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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Thirty seventh session

SUMMARY RECORD (PARTIAL)* OF THE 36th MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 8 November 2006, at 3 p.m.

Chairperson: Ms. BONOAN-DANDAN

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* No summary record was prepared for the first part (closed) of the meeting.

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The second part (public) of the meeting began at 3.45 p.m.

CONSIDERATION OF REPORTS:

- (a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6)
(continued)

Second periodic report of El Salvador (E/1990/6/Add.39;
E/C.12/SLV/Q/2 and Add.1; HRI/CORE/1/Add.34/Rev.2)

1. *At the invitation of the Chairperson, the members of the delegation of El Salvador took places at the Committee table.*

2. The CHAIRPERSON welcomed the delegation of El Salvador and invited it to introduce the second periodic report of the State party.

3. Mr. LARIOS LOPEZ (El Salvador) said that his country had shown progress in the strengthening of democracy and the rule of law, respect for political freedom and national reconciliation. An open posture towards the outside world had also promoted development, thanks to the strengthening of Central American integration, the implementation of free trade agreements and regional initiatives such as the Puebla-Panama Plan, and new forms of bilateral cooperation oriented towards development. Since the signing of the peace accords in 1992, El Salvador had spared no effort to improve its economic and social situation through the creation of jobs, the development of infrastructure in the fields of health and education, and the preservation of the national identity and culture.

4. Having suffered many natural disasters, such as the two earthquakes in 2001 and the eruption of the Santa Ana volcano Ilamatepec and hurricane Stan in 2005, El Salvador had had to use resources intended for the fight against poverty in order to repair the destruction caused and take measures to reduce and prevent risk. Furthermore, the constant rise in gasoline prices had had a negative impact on economic and social development. El Salvador was considered a middle income country, but it still needed international assistance in order to continue to promote sustainable development.

5. When President Elías Antonio Saca had come to power, priority had been given to social action, in particular by launching the "Opportunities" programme, which sought to capitalize on the country's human resources and ensure equality for all Salvadorians by responding to their basic needs and giving them the tools they needed in order to take advantage of their opportunities. Significant results had been achieved in various fields, including the struggle against poverty, health and education reform, housing, protection of the environment, development of the road system and culture.

6. According to the multi-purpose household survey, the proportion of people living below the poverty level had dropped from 33 per cent in 1991 to 15 per cent in 2004, and the unemployment rate stood at 6.78 per cent in 2004. The sexual equality indicators showed that differences between men and women were negligible as far as access to education was concerned. The net school enrolment rate in primary schools had risen beyond 78 per cent in 1991 to 88 per cent in 2004, and the literacy rate for young people had reached 94 per cent in 2004.

7. In 2006, the State had devoted 33 per cent of its national budget to social development. In the framework of the "Opportunities" programme, El Salvador had implemented a programme entitled "Network for Solidarity", which would make it possible to provide direct or indirect assistance to nearly 100 000 extremely poor families, especially in the countryside, during the 2005-2009 period. The plan was to extend the coverage provided by the programme in 2010-2015 so that 220 000 extremely poor households could benefit.

8. In August 2005, El Salvador established a solidarity fund for health, which sought to broaden the coverage of basic health services in the countryside and in towns. At the national level, 3.8 million people benefited from the fund through a network of 100 clinics.

9. Education had become a national priority, and the budget of the Ministry of Education had grown by 41 per cent between 1999 and 2006. The school system reform carried out from 1995 to 2005 had made it possible to improve access to education, strengthen the independence of schools, increase the school enrolment rate and reduce illiteracy. However, the reform had not been as effective as hoped, and the Government had adopted a new national action plan for education up to the year 2021. The idea was mainly to provide a complete education, to arrange matters so that schooling would last at least 11 years for all students, to offer higher level technical training and to develop science and technology. In the view of UNESCO and the Economic Commission for Latin America and the Caribbean, El Salvador should be able to achieve the Millennium Development Goals for education.

10. Established in 1996 to ensure equality between men and women, the Salvadorian Institute for the Development of Women was coordinating the implementation of the national policy in that field and had prepared a new plan of action for the period 2005-2009. Its budget had been increased by 73.4 per cent in 2006 so that it could carry out its mission. By 6 November 2006 1 175 084 people had directly benefited from the Institute's services and 351 demonstrations against domestic violence had been organized across the entire country.

