family Code, many discriminatory norms regulating relations between spouses had been eliminated. For example, spouses were now equal in the area of divorce, and the laws on family property had been reformed. That equality of rights and obligations extended to de facto unions, which enjoyed equal protection in cases when the couple had lived together continuously for over three consecutive years. That step had been taken in order to protect the children of such unions.

Right to life and prevention of torture and ill-treatment (articles 6 and 7)

11. The CHAIRPERSON read out the questions relating to articles 6 and 7 of the Covenant, requesting details on State action to investigate allegations of torture, including the alleged ill-treatment of peasants in evictions from disputed lands; and on the outcome of the police investigation into the shooting incident of November 1997 resulting in the death of two persons in the Golfito region.

12. Ms. NAGEL (Costa Rica) said that, in the Pavones shooting incident, in which a Costa Rican and a United States national had died, her Government was seeking solutions to illegal land ownership, which lay at the root of the problem, without obstructing the investigation by the judicial authorities. In the 1970s and 1980s, in the maritime zone of Costa Rica, lands within the public domain had been sold illegally to Costa Ricans and aliens. In the specific case in question, a conflict had arisen between a United States family, which had acquired land in the public domain many years previously, and peasants living in the area. The courts had acquitted the Costa Rican national on the grounds of legitimate self-defence and had required the peasants to pay compensation for the damage caused. Her Government had taken a number of steps to ensure peace and tranquillity and had deployed the civil guard (guardia civil) to maintain order in the zone. Plans were being drawn up to delimit the maritime zone and public and private lands; and the agricultural development institute had acquired two large farms for possible accommodation of the peasants and squatters who had claims to the land.

Right to liberty and security of person (article 9)

13. The CHAIRPERSON read out the questions relating to article 9 of the Covenant: the grounds for holding a person in pre-trial detention, reports concerning long periods of pre-trial detention, and measures to be taken to speed up the process; when and under what circumstances detainees were held incommunicado, and how decisions to that effect could be challenged.

14. Ms. NAGEL (Costa Rica) said that progress had been made in streamlining the administration of justice; currently, 78 per cent of the persons in the penitentiary system had already been sentenced. Her Government felt that pre-trial detention should be limited to as short a period as possible. Under the Code of Criminal Procedure, the police could arrest a person without an arrest warrant only if the person was caught in flagrante delicto or fled immediately after trying to commit a crime, had escaped from a penitentiary institution, or had participated in a crime for which pre-trial detention was required. The Ministry of the Interior could order pre-trial detention in only three cases: when the presence of the accused was required, when there were indications that

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the person might flee, and where it was reasonable to believe that a person might obstruct the investigation of a crime. The maximum length of pre-trial detention was 28 hours in the case of detention by order of the Ministry of the Interior, and 6 hours for police detention. That period could be extended only at the request of a judge, for up to 10 consecutive days.

15. The Code of Criminal Procedure established new procedures whereby persons who had committed crimes for which the sentence was less than three years were not necessarily sent to prison, but could be subject to alternative penalties such as compensating the victim, restraining orders, or community service. A person who was held incommunicado was always allowed to communicate with a defence lawyer.

Treatment of detainees (article 10)

16. The CHAIRPERSON read out the questions relating to article 10 of the Covenant, namely: why regulations concerning the rights and duties of detainees failed to distinguish between the regimes applicable to persons in pre-trial detention and those sentenced to a prison term; whether the two categories of persons were held in the same area; and what percentage of the prison population was being held in pre-trial detention; whether progress had been made in solving the problem of prison overcrowding; what the role of the Protector of the Human Rights of Detainees was; who had the authority to monitor the proper implementation of the sentence and other terms of imprisonment; and who was responsible for dealing with breaches of prison regulations.

17. Ms. NAGEL (Costa Rica) said that Costa Rica was well ahead of other Latin American countries with regard to the protection of detainees; only their right to liberty was restricted, and all their other rights were respected, including the right to vote. Costa Rica followed the principle that all persons were presumed innocent until they were proven guilty. That principle was the basis of the duties and rights of detainees which applied both to persons held in pre-trial detention and to those who had already been sentenced.

