



Economic and Social Council

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Committee on Economic, Social and Cultural Rights Fifty-third session

Summary record (partial)* of the 51st meeting

Held at the Palais Wilson, Geneva, on Monday, 17 November 2014, at 10 a.m.

Chairperson: Mr. Kerdoun (Vice-Chairperson)

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

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The meeting was called to order at 10.05 a.m.

Substantive issues arising in the implementation of the International Covenant on Economic, Social and Cultural Rights (*continued*)

Submissions by non-governmental organizations

Guatemala

1. **Mr. Aguirre** (Coordinación de ONG y Cooperativas (CONGCOOP)) said that Guatemala remained a politically, economically and socially divided country. The concept of indigenous peoples had not been incorporated into the Constitution, and indigenous peoples' right to land and self-determination had not been recognized. The Government did not consult indigenous peoples on matters directly affecting their communities and had allowed private companies to carry out mining and other extractive activities on indigenous peoples' lands without their prior consent.
2. The United Nations Development Programme (UNDP) Human Development Report, 2013 ranked Guatemala 133rd for overall human development, one of the lowest scores in the Central American region. Only 8.5 per cent of the country's gross domestic product (GDP) was allocated to public social spending annually and there had been severe funding shortages for the health and education sectors in recent years. The previous legal and institutional advances made towards achieving gender equality and combating domestic violence had also slowed dramatically over the past decade, and the State continued to postpone ratification of the International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189). In addition, the Government's failure to address poverty and social inequality had resulted in extremely high levels of child malnutrition, which the Zero Hunger Plan had failed to adequately address.
3. **Mr. Velásquez Yes** (Peasants' Organizations) said that many rural workers in Guatemala worked under appalling conditions and were paid only around US\$ 5 a day. It had been prohibited for rural workers to form unions, and the standard of education provided to children in rural areas was wholly inadequate. Indigenous land had been sold to private companies in order to introduce single-crop farming and aerial spraying of such crops had damaged surrounding indigenous peoples' land and contaminated water courses. The Zero Hunger Plan to address malnutrition and food scarcity had been introduced solely for party-political purposes and, to date, had provided assistance to a mere handful of families.
4. **Ms. Contreras** (Sindicato de Trabajadoras Domésticas, Similares y a Cuenta Propia de Guatemala (SITRADOMSA)) said that a number of measures would be required to combat social inequality in Guatemala and guarantee economic, social and cultural rights, including the introduction of a fairer tax system, increased public social spending and more Government transparency and accountability. Steps must be taken to recognize and uphold the rights of indigenous peoples, notably their right to self-determination and landownership, and the Government must consult with indigenous groups on matters affecting their traditional lands or livelihoods. Efforts should also be made to strengthen women's rights and combat domestic violence.
5. The Government must ratify ILO Convention No. 189 and the ILO Domestic Workers Recommendation, 2011 (No. 201) at the earliest opportunity and should ensure that all workers received fair wages and decent working conditions. It should also adopt the national comprehensive rural development bill and invest more heavily in the education system, particularly for rural communities. Steps should also be taken to eradicate extreme hunger and malnutrition in all areas of the country. Lastly, the Government must guarantee the safety and protect the integrity of human rights defenders, ratify the Optional Protocol

to the Covenant and establish a mechanism for monitoring the implementation of the Committee's recommendations.

6. **Mr. Ribeiro Leão** requested further information on the impact of organized crime and corruption on the rule of law in Guatemala, the issues hindering the implementation of the Zero Hunger Plan, and the causes of the current health-care crisis. He also wished to know whether the Government intended to implement the provisions of the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169) and recognize the rights of indigenous peoples.

7. **Mr. Marchán Romero** asked whether indigenous peoples' groups had been consulted on matters directly affecting their communities. He also wished to know whether operations at the Marlin mine had been suspended, pursuant to the recommendation of the Inter-American Commission on Human Rights, and whether inspections had been conducted to assess the environmental impact of mining activities on the local indigenous populations.

8. **Mr. Mancisidor** asked what steps had been taken by indigenous peoples and their representatives to advocate the recognition of indigenous peoples in the Constitution. He also wished to know whether legislative measures had been taken by the State party to guarantee indigenous peoples' rights to land and natural resources, and to fully recognize customary land tenure systems. Lastly, he enquired as to whether an intercultural, bilingual education system had been established.

9. **The Chairperson**, speaking as a member of the Committee, requested data on the number of indigenous people in Guatemala. He also wished to know whether indigenous groups in Guatemala worked together on issues concerning their economic, social and cultural rights.

10. **Mr. Tirado Mejía** asked whether the Government collected and published disaggregated data on indigenous peoples in Guatemala.