11. In accordance with International Labour Organization (ILO) Convention No. 182 (1999) on the elimination of the worst forms of child labour, El Salvador was conducting a campaign against child labour in collaboration with the ILO International Programme on the Elimination of Child Labour and had established a national committee for the elimination of the worst forms of child labour. With the support of non-governmental organizations (NGOs) and the ILO Programme, the State had managed to prevent 29 000 children from being employed to perform extremely dangerous work.

12. Wishing to meet its obligations under the United Nations Convention against Transnational Organized Crime, in particular under its Additional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, El Salvador had declared trafficking in persons a crime, had established a national committee against trafficking in persons in 1995 and had opened a shelter for victims of trafficking, which 75 people of both sexes and various nationalities and ages had taken advantage of.

13. Ms. CUBIAS MEDINA (El Salvador) said that her country had ratified many human rights instruments, which were listed in her Government's written reply to item 7 of the list of issues, and that the Constitution, in its articles 2 and 3, fully

endorsed human rights and expressly prohibited discrimination. Furthermore, article 30 of the Labour Code and articles 153 and 246 of the Criminal Code sought to repress any act of discrimination by a civil servant. El Salvador had taken many measures to combat the various forms of discrimination, especially discrimination against the disabled, indigenous peoples and women. It had in that connection adopted a law promoting equal opportunities for the disabled and had established a national council for the disabled. Although El Salvador had not adopted a law specifically concerning indigenous peoples, their rights were recognized under the Constitution, which stated that all were equal before the law and enjoyed the same civil and political rights without distinctions based on race, sex or religion. Article 62 of the Constitution provided further that the vernacular languages spoken in the national territory formed an integral part of the cultural heritage and should therefore be protected as such. Furthermore, the Office of the Procurator for the Defence of Human Rights (*Procuraduría para la defensa de los derechos humanos*) had established a working group on indigenous peoples to study the problems they faced.

14. The basic instrument used by the Government to promote equality between men and women was the national policy for women being implemented by the Salvadorian Institute for the Development of Women. The Institute had produced three action plans with the collaboration of 45 governmental and non-governmental organizations.

15. Ms. de INNOCENTI (El Salvador) said that the establishment of the Institute had provided the basis for the development of policies and programmes aimed at eliminating discrimination against women and at reducing differences in the treatment of the sexes. That action was oriented along four thematic axes: social development, sustainable economic development, governance and institutional development and covered about a dozen sectors of activity, including education, health, work, family, violence, communication and culture. The 45 institutions and Government bodies working on the programmes collaborated closely with NGOs and civil society. Domestic and sexual violence were high priority topics, where the main thrust was to develop awareness, strengthen prevention and establish shelters where women and children at risk could be received. At the local level, fairs (*ferias*) aimed at raising awareness of domestic violence had been organized in more than 262 towns. Rehabilitation and reintegration programmes had been developed for girls who had fallen victim to sexual or commercial exploitation.

16. The results achieved in the framework of the Programme of Action for 2000-2004 under the national policy on the status of women had led the Government to increase the Institute's budget for 2005-2009 considerably, which would enable it to extend its activities to cover the entire country. With regard to the representation of women in political life, the proportion of women in the legislature had risen in the past 10 years from 5 per cent to 20 per cent, and in the executive branch from 16.4 per cent to 34.4 per cent.

17. Ms. CUBIAS MEDINA (El Salvador) said that the International Covenant on Economic, Social and Cultural Rights had been ratified by El Salvador in 1979 and that, in accordance with article 144 of the National Constitution, any instrument ratified by the State became a law of the Republic with immediate application in domestic law. There was, therefore, a body of jurisprudence that attested to the fact that the Covenant had served as a basis for decisions taken at all jurisdictional

levels. Significant progress had also been achieved in the context of the implementation of the 1992 peace accords in terms of ensuring effective realization of economic, social and cultural rights, despite the impact of the natural disasters experienced by the country since then.

18. The fight against poverty had been intensified with the establishment of the "Network for Solidarity" programme, which focused specifically on families, unlike its predecessors, which had focussed rather on the individual. The programme targeted especially families living in extreme poverty, as well as certain towns that had been declared priorities. It stressed meeting basic needs, namely, education, primary health care and nutrition, and sought to make the beneficiaries more responsible, mainly through microcredits. Special attention was devoted to basic infrastructure, such as lighting, water supply and sewage systems.

