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Committee on Economic, Social and Cultural Rights Thirty-eighth session

Summary record of the 4th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 1 May 2007 at 3 p.m.

Chairperson: Mr. Texier

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The meeting was called to order at 3.05 p.m.

Consideration of reports

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (continued)

Second periodic report of Nepal (continued) (E/C.12/NPL/2; E/C.12/NPL/Q/2 and Add.1; HRI/CORE/1/Add.42)

1. *At the invitation of the Chairperson, the delegation of Nepal resumed their places at the Committee table.*

Articles 1–5 of the Covenant (continued)

2. **The Chairperson** invited the delegation of Nepal to continue its replies to the questions raised at the preceding meeting.

3. **Mr. Paudyal** (Nepal), in response to the question on internally displaced persons, said that the relevant policy had been modified by the Government to be brought into line with the United Nations Guiding Principles on Internal Displacement and to cover all displaced persons, whether displaced by the State or by other parties. At the end of the conflict, an encouraging wave of voluntary returns had taken place, and the Government had put into effect measures aimed at encouraging and facilitating the return of displaced persons who had not yet returned home.

4. On the question about the rebuilding of schools, he pointed out that even during the conflict the Government had ensured that renovation and rebuilding works continued, and had earmarked 980 million Nepalese rupees for rebuilding schools and renovating 4,312 classrooms. The recently established Ministry of Peace and Reconstruction was responsible for the rebuilding programme, and the related Peace Trust Fund, recently instituted by the authorities, had already attracted many donors.

5. On the question of the protests in the Terai region, he said in an effort to re-establish the facts that the inhabitants of the region (48 per cent of the Nepalese population) were not exclusively Madhesi, but people from all over the country. The authorities had established citizenship certificates, an operation which was almost 95 per cent complete and in the course of which it had issued 2.2 million certificates. Lastly, on the question of the private army, which his delegation preferred to call combatants, they had been disarmed, under the aegis of the United Nations, and the process of checking combatant status would be initiated in the near future.

6. **Ms. Bonoan-Dandan**, noting that, since it had been announced that the elections initially planned for June had been postponed, it had become all the more urgent to complete the establishment of the National Human Rights Commission, asked whether any special mechanisms existed currently to receive and deal with complaints of human rights violations and, if so, what their precise mandates were. Returning to the question on the Madhesi, she sought further information on the Government's actions to put an end to the unrest in the Terai region, with the use of as little force as possible.

7. **Mr. Kolosov** asked about the dissemination of the new provisions of the Constitution among a population with a very high rate of illiteracy, and enquired whether the Constitution of Nepal had been translated into the languages spoken by minorities.

8. **Ms. Barahona Riera** asked what the Government's plans were for solving the problems of the redistribution of the lands of indigenous peoples, which was the primary cause of poverty and political instability. On the question of gender equality, she asked

whether there were any institutions that guaranteed that right set forth in article 3 of the Covenant and whether the Government had made any progress in that area.

9. **Mr. Paudyal** (Nepal) said that owing to the countless difficulties facing the country the nomination process for the membership of the National Human Rights Commission had been held up, but that the Commission should be formed in the forthcoming weeks. The Office of the United Nations High Commissioner for Human Rights was very well represented in Nepal, not only in Katmandu, but across the regions, and the International Committee of the Red Cross was also present and active and, like civil society, extremely dynamic. Regarding the police force, he explained that they intervened only to protect the lives and property of the population, using force as little as possible. He said that he had not fully understood the question on indigenous people's access to land ownership, since, as far as he was concerned, no indigenous people had been deprived of such access or had their lands seized. The problems of land ownership, if there were any, concerned the population as a whole and not only indigenous communities. Lastly, he recalled the existence of the Ministry of Women, Children and Social Welfare, which had been working in the country for several years to achieve gender equality, and the independent National Women's Commission, an official body also working in that area.