11. **Mr. Dasgupta** requested further information on the environmental damage caused by the aerial spraying of monocrops, including whether peasant farmers had been financially compensated for the losses they had incurred.

12. **Mr. Aguirre** (CONGCOOP) said that organized crime and corruption were rife in Guatemala and that the rule of the law had consequently been substantially weakened. The health-care crisis in the country was endemic and affected all regions. Health-care services had been heavily centralized and lacked adequate funding.

13. **Ms. Soles** (Civil society representative) said that the Constitution referred to "ethnic groups" rather than indigenous peoples and that there was a lack of political will to implement ILO Convention No. 169. The Government had collected data on indigenous peoples, but had not yet collated or published the information. There were three main indigenous groups in Guatemala. The various indigenous communities did not share the same views on all issues, but their overarching aim was the recognition of indigenous peoples. The national education system was poorly funded and did not provide a decent standard of bilingual education. The Government had revoked the right to organize for indigenous peoples in its recent amendment of the Constitution and had failed to consult indigenous peoples on issues affecting their lands and livelihoods. The Government often prioritized private business interests rather than local indigenous peoples' needs, which had led to private companies using sections of indigenous peoples' lands for mining or other extractive activities, and hydroelectric production. As for the Marlin mine, the Government had inspected the general working conditions on several occasions, but had failed to assess the environmental and health impacts on the neighbouring indigenous communities.

14. **Mr. Velásquez Yes** (Peasants' Organizations) said that numerous peasant farmers had been affected by the aerial spraying of monocrops grown by large agricultural producers. The Government had failed to take action to prevent the damage or provide compensation for the losses incurred. Peasant farmers had tried to limit the damage to their crops, but had seen their efforts thwarted by the State.

15. **Ms. Cano Dávila** (Campana Guatemala Sin Hambre) said that the Zero Hunger Plan had been a failure. It had not been implemented effectively and had failed to provide adequate assistance to communities in need. Malnutrition and maternal mortality rates remained high and the Government had not monitored or assessed the Plan's implementation. The strict conditions for obtaining cash transfers for food, education and health costs under the "Mi Bono Seguro" programme often excluded a large number of families, and the health-care crisis in Guatemala had hindered access to the medical examinations and treatments required to treat malnutrition.

Nepal

16. **Ms. Shrestha** (Human Rights Treaty Monitoring Coordination Centre), speaking on behalf of several Nepalese civil society organizations, said that around 6 million persons in Nepal were malnourished and half of all children under 5 suffered from malnutrition and stunted growth. A national policy and legislative framework was therefore urgently required to eradicate hunger and guarantee food security. Around 25 per cent of the Nepalese population was landless, and the richest 5 per cent of agricultural households controlled more than 37 per cent of agricultural land. Steps must therefore be taken to devise specific land reform policies to ensure the right to land, particularly for landless farmers, unregistered tenants and small-hold farmers. Forced, bonded and child labour were common in Nepal, particularly in the construction and manufacturing industries. Efforts should therefore be made to incorporate specific provisions in existing labour legislation to improve the protection of, and guarantee social security coverage for, workers in the informal sector. The Nepalese Government must also establish effective monitoring mechanisms to ensure that employers abided by national labour legislation.

17. **Mr. Basnet** (Nepal Civil Society Organizations Collective on Economic, Social and Cultural Rights) said that the periodic report of Nepal had not been prepared with a gender perspective in mind. Women's contributions to the national economy were routinely overlooked, as was the fact that many women were forced to make a living in the informal economy, including in the entertainment sector. Their earnings were not sufficient to guarantee a decent standard of living, and the stigma associated with that type of work forced many women to conceal their identities and tolerate all manner of abuses. The safety and security of women migrants should be ensured through proactive consular protection abroad and more forceful insistence on the observance of international human rights standards in destination countries.

18. The Government of Nepal should develop and implement a comprehensive strategy to prevent uterine prolapse, which was prevalent in the country. It should also pay urgent attention to the prevention of child marriage and of unsafe abortions. Despite its legalization, social and cultural attitudes still posed significant barriers for women seeking abortion. Women's dependence on men was reinforced by law, religion and cultural norms. While the interim Constitution guaranteed equal property rights for men and women and recognized women's right to reproductive health, discriminatory provisions in national laws remained a problem. Single women faced problems related to an additional work burden, exploitation, domestic violence and a sense of loneliness and insecurity. The Government should develop clear legislation and procedures concerning women's access to land and economic security and should adopt a national policy and legislative framework for the eradication of hunger and the realization of the rights to food, housing, land, health and

work. The implementation of the Covenant was very weak in Nepal, and many policies were not translated into practice due to a lack of political will, weak capacity and limited resources.