19. In the framework of the programme entitled "Health at School", which had been started in 1995 in 24 schools, children were subjected to regular monitoring of their height, weight, eye sight and hearing, and they received food supplements and vitamins. At the present time all rural schools participated in the programme. The establishment of various bodies, such as the Salvadorian Institute for the Full Development of Children and Adolescents, the National Council for the Full Protection of the Disabled, the National Council of Programmes to Help the Elderly and the Council of Indigenous Women, bore witness to the importance that the Government attached to the effective enjoyment of economic, social and cultural rights.

20. Information and awareness-raising among persons whose work had human rights dimensions began at the early training level. The National Public Security Academy, for example, had made human rights education an essential part of the programme to train future police officers.

Articles 1 to 5 of the Covenant

21. Mr. ATANGANA, supported by Mr. TIRADO MEJIA, asked the delegation to provide examples of jurisprudence involving direct application of the Covenant. He added that the Committee had received information that, although the Constitution guaranteed the independence of the judiciary, there were many cases of corruption, fraud, even fake lawyers and judges, and impunity, to which the authorities had not reacted in any way.

22. Ms. BRAS GOMES said that the measures and programmes adopted by the State party seemed to have had no significant impact in rural areas, where, according to information supplied by Salvadorian NGOs, the problems had even got worse in terms of the level of poverty and access to public services. Noting that in paragraphs 463 and 464 of its second periodic report, the State party had indicated that the basic family shopping basket in urban areas included more food than that in rural areas, she wanted to know what the Government intended to do to improve that situation. She requested information on the coordination, monitoring and evaluation of many of the programmes targeting specific groups of the population. Finally, given the fact that the differences between the sexes tended to be the result of certain perceptions of social roles, she asked what was being done in education to speed up changes in mentalities.

23. Ms. BARAHONA RIERA requested more information on the implementation of the peace accords in certain areas that had not been mentioned yet but were of

great importance for the exercise of economic, social and cultural rights, such as land redistribution and other aspects of the fight against poverty, including trade union freedom. She also welcomed the results achieved by the Salvadorian Institute for the Development of Women and asked whether it was authorized to draft legislative proposals that could further promote the status of women, and whether the Institute intended to deal with the problem of women's participation in the country's social and economic life. With reference to the statement that the Institute's budget had been increased by 73 per cent, she asked what that increase amounted to in money terms.

24. Mr. MARCHAN ROMERO asked whether the Constitution or the Covenant would prevail in the event of a conflict between their provisions. In its written reply to item 3 of the list of issues, the Government had indicated that there was no jurisprudence relating to violations of economic, social and cultural rights, which disagreed with what the delegation had said in its opening statement. The ability to bring proceedings on the basis of those rights was of great importance to the Committee, and, where that ability was inadequately developed, it was generally due to the fact that the standards of the Covenant were not clearly incorporated into domestic law or that judges were not fully aware of the international commitments undertaken by the State party or that individuals were only poorly aware of the rights enshrined in the Covenant. It would be useful to have more precise information on the situation in the State party in that respect.

25. He was also surprised to learn that El Salvador, where there was broad ethnic diversity, had not ratified ILO Convention No. 169 (1989) on indigenous and tribal peoples. He asked, finally, whether the Government had specific projects aimed at reducing emigration, which only worsened the problems of disadvantaged families, such as crime and young delinquent gangs. In that connection, he expressed his concern at the impact that measures such as treating delinquent minors as adults had on the exercise of fundamental rights.

26. Mr. TEXIER, referring to the Office of the Procurator for the Defence of Human Rights, to which he was particularly attached as he had participated in its establishment while he had been the head of the United Nations Observer Mission in El Salvador (ONUSAL), cited recent information to the effect that members of the Office had received threats, including the Procurator herself. He asked what the State was doing to ensure the protection of those persons and to prosecute and convict the perpetrators where those threats could be confirmed. Referring to paragraph 16 of the Procurator's report (document in Spanish only, distributed during the meeting), he asked whether the Forum for Economic and Social Consultation, which seemed to have been one of the effective ways of implementing the Covenant, had lost its vigour and whether the authorities intended to take steps to restore its dynamism.

27. He asked whether the "dollarization" of the economy had had a negative impact on the enjoyment of economic, social and cultural rights in the country, especially among the poorest people, who had no access to the international market, whether it had led to a rise in the cost of living and a loss of national sovereignty, and whether the Government intended to maintain that situation or return to autonomy in banking and trade.