18. As to prison overcrowding, there was currently an excess prison population of 1,600. The problem was not so much the prison infrastructure as the classification of crimes. Persons in pre-trial detention and sentenced persons were held in separate areas. A new prison had been inaugurated in 1998 and the construction of a maximum security prison would begin in the current month. Prisoners had the right to health care, which was also extended to their families, and to education and training, as well as job placement and rehabilitation.

19. The Office of the Protector of the Human Rights of Detainees monitored prison conditions and received complaints from prisoners who believed that their rights had been violated. Prisoners had direct access to the Office. Within the Ministry of Justice there was another body to which prisoners could submit requests and complaints. Under the Costa Rican legal system, a prisoner was recognized as a subject of law who was entitled to protection by the State.

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Right to a fair trial (article 14)

20. The CHAIRPERSON read out the question relating to article 14 of the Covenant, namely whether a right of appeal was provided for in all criminal convictions and sentences.

21. Ms. NAGEL (Costa Rica) said that the right of appeal was guaranteed in all cases, and for all detainees.

22. Ms. GAITÁN DE POMBO said that Costa Rica's longstanding macroeconomic stability and democracy had created a favourable environment for the enjoyment of economic, social and cultural and civil and political rights. She welcomed the Government's ratification of various instruments of human rights and international humanitarian law; the fact that international instruments took precedence over domestic law, to the point that Costa Rica had abolished its armed forces and based its external security on international bodies; the country's elimination of the death penalty; and the fact that Costa Rica had been one of the first Latin American States to become a party to the Convention on the Prevention and Punishment of the Crime of Genocide.

23. With respect to the questions on articles 6 and 7 of the Covenant contained in the list of issues (CCPR/C/65/Q/CRI/1), she asked what the responsibilities of the police were, not only with respect to rural conflicts but in general, and who was responsible for overseeing and monitoring their actions. In view of the fact that Costa Rica currently hosted some 350,000 Central American refugees, she asked whether the Government had developed a national plan for refugees, including programmes to promote their entry into the workforce. Lastly, with respect to article 4 of the Covenant, she enquired under what circumstances the fundamental guarantees of human rights could be suspended.

24. Mr. YALDEN said that, while the fourth periodic report of Costa Rica was extremely comprehensive, no action had been taken on the recommendation, contained in the Committee's comments on the third periodic report, that the fourth report should contain detailed and updated information on the extent to which each of the rights protected under the Covenant, including article 27, were enjoyed in actual practice (CCPR/C/79/Add.31, para. 15).

25. He asked what action had been taken on the recommendations made by the Office of the Ombudsman in past cases and what happened to those who lodged complaints if the relevant Ministry took no action, whether the Ombudsman's competence extended to the private as well as the public sector and, if not, what remedy other than the courts was available to private individuals who suffered human rights violations. He also requested further information on the Office of the Protector of the Human Rights of the Detainee.

26. He would welcome statistics on women's participation in the workforce, broken down by type and level of employment and with particular emphasis on the number of women in high-level posts. He also requested information on the number of women in the education sector, including statistics for women university students and faculty. It would also be useful to have information on any independent government agency responsible for monitoring gender equality in employment and equal pay for work of equal value. Lastly, he requested

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information on human rights training for the police, security officers and prison staff.

27. Mr. BUERGENTHAL said that he could testify to the Costa Rican Government's commitment to human rights and efforts to remedy any problems in that regard. He drew attention to a recent case involving Venezuelan bank robbers who had been extradited from Costa Rica without being given an opportunity to challenge that decision in the courts or to consult with their lawyers; similar situations had arisen in the past. It was his understanding that the Supreme Court had protested that extradition; he asked whether any policy had been established to prevent such action in the future. He also asked whether the new Code of Criminal Procedure included an effective system of bail and how long individuals were detained while awaiting trial once charges had been brought against them.

28. Since the establishment of the Constitutional Chamber, the American Convention on Human Rights had been given effective recognition in Costa Rican courts. However, the report made no reference to the status of the Covenant, which, like the Convention, was considered part of domestic law. That was particularly important since certain rights were guaranteed under the Covenant, but not under the Inter-American Convention. He asked whether the Covenant had ever been invoked in the courts.

29. Mr. WIERUSZEWSKI said that he agreed with Mr. Yalden that the report contained little information on the real situation of human rights in Costa Rica and that it was difficult to relate the Supreme Court decisions mentioned in the report to the relevant rights under the Covenant. The next periodic report should include information on the specific functions of, and relationship between, the various human rights institutions in Costa Rica.

