



Economic and Social Council

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Committee on Economic, Social and Cultural Rights

Forty-ninth session

Summary record (partial)* of the 45th meeting

Held at the Palais Wilson, Geneva, on Thursday, 21 November 2012, at 10 a.m.

Chairperson: Mr. Pillay

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* No summary record was prepared for the rest of the meeting.

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The discussion covered in the summary record began at 10.25 a.m.

Consideration of reports

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

Equatorial Guinea

1. *At the invitation of the Chairperson, the delegation of Equatorial Guinea took places at the Committee table.*

2. **The Chairperson** recalled that the initial report of Equatorial Guinea had been due in 1990 and that a first reminder had been issued in 2007, followed by two more in June and December 2011. Yet the State party had failed to submit a report.

3. **Mr. Nsue Mokuy** (Equatorial Guinea) said that his Government regretted the failure to submit the report, for which it requested the Committee's leniency, and was committed to making the necessary efforts to comply with its requests. In response to the list of issues (E/C.12/GNQ/Q/1), the Government had nevertheless submitted a document (no symbol, Spanish only) describing the implementation of the International Covenant on Economic, Social and Cultural Rights in Equatorial Guinea, the progress made in that connection and the challenges encountered. The document had been prepared on the basis of a broad national consultation. The Government, through the Ministry of Planning, Economic Development and Investment, had set up mechanisms and programmes to improve socioeconomic and cultural conditions. "Equatorial Guinea 2020", a national action plan for social and economic development, had been adopted in November 2007 at the second national economic conference.

4. **Mr. Ribeiro Leão** (Country Rapporteur) said he regretted that the document referred to by Mr. Nsue Mokuy had been submitted so late and in Spanish only, making it impossible for a number of the Committee members to benefit from the information it contained. He welcomed the delegation's assertion that the State party would submit a report in response to the Committee's concerns and commended it on the ratification of various international human rights treaties and International Labour Organization conventions, the promulgation of the 1995 Education Act and the 2005 HIV/AIDS Act and the establishment of a social fund.

5. However, there were many points of concern, not least the total lack of specific data and statistics on any of the articles of the Covenant. Accordingly, he requested information — including disaggregated data, programmes and measures — regarding employment, unemployment and underemployment, women in the labour market, the informal sector, the minimum wage, social security, access to basic services, school enrolment, microcredit and the situation of persons with disabilities. He also requested additional details about "Equatorial Guinea 2020".

6. Given that under the Constitution the provisions of international instruments were not directly applicable, he asked how they were incorporated into domestic legislation and whether there were examples of the courts invoking the Covenant. He also asked what the relationship was between the Government and the National Human Rights Commission, whether the Commission was operational and what its status was. Drawing attention to possible discrepancies in the figures on social spending, he wondered what currency was being used, what share of social services was privately funded and whether such private funding was included in the figures provided. Although Equatorial Guinea was resource-rich, there appeared to be a serious problem of distribution of resources, since more than 70 per cent of the population lived in poverty. He asked whether studies had been conducted on poverty and what poverty-reduction programmes were in place. Similarly, the State

party had soaring malnutrition rates. What strategies had been devised to address the situation, especially with regard to children under 5?

7. Concerned that sexual orientation was not among the prohibited grounds for discrimination, he requested further information about specific anti-discrimination measures and any progress made in that connection. Noting that the State party had a dual legal system, in other words both civil and customary law, he wished to know what remedies were in place for offences not codified in civil law. Referring to the social housing units under construction, he asked where they were being built and who was eligible for them and under what conditions.

Articles 1 to 5

8. **Mr. Tirado Mejía** said that the State party was obliged under the Covenant to submit a timely and comprehensive report. He asked for a detailed explanation of how the State party was addressing the problems arising from its dual legal system. He enquired about allegations that the judiciary was not truly independent, that human rights defenders were harassed and that human rights associations were prevented from conducting their activities. He also asked whether it was true that in certain sectors jobs were given only to card-carrying members of the ruling political party and, if so, how the State party intended to counter such discrimination. Referring to the State party's obligation to invest a maximum of its available resources in realizing the rights defined in the Covenant, he said that the state of health and education in Equatorial Guinea was deplorable, especially considering its vast resources and income.

9. **Ms. Shin** observed that the document recently submitted by the State party was in no way a report. She asked why Equatorial Guinea had failed to submit its initial report to the Committee when it had experienced no problem in undergoing the universal periodic review in 2009 and in submitting its sixth periodic report to the Committee on the Elimination of Discrimination against Women as recently as 2011.

10. **Mr. Nsue Mokuy** (Equatorial Guinea) said that the failure to submit a report was perhaps due to the country's administrative structure, which required a substantial effort to unite and include the 13 political parties represented in Parliament. However, there was the political will to move forward; indeed, the delegation's very presence was proof of that.