28. Mr. TIRADO MEJIA wanted to know the Government's views on the draft additional protocol, now under discussion, which would make it possible to submit

individual petitions. El Salvador had a sort of moral debt in that regard, as it was the Protocol of San Salvador, an additional protocol to the American Convention on Human Rights, that dealt with economic, social and cultural rights and enshrined those rights in the inter-American system.

29. Referring to paragraph 47 of the second periodic report of the State party, which dealt with paragraph 3 of article 2 of the Covenant, he said that the provisions of the Constitution cited there, which limited commercial and industrial activities to native-born Salvadorians, were reminiscent of countries that were emerging from a colonial situation, which was not the case with El Salvador, and he wanted to know whether there were plans to amend those provisions.

30. Citing information submitted by NGOs, he asked whether the delegation could confirm that lie detectors were used in screening individuals applying for employment in certain Government bodies, who were asked in particular about their political, sexual, trades union and other orientation, and that women were required to specify their marital status, namely, unmarried, married or widowed, which would constitute discrimination against women. Similarly, he requested clarification on articles 79 and 83 of the Labour Code, which included discriminatory provisions against domestics, namely, an obligatory statement regarding their state of health and a waiver of employer responsibility. Finally, with regard to the problem of migrants, who formed a sizable group in the country, about 30 per cent of the population, he wished to know what assistance the State provided to Salvadorian migrants abroad, including during the migration process.

31. Mr. RIEDEL expressed his regret that, in its second periodic report, the State party had made no mention of any specific measures taken to follow up on the many laws, plans and programmes adopted. The Committee needed to know more details in order to evaluate, in a spirit of constructive dialogue, the progress made, the problems encountered and the degree of protection offered to individuals and groups in the country. The Committee wished, therefore, to receive statistics that were comparative, i.e. broken down by category, group and year, which would enable it to trace the evolution of the situation, see any gaps and explore the reasons for them.

32. Referring to paragraph 45 of the report under consideration and recalling the wording of paragraph 1 of article 2 of the Covenant, he said that the Government should submit facts and numbers that show what it had done to improve the rights situation.

33. Mr. SADI asked whether the various people responsible for preparing policies and the ministers in departments such as development, health and education knew the Covenant and whether the Covenant was taken into consideration when trade agreements were signed with neighbouring countries. He also asked whether the Office of the Procurator for the Defence of Human Rights, which was responsible for a vast set of issues, concerned itself with economic, social and cultural rights and, if so, he would like to know about specific cases.

34. On the subject of ethnic minorities in the country, he asked the delegation to confirm information that suggested that those minorities had lost their cultural identity and had been assimilated in a sort of social intermingling. With regard to the emigration of Salvadorians, especially to the United States, and the migration from the countryside to towns, he asked what the scale of those two phenomena was and what measures had been taken to reduce them. Finally, he asked whether the

Roman Catholic Church enjoyed privileged treatment in the country, which, if that were the case, would be a form of religious discrimination.

35. Ms. GHOSE asked for clarifications as to the situation of indigenous peoples. She wished to know, in particular, whether those peoples owned their land and whether their languages and cultures were respected.

36. Mr. ABDEL MONEIM, recalling article 9 of the Covenant, asked why army personnel, who were already paid more than other professional categories, also received better pensions, according to information received by the Committee. He also wanted to know why the pension scheme had been privatized, what the scope of that measure was and what problems had arisen in the process.

The meeting was suspended at 5.25 p.m. and resumed at 5.30 p.m.

37. Ms. CUBIAS MEDINA (El Salvador) said that the international instruments that had been ratified by El Salvador and had entered into force had the force of law, and, in the event of a conflict with domestic legislation, the provisions of the international instruments prevailed. Those instruments could not be relied on directly in courts but their provisions could be applied once they had been incorporated into the Constitution, as could be seen from the jurisprudence listed in annex 2 of the second periodic report, which cited articles 3 and 25 of the Covenant in particular. The power of the rights enshrined in international instruments in general, and in the International Covenant on Economic, Social and Cultural Rights in particular, to serve as the basis for court proceedings was thereby guaranteed. In order to ensure that judges, prosecutors, court magistrates and other members of the court system were familiar with the human rights protection machinery and the implementation of the international instruments, courses had been organized at the National Magistrates Council and the National Magistrates Academy with the help of the Office of the High Commissioner for Human Rights.

