



Economic and Social Council

Distr.: General
18 June 2014
English
Original: Spanish

Committee on Economic, Social and Cultural Rights

List of issues in relation to the third periodic report of Guatemala*

I. General information

1. Please provide information on measures taken to raise the awareness of the general public and, more particularly, the judiciary regarding the economic, social and cultural rights set forth in the Covenant and on the right to claim them in court.
2. Please provide information on consultations with indigenous peoples held prior to the approval of projects involving land-use change that could directly affect them, giving specific examples, if any, of how their participation altered those projects and bettered the community's enjoyment of their economic, social and cultural rights or lessened the risk of violations of those rights. Also indicate whether the State party has a suitable legal and institutional framework for ensuring compliance with the State's duty to undertake prior consultations with a view to obtaining the prior, free and informed consent of the indigenous peoples concerned, in accordance with international standards. In particular, please provide information on prior consultations in connection with the construction of a cement factory in the municipality of San Juan Sacatepéquez, the San Rafael mine and the Santa Cruz Barillas hydroelectric project.
3. In the light of the recent Constitutional Court decision (No. 266-2012) in which the Court said that the failure to recognize indigenous communal property was "an unresolved issue in the country's legislative history", please provide information on the legislative and institutional measures taken by the State party to guarantee indigenous peoples' rights to their land and natural resources, including the collective nature of those rights and their territorial aspects, and to fully recognize customary land tenure systems.

* Adopted by the pre-sessional working group at its fifty-third session (26–30 May 2014).



II. Issues relating to the general provisions of the Covenant (arts. 1 to 5)

Article 2, paragraph 1

Obligation to take steps to the maximum of available resources

4. Please provide information on the impact of the approval of the first package of legislation on transparency in the management of public funds (Decree No. 13-2013), the measures subsequently taken by the State pursuant to that legislation, and the impact on efforts to counter corruption. Please also include information on the number of complaints of corruption that have been lodged in the last five years, on the investigations conducted, on the percentage of those complaints that led to a conviction and on the protection given to persons who lodge complaints concerning acts of corruption.

Article 2, paragraph 2

Non-discrimination

5. Please provide information on the steps taken by the State party to combat discrimination on grounds of ethnic origin or sexual orientation in the enjoyment of economic, social and cultural rights. Please also provide information on the Office of the Ombudsman for Sexual Diversity, its mandate, functions and budget allocation, and its probable impact. Please also provide information on the impact of measures — in particular affirmative action measures — taken to combat discrimination against persons with disabilities in respect of their enjoyment of economic, social and cultural rights.

6. Please provide information on specific steps taken by the State party to strengthen the Presidential Commission on Discrimination and Racism against Indigenous Peoples (CODISRA), the Office for the Defence of Indigenous Women and the Guatemalan Indigenous Peoples' Development Fund (FODIGUA). Please also provide information on the establishment of the Office for Indigenous Peoples and Intercultural Affairs, its aims and how it will ensure the involvement of indigenous peoples in its work.

Article 3

Equal rights for men and women

7. Please provide information on progress made in terms of legislation and of existing policies, plans and mechanisms for achieving the equal enjoyment of women's, and particularly indigenous women's, economic, social and cultural rights. Please also indicate what specific measures, including training programmes, have been put in place by the State party to increase women's representation in political life and public decision-making positions. Please also provide statistics on these points.

III. Issues relating to specific provisions of the Covenant (arts. 6 to 15)

Article 6

The right to work

8. What measures have been taken to deal with the fact that such a large number of people, particularly indigenous workers and agricultural workers, are working in the informal sector? Please provide up-to-date information on the results of programmes, including technical and vocational training programmes in urban and rural areas, set up by the State party for the purpose of increasing employment and re-employment opportunities for workers in the formal sector, particularly disadvantaged individuals and groups, such as young people, indigenous women and persons with disabilities.

Article 7

Right to just and favourable conditions of work

9. Please provide detailed and up-to-date information, including statistics, disaggregated by sex and age, on domestic workers in the State party. Please say what steps have been taken by the State party to amend the special regime for domestic workers provided for in the Labour Code, which does not guarantee them the same rights as other workers in respect of, for example, the maximum duration of the workday and grounds for dismissal. Please comment on reports that 60 per cent of domestic workers earn less than the minimum wage, 98 per cent of domestic workers have no contract and only 1 per cent are registered with the Guatemalan Social Security Institute.

10. Please indicate what mechanisms the State party has established for adjusting the legal minimum wage in order to ensure a decent standard of living for workers and their families, as previously recommended by the Committee (E/C.12/1/Add.93, para. 32). Please also comment on reports that the earnings of the majority of agricultural workers are well below the legal minimum wage and on the linking of pay to the tasks performed by agricultural workers or their productivity, which has led to the exploitation of workers.

11. Please provide additional information on the steps taken to support the work of labour inspection offices by, for example, increasing their budget allocations, hiring and training inspectors and improving their working conditions, along with the infrastructure and tools that they need to do their work, and improving overall organization. Please also provide information on workplace inspections carried out by the General Labour Inspectorate, including up-to-date information on the number of inspections carried out in the last two years, the penalties imposed and the extent of employer compliance. Please also indicate the sectors in which inspections were conducted, including domestic, agricultural and child labour, as well as the maquila textile sector and unregistered labour in the various sectors of the economy (E/C.12/GTM/3, paras. 125 and 126). Please also indicate whether the State party intends to take steps to restore the Labour Inspectorate's authority to impose penalties.