11. **Mr. Schrijver** asked whether the State party had considered, or would consider, requesting technical assistance from the United Nations to prepare the report. Raising doubts as to the independence of the National Human Rights Commission, he asked whether it had ever pressed the Government on its failure to submit the initial report. If so, how had the Government addressed the Commission's concerns or, if not, could that be taken as a sign that the Commission was not functioning as it should? He also asked for clarification of the status of the Covenant in domestic legislation.

12. **Mr. Dasgupta**, pointing out an apparent discrepancy between population figures provided by the State party and those of the World Bank, asked whether the census planned for 2011 had been carried out and, if so, what the outcomes had been. He invited the delegation to comment on the inconsistency between the State party's ranking as a country with a high national income and the fact that nearly two thirds of the population lived on less than \$1 per day.

13. **Mr. Sadi** said that he felt unable to engage in dialogue with the delegation without a report and, although he understood the political situation in Equatorial Guinea, it did not change the fact that the Committee had nothing on which to base its work. He hoped the State party understood that the Committee was bending the rules by examining the situation of economic, social and cultural rights in the country in the absence of a report, and that it was only doing so because of the delegation's presence and the need to outline issues for a

future response. He was concerned about the actual independence of the judiciary and the National Human Rights Commission, the lack of a clear definition of discrimination and the tolerance of polygamy in certain parts of the country.

14. **Mr. Texier** asked what ratification of the Covenant really meant to the State party, given that it had not fulfilled its reporting obligations. According to information before the Committee, two thirds of the population of Equatorial Guinea lived in poverty despite the country's high revenues, and he wondered if that was due to corruption, which was known to exist at the highest levels of the Government. He asked what measures were being taken to combat the problem.

15. **Mr. Kedzia** emphasized that the document recently circulated to members did not meet the Committee's guidelines and thus could not be considered as an initial report. The current meeting should be viewed as a consultation to make the State party aware of the Committee's expectations, with a view to future dialogue. He was very concerned that as of 2009 only 3.9 per cent of the country's gross domestic product had been invested in social sectors, when the Government had previously promised to devote 40 per cent of revenues to such services, and he wished to know why that promise had not been kept.

16. With regard to international cooperation, he asked what kind of capacity-building projects had been carried out in social sectors, and what results they had produced. Was it true that the Government did not possess the analytical data needed to develop policies on economic, social and cultural rights? The Committee needed disaggregated data on various population groups and social sectors, updated annually if possible, in order to assess the implementation of those rights. He sensed that the Government did not have a clear medium-term development strategy or poverty reduction strategy. More than information on the relevant laws adopted, the Committee needed information on the implementation of those laws and the impact on people's rights, especially those of disadvantaged groups.

17. He asked who appointed the members of the National Human Rights Commission; who its members were; to whom it reported; what guarantees were in place to ensure the independence of its members; whether it was competent to intervene in cases involving economic, social and cultural rights and, if so, against whom; and whether it was competent to receive complaints from individuals and, if so, how many complaints it had handled in the past five years. He also requested detailed information about the cases and complaints in which the Commission had been involved. He expressed concern about reports that it was difficult for non-governmental organizations (NGOs) to be officially registered and to operate freely.

18. **Mr. Riedel** expressed his satisfaction with the delegation's presence as an expression of goodwill but reaffirmed that the replies to the list of issues submitted did not meet the Committee's guidelines on periodic reports and that a complete initial report was expected within two years. He suggested that the State party should refer to the Committee's general comment No. 14 when preparing the section of its report dealing with health care, and he listed a number of specific aspects that should be addressed, such as maternal and infant mortality rates. The State party might wish to seek assistance from the World Health Organization, the Office of the United Nations High Commissioner for Human Rights (OHCHR), or donor countries when preparing its report. Emphasis should be placed on non-discrimination with regard to each Covenant right, particularly for marginalized and disadvantaged groups.

19. **Ms. Barahona Riera** suggested that in its initial report the State party should address the following issues: corruption and transparency in contracts with companies involved in the exploitation of the country's natural resources; the independence of the judiciary; and the tax collection system.

20. **Mr. Abdel-Moneim** said that it would take time for African countries to recover from the many years of colonialism and exploitation they had suffered, a factor which should be taken into account. He asked to what extent foreign investors involved in the exploitation of natural resources respected the economic, social and cultural rights of the people of Equatorial Guinea. Statistics such as the country's per capita income and growth rate could be deceptive; what was important was to know how fairly revenues were distributed and what percentage of revenues was devoted to genuine development in the form of infrastructure.