38. With regard to migration, the Republic of El Salvador was at one and the same time a sending country, a transit country and a receiving country. According to estimates, a quarter of the Salvadorian population lived abroad. The scope of the phenomenon had prompted the Government in 2004 to establish a Vice-Ministry of Foreign Affairs tasked with protecting the rights and interests of Salvadorian nationals abroad by providing them with consular services, so as to ensure that they could receive legal assistance if needed or to assist in family reunification. A trust fund had also been established in 2001 to assist in repatriating Salvadorian nationals living illegally abroad, especially in the United States, in the event of death or serious illness, whether or not the person concerned was a minor or fully of age.

39. A "Welcome Home" programme had been established to facilitate the reception of Salvadorians who had been expelled from the United States by supplying them with clothing and food and by assisting them in re-entering Salvadorian society through orientation sessions on the labour market and living conditions in the country. The programme also sought to make the returnees aware of the risks they took in going abroad without having previously taken the administrative steps required in their destination country, and in particular the risks of falling victim to human traffickers. In that connection, El Salvador received support from many international organizations, such as the International Organization for Migration, the United Nations Development Programme and the United Nations Children's Fund.

40. There also was a programme to bring skilled people back to the country, which sought to get professionals who had emigrated to return and work in the civil service. A specially designed pension system for expatriate Salvadorians sought to get such migrants to take their retirement in their country of origin. As a result of the competition between the various banks of the country, the costs of repatriating salaries had fallen sharply in the past three years and were now nearly negligible.

41. Ms. de INNOCENTI (El Salvador) said that the Salvadorian Institute for the Protection of Women was the body charged with assisting women and girls who had fallen victim to human trafficking and to provide them with space in a shelter that had been established especially for them. Since 2002, the Institute had offered them various types of training, which would enable them to hold paying jobs that would allow them to support themselves.

42. In order to fight poverty and promote equality of opportunity, the Government had worked to improve the sanitary and educational infrastructure in the 100 poorest towns in the country and had put in place measures to assist underprivileged families, which were usually single-parent families headed by a woman. Poor women, female heads of household and unmarried and adolescent mothers could also receive loans on generous terms, as well as day care services if they were enrolled in a training programme.

43. With regard to training, mobile workshops had been established to reach groups of people who lived in the most remote areas of the country and were therefore unable to get to a training centre in town.

44. Ms. AVILA DE PENA (El Salvador) said that on 1 June 2006 the Ministry of Labour and Social Welfare had established a special unit to deal with women and the prevention of discrimination in employment. In that connection, funds had been released to cover the cost of hiring about forty additional labour inspectors to deal with complaints submitted by employees who felt that they had been victimized. As far as she knew, employees did not hesitate to submit complaints if they felt that their rights had been violated. She also pointed out that the use of lie detectors was prohibited by law.

45. Nearly 18 000 professional employees had received training in their employment rights and on how to obtain redress if their rights were violated. Labour inspectors had received additional training on the principles enshrined in the various ILO conventions, in particular Convention No. 29 (1930) on forced labour, Convention No. 100 (1951) on equal remuneration for men and women workers for work of equal value, Convention No. 111 (1958) on discrimination in employment and occupation and Convention No. 156 (1981) on equal opportunities and equal treatment for men and women workers, including workers with family responsibilities.

46. The Ministry of Labour and Social Welfare had also recently urged heads of businesses to examine the working conditions that they offered their employees and urged them to ensure that those conditions conformed closely with the requirements laid down in labour legislation and in international instruments to which the country was a party.

47. In the context of the Free Trade Agreement signed between Central American countries and the United States, a review body had been established, consisting of 15 persons, with the task of monitoring respect for the provisions of international

instruments to which the country was a party, including the International Covenant on Economic, Social and Cultural Rights.

48. Ms. RAMIREZ (El Salvador) said that, since the signing of the peace accords, priority had been given to improving social indicators and, in order to do that, resources had been allocated to regions most affected by poverty, especially those that had been the victims of natural disasters. A poverty map had been drawn up to show the regions where access to basic services was most restricted. The "Network for Solidarity" programme was not simply a paper document but formed part of the Government's policy aimed at improving equality of opportunity.

49. Various bodies had been established to coordinate activities to combat poverty, including a council within the Ministry of Social Affairs that was responsible for designing policies for the fight against poverty, a technical committee tasked with organizing action in the field, and local offices, whose function it was to implement that action in the various towns. All projects and programmes implemented at the local level were evaluated by the technical secretariat of the presidency, which gathered all the data and relevant indicators that the public bodies were supposed to provide.

The meeting rose at 6 p.m.