12. Please provide information on the steps taken to improve women's position in the labour market, to address pay differentials between women and men, and to protect women working in maquila industries. Please include statistics.

Article 8

Trade union rights

13. Please provide information on specific measures taken by the State party to deal with the various practices used to prevent trade unions from being set up and with violations of trade union rights. Provide information on the murders of trade union leaders (E/C.12/GTM/3, paras. 131 and 132). Please also state whether these violations have been duly investigated and, as necessary, punished.

Article 9

Right to social security

14. Please provide information on the number of workers who are not yet covered by the social security system and the reasons for their non-inclusion. Also give information on the steps taken to extend social security benefits to everyone, as required by the Covenant, including the most disadvantaged and marginalized individuals and groups, in particular agricultural workers, as the Committee has previously recommended (E/C.12/1/Add.93, para. 35). Please also provide up-to-date statistics, disaggregated by sex, on workers in rural and urban areas currently covered by social security.

Article 10

Protection of the family, mothers and children

15. Please provide information, including statistics, on the impact of the measures taken to combat child labour. Please also provide information on the measures adopted to protect children from being involved in domestic work in hazardous conditions and from exposure to various forms of exploitation, as the Committee previously recommended (E/C.12/1/Add.93, para. 38). Please also state how many people have been convicted for the economic exploitation of children in the last five years.

16. Please describe existing or planned measures for the prevention of forced labour, especially in the textile sector and in rural areas. Also provide statistics, disaggregated by occupation, sex and country of origin, on victims of human trafficking, trends in this respect and the various forms of human trafficking, together with information on the support and assistance available to help trafficking victims become integrated into society. Please also provide information on any criminal convictions for human trafficking.

17. Please comment on reports that the comprehensive support centres for women survivors of violence suffer from funding shortages. Please provide information on the steps taken by the State party to strengthen the special courts that hear cases of femicide and cases involving other forms of violence against women.

Article 11

Right to an adequate standard of living

18. Please describe the results of the programmes and strategies being used to combat poverty, particularly in rural areas. Please comment on the information made available regarding the progress made to date towards meeting the Millennium Development Goals in Guatemala and the prospects for their achievement by 2015. Please also state whether the State party has a national plan to combat poverty.

19. Please provide information on the measures taken by the State party to address the very high levels of child malnutrition in the country and, in particular, on the impact of the national strategy for the reduction of chronic malnutrition (E/C.12/GTM/3, paras. 231–235). Please describe the causes of the 22 per cent increase in malnutrition (2,967 cases) in 2012, as mentioned in the report of the Secretariat for Food and Nutrition Security covering the period from December 2013 to February 2014. Please comment on reports of reductions in the coverage and budgets of conditional cash transfer programmes such as “Mi Bono Seguro”. Please also indicate what steps the State has taken to reinforce the implementation of the Zero Hunger Plan.

20. Please describe how the State party is addressing the serious housing shortage in both rural and urban areas (E/C.12/GTM/3, para. 245), including steps taken by the State party to strengthen the Housing Fund (FOPAVI) by, among other things, providing it with a sufficient budget. Please indicate how the State party ensures that its programmes exhibit sufficient diversity and relevance to address the various needs of the most disadvantaged and vulnerable groups, such as indigenous women heads of household.

21. Please provide information on the measures taken to handle cases in which indigenous land has been sold as individually owned plots to private firms, thereby hastening the breakup of indigenous lands. Please provide information on forced evictions from land occupied by indigenous communities to make way for single-crop farming or for mining or hydroelectric projects such as the Fénix nickel mine of the Compañía Guatemalteca de Níquel and the Xalalá hydroelectric plant. What steps have been taken to reduce the impact on communities that have been forcibly displaced? Please also describe the tax concessions granted to particular economic sectors, such as the mining industry.

Article 12

Right to physical and mental health

22. Please provide up-to-date statistics on maternal mortality and the steps being taken by the State party to combat it, particularly in rural areas and for indigenous women. Please provide information on measures taken to address the high rate of teenage pregnancies. Please inform the Committee whether the State party intends to increase the number of legal grounds for the performance of abortions in order to address the problem of unsafe abortions and related deaths.

23. Please provide information on steps taken to guarantee the provision of essential medicines and the timely provision of appropriate services, especially in rural and remote areas, and to remove the economic, cultural, and social barriers to such access and related forms of discrimination. Please provide information on the impact of the National Traditional Medicine Programme and the Health Care Clinic for Indigenous Peoples and Interculturalism.

Articles 13 and 14

Right to education

24. Please provide information on the steps taken by the State party to guarantee free primary education and comment on reports that State schools charge fees in the form of “donations” or “voluntary contributions”. Please provide information on the steps taken by the State party to bring down dropout rates, particularly at the secondary-school level and among girls. Please also indicate what impact those measures have had.

25. Please provide information on the intercultural bilingual teacher training that is provided and on the implementation of the bilingual education system in the State party, as

previously recommended by the Committee (E/C.12/1/Add.93, para. 45). Please provide information on the impact of the National Literacy Committee (CONALFA) and on how bilingual education is being incorporated into the literacy programme.

Article 15

Cultural rights

26. Please provide information on the specific measures taken to protect, promote and disseminate the cultural heritage of the indigenous peoples and the various ethnic groups. Please provide information on the outcome of the Cultural Development And Enhancement Programme (E/C.12/GTM/3, paras. 333–334) and on bill No. 3835 on sacred sites (E/C.12/GTM/3, para. 8).

27. Please describe the steps taken by the State party to guarantee affordable access to the Internet for disadvantaged and marginalized persons and groups in rural areas and elsewhere.