30. He asked what issues predominated in the complaints lodged with the Office of the Ombudsman, how effective the Office was in resolving such complaints and to what extent non-citizens had recourse to that mechanism. It would be useful to learn how the action of unconstitutionality (para. 142 of the report) functioned, who could bring such actions, what the subject of past actions had been, whether the process of bringing an action automatically suspended the relevant legislation pending a decision thereon and to what extent international norms could be invoked as a basis for such actions.

31. Paragraph 257 of the report mentioned that there had been many hopes, concerns, doubts and uncertainties regarding the new Code of Criminal Procedure. He wondered how the Code had functioned in the year since its entry into force. Furthermore, it was unclear from paragraph 522 of the report whether there was a presumption of innocence and the Committee would welcome an explanation from the delegation. Lastly, he asked what role non-governmental organizations had played in the preparation and dissemination of the report.

32. Lord COLVILLE said that the fourth periodic report of Costa Rica did not do justice to that country's long tradition of respect for human rights. He joined Mr. Yalden in noting that the Committee's request for detailed information on the extent to which human rights were enjoyed in practice had not been met. In particular, the Committee had expressed concern regarding de facto protection of the rights of detainees (CCPR/C/79/Add.31, para. 7). However, although the

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sections of the report devoted to article 9, paragraph 3, and article 14, paragraph 3 (c), of the Covenant mentioned a number of court decisions, the Committee's question had gone essentially unanswered.

33. Paragraph 515 of the report stated that there were those, including some judges, who believed that the function of the criminal trial was to protect the security of citizens and that the procedure must depend on the enforcement of penalties; thus, preventive detention was seen less as a means of prevention than as a means of correction and punishment. He hoped that that attitude was not widespread and asked the delegation to provide information on any appeals lodged in such cases and on any action taken to redress what constituted a serious injustice.

34. Article 9, paragraph 5, of the Covenant stated that anyone who had been the victim of unlawful arrest or detention should have an enforceable right to compensation. However, according to paragraph 223 of the report, Costa Rican legislation provided for compensation only where the accused had been declared innocent and acquitted after having spent more than one year in pre-trial detention, an astonishing threshold which suggested that some people were held in detention for many years at a time. The Committee would welcome further information on that matter. In that regard, he joined Mr. Buergenthal in requesting statistics on the average period of pre-trial detention for the 22 per cent of the prison population awaiting trial.

35. It was encouraging that the Government had helped the judiciary to decrease both the number of people held in pre-trial detention and the duration of such incarceration and to establish criteria for bail. However, he wondered what specific steps had been taken in that regard, what provisions of the new Code of Criminal Procedure guaranteed accused persons the right to be tried without undue delay and what remedies had been provided for violations of that guarantee.

36. He agreed with Mr. Wieruszewski that paragraph 522 of the report was unclear and asked the delegation for an explanation. Lastly, with respect to paragraph 530 of the report, he asked what was being done in practice to ensure that confessions obtained by unlawful means were not used at the accused's trial and what remedies were available in such cases.

37. Mr. KLEIN said that, although paragraphs 181 and 193 of the report emphasized the importance of the right to life under the Costa Rican Constitution, the report contained no information on legislation concerning exceptions to that right: for example, in cases where the use of weapons by the police resulted in death. The Committee required such information in order to evaluate the State party's compliance with article 6, paragraph 1, of the Covenant, which stated that no one should be arbitrarily deprived of his life. He also wondered whether domestic law guaranteed a minimum standard of living and, if so, whether that guarantee also applied to non-nationals.

38. He had been greatly surprised by the statement in paragraph 597 of the report that, in the case of natural persons, legal capacity was modified or restricted by their status, their age or their physical or legal disability. The Committee would appreciate an explanation from the delegation. Lastly, he

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asked what the status of permanent residents was under article 12, paragraph 4, of the Covenant, which stated that no one should be arbitrarily deprived of the right to enter his own country, and under what circumstances permanent residents could consider Costa Rica their own country.