10. **Mr. Paudel** (Nepal) said that, while it was impossible to determine exactly the proportion of the population familiar with the Constitution, civil society and Government officials were working actively to make its provisions known. Specific training on the Constitution and international human rights instruments was given to officials and members of the police and army. Teaching on the Constitution was also part of school and university curricula. With a view to the election of the Constituent Assembly, which was expected to take place in the near future, no efforts had been spared to disseminate the constitutional provisions on human rights.

Articles 6–9 of the Covenant

11. **Mr. Riedel**, referring to articles 6 and 7 of the Covenant, asked why Nepal had not ratified International Labour Organization (ILO) Conventions No. 87, No. 105 and No. 169, since the delegation of Nepal had said that the Interim Constitution covered the question wholly or in part. Turning to the problem of the abolition of bonded labour, which had given rise to a considerable increase in unemployment in the country, he invited the Government of Nepal to indicate in its subsequent periodic report the plans and programmes it had adopted to that effect. Referring to the information communicated by the Government of Nepal in its written replies to question No. 15 of the list of issues, he wished to be informed of any results achieved by the measures undertaken, which could confirm an improvement in employment opportunities in the country.

12. Moving to question No. 16 on the list of issues, he enquired how the rights of Nepalese immigrants in India, numbering 1.4 million, were protected in the host country, and what the Government of Nepal was doing to obtain for them a minimum wage and all the guarantees provided for under articles 6 and 7 of the Covenant.

13. Judging the reply to question No. 17 on the list of issues inadequate, he asked for exact figures and statistics disaggregated for the different employment and unemployment categories to be provided in the following periodic report. Lastly, he wished to know the position of the Government of Nepal on the issue of the minimum wage (article 7 of the Covenant) and, recalling the information provided in the second periodic report of Nepal, paragraph 128, urged the State party to indicate specific goals and points of reference for the work it intended to undertake to eradicate the worst forms of child labour.

14. **Ms. Bras Gomes** asked the delegation of Nepal whether the recent revision of the minimum wage meant that there was no intention to revise it on a regular basis. She also

wished to know how the authorities checked the age of minors who received wages and at what age minors began to work.

15. In relation to article 6 of the Covenant, she asked whether the Government of Nepal intended to take steps to help women working in the informal sector of the economy, which was the category of workers the least protected in Nepal. She also wished to know whether local initiatives for creating jobs had been set up to enable indigenous women to earn income from their craft skills.

16. Referring to paragraph 65 of the written replies of the Government of Nepal to the list of issues, concerning social security benefits for older people, widows and widowers, women of all classes and castes and persons with disabilities, she said she had the impression that there was no framework law governing the general social security system, and asked whether the State party intended to extend social coverage to the entire population, and in particular to private-sector employees and agricultural workers who were not yet covered.

17. She then asked what the "social security allowance" mentioned in paragraph 164 of the second periodic report of the State party referred to and whether persons with disabilities, who, according to reliable sources, made up nearly 12 per cent of the population, could expect to receive it.

18. Lastly, she sought information on whether the State party intended to ratify ILO Convention No. 102 on social security minimum standards.

19. **Mr. Rzeplinski** asked what role the trade unions played in relations between workers, the Government and companies.

20. **Mr. Tirado Mejia** sought further information on the initiatives undertaken by the Government of Nepal to send Nepalese workers abroad to find jobs in 107 foreign countries, as mentioned in paragraph 133 of the State party's second periodic report. He also wished to know what measures the Government had taken to protect the rights of Nepalese nationals who went to work abroad, apart from the authorities' obligation to hold workers back if the monthly salary offered in the host country was less than US\$ 125. Lastly, he wished to know whether the State party had intervened with any relevant financial bodies to facilitate the repatriation of salaries at a favourable exchange rate.

21. **Mr. Paudel** (Nepal) said that his country had set up several special teams charged with studying the implications for the State party of ratifying the various ILO Conventions mentioned by the Committee members, including the adoption of the national instruments necessary for their implementation.