21. **Mr. Marchán Romero** recommended that the State party should refer to the Committee's general comments No. 17 and No. 21 when preparing the section of its report relating to article 15 of the Covenant. He asked what difficulties had been preventing the State party from submitting a report for the past 22 years. He wished to know the status of the bill on the protection of the national cultural and natural heritage and to know more about the contents of the National Cultural Charter currently being drafted. Possessing a rich cultural heritage did not in itself mean that a country was implementing the cultural rights set out in article 15 of the Covenant. Rather, doing so required adopting specific measures at all levels of government.

22. **Mr. Kerdoun** said that, while he had gleaned some information about the situation in the country from various sources, the Committee needed information from the State itself. Africa was finally beginning to emerge on the international stage after a long period of suffering and lethargy, and great efforts should be made to help the continent progress.

23. **Mr. Nsue Mokuy** (Equatorial Guinea) said that much of the information the Committee had received from alternative sources was completely inaccurate, and he recognized that his Government was to blame for the misunderstandings because it had not submitted a report of its own. It was misleading to say that Equatorial Guinea had a dual legal system, because customary law applied only to customary marriage. When a woman who had married under customary law became a widow, she had the right to inherit from her husband. Certain ancestral practices had been prohibited, such as the requirement for a widow to remarry with someone from the same tribe as her previous husband. Separation between the executive and judicial branches of government was guaranteed, and the judiciary did enjoy independence.

24. **Mr. Siale Bileka** (Equatorial Guinea) gave an overview of the various levels of the justice system and said that customary law proceedings were handled separately from civil law proceedings.

25. **Mr. Nsue Mokuy** (Equatorial Guinea) said that Don Fabián Nsue Nguema, a lawyer and active member of an opposition political party, had been released and was fully enjoying his rights. Dr. Wenceslao Mansogo Alo, another active member of an opposition political party who was also a medical doctor, had been accused of negligence by the family of a patient who had died during an operation at his clinic. The courts had found him guilty and had acted accordingly.

26. In Equatorial Guinea, NGOs must register with the Ministry of the Interior in order to receive a permit allowing them to operate. More than 25 NGOs were currently functioning in the country. He was not aware of any card that workers were required to show as proof of membership in the ruling party. If the Committee could provide details of such a card, then his Government would look into the matter. It was true that the ruling party had more active members than other parties, but workers who were not members were not required to pay contributions to that party.

27. He recognized that Equatorial Guinea was a wealthy country and that education and health services should be improved. Two conferences had been held to decide how oil revenues should be distributed, and it had been decided that infrastructure should be the top

priority. There were 1,900 infrastructure projects currently under way; once significant progress had been made in that area the Government could begin to focus on other aspects of social services. The Government had realized that the promises it had made in 1997 regarding the amount to be spent on social services were not feasible, but it had made extensive efforts and agreed that it needed to do more in that area.

28. His Government recognized that it had not acted appropriately in its past dealings with the Committee and was now committed to implementing as many of the Committee's recommendations as it could. He welcomed the information that his Government could request technical assistance from OHCHR and other international bodies. The National Human Rights Commission was composed of independent members and acted under the auspices of the judiciary.

29. **Mr. Mocong Onguene** (Equatorial Guinea) said that he understood the concerns of the Committee with regard to the current state of the National Human Rights Commission. The law creating the Commission dated from 1997, and in the 15 years since its enactment, it had become apparent that it lacked a number of the provisions necessary to ensure that the Commission could carry out its work in accordance with the Paris Principles. With that in mind, at the request of the Commission, OHCHR had reviewed the law. Based on the latter's comments, the Commission had worked with a group of lawyers to draft amendments to the law, which it was hoped would be adopted by Parliament.

30. **Mr. Nsue Mokuy** (Equatorial Guinea), referring to the question of the position of the Covenant in the domestic legal order, said that economic, social and cultural rights were provided for in the Constitution and a variety of laws, including the legislation on national employment policy, trade unions, the prevention of torture, NGOs, freedom of association, freedom of religion, and trafficking in persons. A compendium of Equatorial Guinea's legislation was available to the Committee if it required further information in that regard.

31. Regarding the request for reliable population statistics, he said that, at its previous meeting, the Interministerial Council had presented a proposal to the Government to establish a National Statistics Institute. Acknowledging that the country had difficulties in providing disaggregated data, he said that any expert assistance that could be provided in that area would be appreciated. The Government was aware of the problem and was committed to making the necessary improvements. The real population of Equatorial Guinea was 1,014,999; lower figures were used in some quarters so as to distort the per capita income and support unfounded allegations of widespread corruption. The most recent census was currently being finalized, and would reveal the up-to-date figures.

32. With regard to extreme poverty, he said that, although not everyone enjoyed the same living conditions, the delegation was not aware of people living on less than \$1 a day in Equatorial Guinea. Under the country's tribal system, people helped those less well off than themselves, which meant that those in poverty never had to resort to begging, for example.