39. Ms. CHANET said that the report was difficult to read in places, and contained little concrete information regarding the implementation of the Committee's previous recommendations. She requested clarification of the legislation on states of emergency and of the evidentiary criteria for "manifest public need" governing the declaration of states of emergency as referred to in article 121 (7) of the Constitution, discussed in paragraph 174 of the report, and asked whether a state of emergency had ever been declared in Costa Rica.

40. Further information was needed on measures taken to address concerns raised by the Committee in its consideration of the previous report, in particular with regard to the extradition of persons to countries in which they ran the risk of torture. She also requested clarification of the specific mechanisms and rationale for extending pre-trial detention to 48 hours and asked what crimes warranted such extensions, whether and when the accused had access to legal counsel or medical assistance under such circumstances, if any limits existed on the length of detention prior to sentencing, and whether release on bail was available to those so held.

41. Mr. SOLARI YRIGOYEN welcomed the clarity and detailed nature of the report, as well as the announcement of the pending ratification by Costa Rica of the Inter-American Convention on Forced Disappearance of Persons. However, he shared the concerns expressed by Mr. Yalden and other members of the Committee regarding labour participation and the definition of the skills of women, and remained unconvinced of Costa Rica's acceptance of the jurisdiction of the Committee under article 41 of the Covenant. He asked whether the new Code of Criminal Procedure had been put into effect, and whether Costa Rica had completed its accession to the Convention concerning Indigenous and Tribal Peoples in Independent Countries referred to in paragraph 720 of the report.

42. Economic measures adopted by the Government, in particular privatization policies, had led to a spate of adverse reactions in certain sectors of the population. In that regard, he asked for confirmation that three deaths and some 80 injuries had occurred during a demonstration at Puerto Limón and enquired whether excessive public force had been used and if private police had participated with government approval in the eviction of 200 peasants from disputed lands in Sarapiquí, and whether the ownership of the land had been under active litigation at the time of the eviction. He also asked whether any person had been punished in connection with the death in custody in 1993 of William Lee Malcolm, a minor, and whether any action had been taken in the case of Reina Xiomara Zelaya González, who had fled Costa Rica following threats and intimidation, apparently from Honduran security agents who had entered Costa Rica.

43. Mr. POCAR thanked the delegation for the clear and detailed answers that it had provided to the Committee's questions thus far, and the serious approach which the Government had taken to the Committee's recommendations regarding the previous report. However, the current report's frequent references to case law

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did not always provide sufficient information regarding the specific consequences of the cases cited, especially with regard to detention.

44. He asked for further information on efforts to amend article 108 of the Penal Code governing the State's obligation to compensate victims of unlawful arrest or detention, as mentioned in paragraph 223 of the report, and on procedures in place for ensuring access to legal counsel and the preparation of an effective defence for accused persons during interrogation, as referred to in paragraph 241 of the report. He joined previous members of the Committee in asking when the new Code of Criminal Procedure would come into effect, and whether the recently expanded right to appeal would be recognized retroactively pending the Code's full implementation.

45. Mr. LALLAH welcomed the references to judicial decisions in the report, but said that he had been puzzled by a number of other aspects of its content. For example, the discussion of actions of unconstitutionality in paragraph 142 of the report would have been greatly enhanced by describing the kinds of cases that had come before the Constitutional Chamber in past years. Moreover, it would have been useful to know if any action had been taken with regard to the Organic Judiciary Act, mentioned in paragraph 143 as pending, subsequent to the report's completion.

46. He asked for clarification of paragraph 144, which gave the impression that the courts under discussion had not been created because the citizens were uninformed about their rights. He also expressed strong concern with regard to the possible privatization of the prison system, which would constitute an abdication of the State's responsibilities to its citizens under the Covenant. Finally, he requested further information on article 39 of the Constitution, which, according to paragraph 226 of the report, provided for enforcement by committal in civil or labour matters, and thus appeared to conflict with the Covenant's restriction of such punishment to specific offences.

47. Ms. EVATT commended the delegation for its positive approach to human rights, and the recent ratification by Costa Rica of the Second Optional Protocol to the Covenant. However, the current report still lacked sufficient data and information on what progress had been achieved and how rights were enjoyed in practice, specifically with regard to the equality of women.