22. The 2002 Bonded Labour Prohibition Act had provided for land to be given to workers who had been reduced to servitude and who had benefited from a series of measures. Furthermore, various further training establishments gave courses to persons working in the underground economy to help them find work in the formal sector.

23. The majority of Nepalese migrant workers worked in India and vice versa: the two countries had instituted a special system which provided those migrant workers with a work visa and made them subject to the labour laws of their country of origin.

24. Aware that women were underrepresented in public office, the Government of Nepal had implemented measures to help them, which had not yet had the expected impact. Under the microfunding programmes, loans on good terms were granted to women who wished to launch into revenue-generating activities and to form cooperatives. In addition, a skills development centre offered training courses to women who needed them and to the members of the various communities.

25. While Nepal did not have a general social security system, the majority of the population was covered by different specialized systems.
26. Under the 1993 Trade Union Act, the trade unions were responsible for negotiating with the Government and employers on behalf of the workers they represented.
27. The Government of Nepal had drawn up guidelines for the central bank and various commercial banks in the country in order to facilitate the repatriation of salaries at a favourable exchange rate for migrant workers.
28. **Mr. Riedel** asked whether the Act of September 2006 amending the Foreign Employment Act had entered into force, and whether the State party intended to draw up a general policy to help migrant workers prepare for their departure and, where necessary, to facilitate their return and resettlement in a way which protected them from abuse by their foreign employers.
29. **Ms. Barahona Riera** asked whether the State party intended to ratify ILO Convention No. 169 on Indigenous and Tribal Peoples in Independent Countries and whether indigenous communities had access not only to their ancestral lands and the natural resources they contained, including water, but also to land titles.
30. **Mr. Paudel** (Nepal) said that the Act amending the 2006 Foreign Employment Act was currently being examined by Parliament, which should ensure more government involvement in the departure abroad of Nepalese workers. The Government had also concluded a certain number of bilateral agreements with various host countries receiving Nepalese workers with a view to protecting their rights. While minors aged between 14 and 16 years old did sometimes work, their occupations were never hazardous. Regarding the revision of the minimum wage, he invited Committee members to refer to the written response of the Government of Nepal to question No. 22 of the list of issues.
31. **Mr. Paudyal** (Nepal) said that the land reform undertaken at the start of the 1960s, the aim of which had been to distribute land more equitably, had not yielded the expected results and that there were no large landowners left. He added that State land had also been distributed and that indigenous peoples were not the only ones deprived of land. The 2003 Act amending the Land Reform Act, which had reduced the area of land that a single family could own, had not significantly improved the situation.

Articles 10–12 of the Covenant

32. **Mr. Pillay**, noting with concern that the greater part of the land still belonged to a handful of large-scale farmers, asked whether the Government of Nepal intended to implement effective land reform to rectify the situation. He quoted an International Monetary Fund (IMF) report, according to which 31 per cent of persons in Nepal lived in poverty, and he wanted to know what measures had been taken at the national level to tackle the root causes of poverty and to take better account of economic, social and cultural rights. He welcomed the planned inclusion of the right to housing in the Constitution, but was surprised to read in the second periodic report of Nepal, paragraph 218, that housing was the individual's responsibility and not the State's. He urged the Government to provide housing at a reasonable rent for the most vulnerable and poorest persons. He also expressed surprise at reading in the same report, paragraph 215, that there was no forced eviction in urban areas and deplored the lack of legislation on evictions. In that respect, he drew the delegation's attention to the Committee's general comment No. 7 on the right to adequate housing and on forced evictions.
33. **Mr. Atangana** urged the State party to take steps to ensure that all births were registered and asked what was being done to combat the practice of corporal punishment.