33. On the issue of polygamy, he said that Equatorial Guinea should have entered a reservation in that regard upon ratification of the Covenant. Polygamy was such a deep-rooted tradition that it would be almost impossible to eradicate, although perhaps future generations would do so.

34. With regard to specific cases of corruption, two prosecutors had been named, but none of the registered cases of corruption had involved members of the Government. The fact that on taking office deputies had to declare their assets served as a deterrent. A report summarizing all registered cases of corruption was available to the Committee should it require further information in that regard. He assured the Committee that the Government was taking action against corruption.

35. The reason for the late submission of the written replies to the Committee's list of issues was the difficulty in collecting the information required. The delay had not been due to bad faith on the part of the ministries involved, but rather to the unavailability in some cases of the information requested.

36. With regard to international cooperation projects, Equatorial Guinea was working with the United Nations Development Programme and the United Nations Population Fund on a variety of projects, comprehensive details of which would be provided in the initial report. Most foreign companies that operated in Equatorial Guinea also participated in training programmes, the construction of community facilities, such as wells, or poverty reduction efforts. The law on foreign investment would be reviewed and adapted if necessary in accordance with the Committee's concerns. When oil had first been discovered, other sectors, such as agriculture and forestries, had been neglected. However, the risks inherent in such an approach had been recognized, and efforts were now under way to create other productive systems that could generate revenue when oil was no longer available.

37. With regard to some of the Committee members' questions in relation to specific legislation, he explained that the Parliament that was currently in session would be the last, as under the new Constitution, once elections had been held, it would be necessary to reconstitute State organs such as the Senate and the Chamber of Deputies, the Council of State, the Court of Auditors, and the Ombudsman. Most of the laws mentioned would not be available until after the new machinery had been established, but they would be covered in as much detail as possible in the initial report.

38. **Ms. Shin** suggested that, in preparing its initial report, the State party should seek the technical support of United Nations bodies, such as the United Nations country team, in the area of statistics. Detailed, disaggregated statistics were essential for the Committee to be able to properly evaluate whether a State party was meeting its obligations under the Covenant.

Articles 6 to 9

39. **Mr. Texier** said that the State party should have paid greater attention to the Committee's reporting guidelines, which clearly established the kind of information and statistics that were expected under each article of the Covenant. Regarding corruption involving members of the elite, he pointed out that an inquiry was currently under way in Paris into the funding of property purchases by Equatorial Guinea's ruling family.

40. **Mr. Nsue Mokuy** (Equatorial Guinea) said that there was no forced labour in his country. During colonial times, people had been forced to work in forestry operations before the introduction of machinery, but that was no longer the case. Although there were no official unemployment figures, the rate was estimated to be 2 per cent or less, given that most people who did not work in the cities farmed their land. The minimum wage was adjusted every two years, and was calculated by multiplying a base rate by different coefficients depending on the sector of occupation. With regard to the corruption case in Paris, it was not for the delegation to comment before the relevant court had handed down its verdict.

Articles 10 to 12

41. **Ms. Shin** said the Committee understood that deep-rooted traditions such as polygamy could not be changed overnight, but pointed out that, in ratifying the Covenant, the State party had undertaken to guarantee equality between men and women in the enjoyment of economic, social and cultural rights. The Government therefore needed to identify measures to provide equality for women.

42. Noting that the country's dual legal structure applied only to marriage, she pointed out that women's status in marriage and family relations was key: if women did not enjoy equal status with their husbands, how could they hope to enjoy it in economic and political life? She wished to know whether it was true that, if a woman divorced, she was obliged to repay the dowry to her husband, failing which she could face prison, and that if a woman's husband died she was expected to marry one of his brothers.

43. **Mr. Schrijver**, noting that, according to a United Nations Children's Fund study, almost one third of children were engaged in child labour, asked what measures were being taken to reduce child labour and ensure that children could benefit from an education.

44. Observing that a number of health indicators, such as life expectancy and underweight in children, pointed to a very unequal distribution of income within the country, he asked what specific measures were being taken to address such disparities and integrate the poorest segments of society into the development process, providing them with an adequate standard of living.

45. **Mr. Tirado Mejía** invited the delegation to comment on statistics from the Organization for Economic Cooperation and Development showing that 26 per cent of girls aged between 15 and 19 were married, divorced or widowed. With regard to the right to health, he noted that, according to information available to the Committee, the figures concerning women's access to adequate medical treatment, life expectancy, child mortality and malaria were particularly worrying. In its report, the State party should outline the Government's position in that regard. He pointed out that the figures and information being cited by the Committee members were all from reliable sources, and that the members had had no option but to seek data elsewhere in the absence of a report from the State party.

The meeting rose at 1 p.m.