48. She asked whether there had been measurable progress towards achieving equal pay for women, and whether the law allowing perpetrators of rape to escape punishment if their victims consented to marry them had been repealed. She requested a more specific response to item 6 of the list of issues, in connection with the apparently unequal obligations for males and females under the Family Code, mentioned in paragraph 684 of the report. She asked if there had been any changes in legislation governing access to legal abortion and consequent effects on rates of maternal mortality, and whether further action had been taken to meet the need, referred to in paragraph 427 of the report, to develop and implement policies to prevent infringement of the human rights of female prisoners. She also joined Mr. Lallah in expressing concern regarding the possible privatization of prisons in Costa Rica.

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49. Mr. KRETZMER said that he associated himself with the view expressed by members of the Committee that the report lacked information on how the laws discussed in it were actually affecting the people of Costa Rica. With regard to violence against women he requested further information on whether specific remedies, such as protection orders or injunctions against abusive spouses, were available to victims of domestic violence. He also asked for clarification of the penalty of "exile" under the Criminal Code, referred to in paragraph 184 of the report, and of the circumstances in which prison terms might be extended after the initial sentence had been served, as mentioned in paragraph 223 of the report.

50. Ms. Evatt, Vice-Chairperson, took the Chair.

51. Mr. AMOR said that, although the report provided a great deal of information, at times the analysis became almost academic and the Committee would have welcomed more details on certain practical aspects. For example, paragraph 24 stated that marginalized children accounted for almost all the juvenile crime statistics. It would be useful to have information on the average age of the prisoners and any measures that had been taken or would be taken to reduce marginality and juvenile delinquency. Paragraph 148 of the report referred to the equality of men and women and appeared to suggest the existence of positive discrimination. Nonetheless, it was unclear whether specific measures had been taken and, if so, what their effect had been on the situation of women in Costa Rica.

52. According to paragraph 263 of the report, the new Code of Penal Procedure established various ways in which a case could be settled before it went to trial: conciliation, abridged proceedings and suspension of proceedings. The Committee would appreciate some statistics to provide a more specific idea of the extent to which such practices were used. Furthermore, it would be useful to know if there was any discrimination linked to nationality in the prison system and whether such discrimination also existed with regard to employment.

53. Mr. ANDO said that he agreed with his colleagues that more information on actual practice should have been provided. The provisions of the Constitution of Costa Rica guaranteed the equality of men and women before the law. He wished to know, however, if there was any area of the work market from which women were excluded owing to factors such as the inherent danger of the work or the physical exertion involved and whether women worked in the security forces and were allowed to work the same hours as men. It would also be useful to know the percentage of female workers in the different sectors: agriculture, industry, business, higher education.

54. With regard to the Family Code, the Committee would like to know the minimum marriage age for boys and girls and the provisions regarding joint property. Paragraph 684 of the report implied that the onus was on the husband to provide for the upkeep of the household. He asked whether, in Costa Rica, both husband and wife had the right to conclude a special contract concerning property. Lastly, it would be useful to know if the Constitutional Chamber could deal with matters concerning the unconstitutionality of international treaties and also who could submit claims to this Chamber and the procedures involved.

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55. Ms. Medina Quiroga, Chairperson, resumed the Chair.

56. Mr. BHAGWATI said that he shared the concerns of his colleagues who would have preferred a more precise and direct report. It would be useful to know whether the Constitutional Chamber also had the power to enforce the observance of Covenant rights directly and, if so, whether there were specific instances of that. He asked if complaints of human rights violations were heard by a single judge or a panel of judges of the Constitutional Chamber and whether there was any appeal to the full court. The Committee wished to know about the average length of time before a person arrested was brought before a court and any measures taken to ensure that those arrested were brought to trial as rapidly as possible. It was unclear whether the new Code of Criminal Procedure, which was supposed to come into force in 1999, had been approved or was still under discussion.

57. The 1990 Act on Promotion of the Social Equality of Women had required 50 per cent of public posts to be reserved for women. It would be useful to know what kind of affirmative action the Government had taken to reach that goal. Costa Rica's third report had indicated that the National Centre for the Development of Women and the Family was reviewing the situation of women in the family, criminal and labour courts and also in the administration of justice. The Committee would welcome information on the results of that review and examples of any changes that had occurred.

Freedom from arbitrary interference with privacy, family, home or correspondence (article 17)

58. The CHAIRPERSON read out the question relating to article 17 of the Covenant: criminal sanctions against homosexual relations between consenting adults and anti-discrimination provisions relating to sexual orientation.