34. **Mr. Kolosov** requested further information on the quality of housing, given that, according to some sources, 50 per cent of all housing was temporary and 30 per cent was semi-permanent. He also enquired as to the use made of the sum of US\$ 10 million allocated to the housing sector in urban areas. Noting with satisfaction that, according to table 9 in the second periodic report of Nepal, the standard of housing had improved, in particular with regard to access to running water, he wished to know whether such improvement was due to the efforts of landlords. Lastly, he sought more substantial information on forced evictions and on the bill on land rights.

35. **Mr. Riedel** asked the delegation of Nepal to comment on the information that, in some villages, Dalits allegedly encountered difficulties using communal wells and were obliged to pay persons belonging to higher castes to obtain drinking water for them.

36. On the subject of health, he asked what steps the State party had taken to curb the increase in diarrhoeal diseases between 2000 and 2003 and the alarming spread of the HIV/AIDS epidemic. He noted with satisfaction that the reproductive health situation had greatly improved, but requested precise details on the progress made. He asked for information on access to contraception for vulnerable and disadvantaged groups in particular. Lastly, he requested information on inspections of private health-care facilities by the public authorities, on the use of traditional medicines and treatments, and on care of the mentally ill in the normal health-care system.

37. **Mr. Sadi** expressed the view that the caste system had repercussions on the effective enjoyment of all the rights covered by articles 10 to 12 of the Covenant and asked for the opinion of the delegation of Nepal on the matter. He also enquired why the practice of forced marriages of children continued when it was prohibited by law.

38. **Mr. Tirado Mejia** noted that, according to paragraph 49 of the State party's second periodic report, 79 per cent of the rural population and 93 per cent of the urban population had access in 2005 to a sustainable supply of drinking water. Yet, in paragraph 52 of the same report, it was indicated that 55 per cent of wells in 20 Terai districts were microbiologically contaminated and that thousands of people were using arsenic-contaminated water. Since such conflicting information did not provide a clear picture of the situation with regard to access to clean water and sanitary facilities, the delegation of Nepal was invited to provide an explanation.

39. **Ms. Barahona Riera** asked whether the bill on domestic violence had been approved and whether domestic violence had been made a criminal offence. If so, she enquired what punishments were applicable to the perpetrators of such violence and what protective measures were offered to the victims. She also asked for information on the jurisdiction, resources and degree of independence of the National Women's Commission. Lastly, she asked whether the law penalized the trafficking of persons and, if so, whether it was an effective means of combating the scourge.

40. **Ms. Bras Gomes** wished to know whether the 2005 national Plan of Action on Ageing was still in force and whether it had yielded the expected results. Noting that the number of private retirement homes continued to grow to compensate for the lack of public institutions, she asked what control the public authorities exercised over private institutions. Given that solidarity was still strong in Nepalese society, she suggested that it might be advisable to develop services at home for older persons.

41. **Ms. Bonoan-Dandan** said that she regretted that the State party had not properly answered question No. 19 of the list of issues, in the light of the fact that, according to Human Rights Watch, the number of children enrolled in the Communist Party of Nepal remained high and such children were not given any help with resettlement. She also deplored the State party's overly vague response to questions No. 23 and 25 of the list of

issues. Generally speaking, the State party should provide more detailed information in its subsequent periodic report, in order to give a clear picture of the situation in the country.

42. **Mr. Paudel** (Nepal) recalled that his country was among the least developed in the world and that agriculture still played a decisive role there. While the Government would not have access to disaggregated statistics on the proportion of poor persons in the population until some time in 2007, the level of poverty was undoubtedly very high. However sustained the efforts of the authorities were, the lack of resources inevitably affected their ability to ensure the exercise of all human rights. The right to housing, for example, was written into the new Constitution, but the mechanisms making it enforceable were not yet in place. Currently, activities to help homeless persons were private initiatives and the shelters proposed were, admittedly, not of the same standard as those in other countries.

43. Like all the other communities, Dalits had the right to use communal water facilities. Preventing them from doing so constituted an offence under the legal provisions prohibiting discrimination. Such discriminatory behaviour really existed only in certain remote rural areas and was subject to fines. Likewise, forced marriage and trafficking in persons were now forbidden by law, but in reality would only disappear over time. The authorities were aware of those problems and had taken the necessary judicial, administrative and awareness-raising decisions. The process would be lengthy, but it had been started.

44. Diarrhoeal diseases and sexually transmitted infections were being tackled by prevention programmes in all health-care establishments. In 2006, a law concerning older persons and a new plan of action for them (Plan of Action on Ageing) had been adopted. The Plan had been drawn up with the help of civil society, whose role was clearly defined. The Ministry of Women, Children and Social Welfare had been charged with its application. By exerting strong pressure, civil society had also played an important role in the creation of the National Women's Commission, an independent body for the protection of women. Domestic violence was not currently the subject of separate provisions, but was punishable by law under more general provisions. The adoption of separate provisions was planned, but the question of whether they should be criminal or civil provisions had not yet been settled.

45. Since the peace agreements had been signed, steps had been taken to inspect camps for the possible presence of children enrolled by force by the Maoists. Any child discovered in such a situation was placed under State protection and benefited from reintegration services. Nepal had the invaluable help of the United Nations in carrying out that work. In conclusion, while the difficulties which Nepal was encountering in fulfilling its international obligations were many, the most important being the lack of financial resources and qualified human resources, the necessary legal framework and political commitment already existed.

46. **Ms. Barahona Riera** sought further information on: the programmes set up to combat trafficking in persons and its root causes; steps to ensure equal rights between men and women in terms of inheritance and succession, which were enshrined in the Constitution but had not yet become socially accepted; and, lastly, the number of women who were heads of families and steps taken to help them.

Articles 13–15 of the Covenant

47. **Ms. Wilson** would like to know whether primary education was compulsory. Noting that Nepal was made up of some 59 indigenous peoples, who spoke more than 90 dialects, she asked whether indigenous persons could use their own language freely and receive an education in that language.

48. **Mr. Paudel** (Nepal) answered that the question of whether primary education should be made compulsory was under consideration. Currently, the authorities only encouraged it and tried to lower the school dropout rate, for example, by making primary education free under the new Constitution.

49. **Mr. Kerdoun** raised a number of issues: some 6 per cent of school-age children were not enrolled in school; the school dropout rate was alarming and almost half of the population was illiterate. He enquired what measures the State party was taking in that regard, including among disadvantaged groups such as the Dalits. He was pleased to read in the second periodic report of the State party that primary education was free, but wondered whether that meant that post-primary education was not. He regretted the lack of information in the second periodic report and the written replies on practical measures taken to re-establish a balance between men and women in the teaching profession and on higher education. Details should be given on conditions for entry into university and the proportion of women among the students. An estimate of the proportion of foreign aid in the higher education budget would also be welcome.

50. **Mr. Marchan Romero**, reading from the second periodic report of Nepal, paragraph 275, that there were about 100 castes and ethnic groups, only 59 of whom were recognized as indigenous groups, asked what criteria were applied to the recognition of a group as indigenous. He expressed a strong hope that the State party would become aware of the wealth of its cultural heritage. According to reliable sources, although it did not take restrictive measures against particular cultures, Nepal was nevertheless allowing many of them to decline, for lack of proactive measures to help them, contrary to the obligations stipulated in article 15 of the Covenant. Access to traditional lands, in particular, was very important for indigenous communities. He asked the delegation to give details of how the authorities guaranteed such access for them and what was being done to safeguard biodiversity on those lands.

51. **Mr. Sadi** asked the delegation of Nepal to specify the aims of the education offered in Nepalese schools, pointing out that educational establishments could be excellent places for promoting national unity. He would like to know whether segregation of pupils according to caste still existed in some schools and, if so, what efforts the State party was making to combat such practices, and to what extent education programmes at all levels took account of human rights.

The meeting rose at 6 p.m.