59. Ms. NAGEL (Costa Rica) said that article 33 of the Constitution of Costa Rica provided that all persons were equal before the law and the AIDS Law established that anyone who applied discriminatory measures for whatever reason would be sanctioned. There was no discrimination against homosexuals in Costa Rica and legislation protected the rights in question. In two recent cases, two prominent Catholic priests had been taken to court by homosexual non-government organizations because of their statements against a homosexual congress that was to be held in Costa Rica. Although the priests had been acquitted, the basis for the acquittal was that they were merely expressing the religious and moral position of the Catholic Church. The cases showed that individuals who considered their rights violated had access to the courts.

Freedom of thought, conscience and religion (article 18)

60. The CHAIRPERSON read out the question relating to article 18 of the Covenant: measures taken to eliminate discriminatory effects on other religions resulting from the pre-eminent position of the Roman Catholic Church; approval of teachers of religion by the National Conference of Bishops; financial assistance to non-Catholic schools.

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61. Ms. NAGEL (Costa Rica) said that, although Catholicism was the official religion in Costa Rica, freedom of religion was guaranteed by legislation and the Constitution. Congress was currently discussing a draft law on religious rights that would reform some provisions of the 1949 Constitution. The draft legislation provided, inter alia, that parents would be able to request that their children should study the religion of their choice in school, prison visits would be allowed by priests or ministers of faiths other than Catholicism, and non-Catholic marriage services would be granted civil effect. Although current legislation required teachers of religion to be approved by the National Conference of Bishops, it was not interpreted in a discriminatory way. Under the new law, the Ministry of Education would approve all teachers on the basis of pre-defined conditions. The new law also provided that the Government, semi-autonomous institutions and municipalities could make donations to any educational institution included in the law.

Freedom of expression (article 19)

62. The CHAIRPERSON read out the question relating to article 19 of the Covenant: provisions that guaranteed access by private individuals to State-held information.

63. Ms. NAGEL (Costa Rica) said that the Constitution of Costa Rica guaranteed access to State-held information and established the way in which individuals or groups could request access. Government employees had 15 working days in which to provide the required information and, if it was not provided, the petitioner had well-defined legal remedies. The extent of the right to information was limited only by the individual's right to privacy.

Freedom of association (article 22)

64. The CHAIRPERSON read out the question relating to article 22 of the Covenant: reform of labour legislation to ensure that all workers enjoyed freedom of association and that workers in small agricultural enterprises were free to organize and undertake collective bargaining.

65. Ms. NAGEL (Costa Rica) said that freedom of association was guaranteed and voluntary. There was no discrimination against workers who were members of unions. If anyone tried to impede that right, the worker could have recourse to the labour courts or the Constitutional Chamber.

Rights of children (article 24)

66. The CHAIRPERSON read out the questions relating to article 24 of the Covenant: the incidence of child prostitution and child abuse and measures to deal with those phenomena, and enforcement of article 172 of the Penal Code making trade in minors for prostitution a punishable offence; the status of the National Institute for Children and activities undertaken to improve the condition of the poorest children.

67. Ms. NAGEL (Costa Rica) said that Costa Rica had been one of the first countries to ratify the Convention on the Rights of the Child (1990) and since then had strengthened its legislation, in particular, through the new Children's

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Code. Forty per cent of the population of Costa Rica was less than 18 years of age and protecting children was a priority. The President had made solving the problem of child prostitution one of the Government's priorities and had established a Committee composed of representatives of ministries, specialized governmental agencies and non-governmental organizations to work together to deal with the problem.

68. Congress was discussing a draft law that would modify the Criminal Code, making procurement of children a criminal offence and increasing penalties for the sexual abuse of minors. The police force was also involved in the effort. A special programme had been devised to train them in treating young people in such situations; and special attention was being given to police presence in places where child prostitutes were known to congregate. The Tourism Institute was also collaborating to ensure that Costa Rica was not advertised as a place where child prostitution was available. Furthermore, an office of the prosecutor had been established to deal exclusively with problems related to the sexual abuse of children and child prostitution. With regard to the National Institute for Children (PANI), for the past year it had been an autonomous institution, funded by the Government. The Institute's mandate was to defend the rights and interests of children, adolescents and the family.

The meeting rose at 1 p.m.