19. **Ms. Pokharel** (International Commission of Jurists) said that the National Human Rights Commission Act of 2012 had limited the independence, powers and mandate of the National Human Rights Commission and had been declared unconstitutional by the Supreme Court, yet the Government had not taken any concrete steps to amend the Act. The Government had also failed to provide an effective remedy or rehabilitation support to the victims of forced displacement during the armed conflict and to those whose property had been confiscated by Maoist rebels.

20. **Mr. Koirala** (Food-first Information and Action Network (FIAN) Nepal) said that many marginalized groups in Nepal were vulnerable to hunger and malnutrition due to severe shortcomings in the implementation of the right to adequate food. Those shortcomings included endemic discrimination and social exclusion, lack of protection from forced evictions and displacement, and insufficient access to and control over forests and other natural resources. Restrictions imposed by the creation of national parks severely limited subsistence farmers' access to forests and other natural resources, to the detriment of their livelihoods. The State should adopt all necessary measures to incorporate the rights to adequate food and water in the new Constitution and ensure their implementation. It should also adopt a comprehensive national strategy to ensure food and nutrition security for all. In addition, it should adopt all necessary measures to guarantee access to natural and productive resources to sustain an agriculture-based livelihood in Nepal and give due recognition to women's contributions to such livelihoods. Lastly, the State of Nepal should give priority to the most disadvantaged and marginalized groups in its policies and strategies on access to resources.

21. **Ms. Bras Gomes** asked whether the general public was hopeful that the new Constitution would in fact be promulgated by mid-January 2015, and she wondered what position the Covenant rights would hold in that Constitution. She requested examples of the ways in which the National Human Rights Commission Act had limited the independence, powers and mandate of the National Human Rights Commission. She enquired about the status of the National Women Commission and the National Dalit Commission in relation to the National Human Rights Commission. She asked the representatives of the non-governmental organizations (NGOS) what they saw as the essential elements of land reform that would truly benefit landless peasants, women and other vulnerable groups. Lastly, she wished to know what process the Government had followed when consulting civil society organizations during the preparation of the periodic report.

22. **Mr. Ribeiro Leão** asked whether the Government of Nepal had a comprehensive plan for combating poverty, or whether it was instead focusing on smaller-scale plans to address particular problems.

23. **Ms. Shin** asked whether the armed conflict between the Government and Maoist rebels had truly come to an end. Noting that Nepal had received large amounts of official development assistance (ODA) and yet the majority of its citizens still suffered from problems such as insecurity and a lack of adequate food, she wished to know why that assistance had not been more effective. She asked whether it was true that large numbers of Nepalese were forced to sell their kidneys and were trafficked to India for that purpose.

24. **Mr. Sadi** asked whether the failure to implement gender equality in practice could be attributed to Nepalese cultural values and, if so, how those values might be changed.

25. **Mr. Basnet** (Nepal Civil Society Organizations Collective on Economic, Social and Cultural Rights) said that the people of Nepal were not very hopeful that the new Constitution would be promulgated in January 2015 as planned. Essential elements of land

reform included landownership for landless tenants and smallholder farmers, agricultural inputs and the devolution of land administration. The Government did not consult marginalized peoples when developing its public policies. While some groups of Maoists were involved in the drafting and adoption of the new Constitution, others were not, and it was the latter groups that were preparing for further armed conflict. ODA benefited the middle class rather than the poor and marginalized groups in the country. Nepalese society still followed a patriarchal system, and the Government did not closely monitor women's access to property, gender-based violence or the standard of living for women.

26. **Mr. Koirala** (Food-first Information and Action Network (FIAN) Nepal) said that if the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security were properly implemented then land reform in Nepal would be effective. Unfortunately, that was currently not the case.

27. **Ms. Pokharel** (International Commission of Jurists) said that, under the National Human Rights Commission Act, the Commission did not have the power to recruit its own staff without government approval. Also, government employees could be seconded to the Commission, and the Commission must consult the Ministry of Finance on financial matters. The National Women Commission and the National Dalit Commission were statutory bodies responsible for issues relating to the rights of women and Dalits respectively, while the National Human Rights Commission was responsible for promoting and protecting human rights in general.

28. **Mr. Adhikari** (Human Rights Treaty Monitoring Coordination Centre) said that the right to life was not recognized for poor and marginalized groups, particularly the Dalits. They suffered from discrimination in their access to the Covenant rights, and there was no official government policy document that addressed their needs with respect to education, health or culture. Health-care and education services were concentrated mainly in large cities and were thus inaccessible to poor farmers. There was no opportunity to establish rural enterprises in the country, and as a result large numbers of indigenous people were migrating from rural areas to the already overcrowded cities or to foreign countries in search of work, leaving their lands to lie fallow. There were no mechanisms permitting local people to voice their views at the village level. There was a lack of transparency in the way in which ODA was spent, and the Nepalese people were not involved in monitoring that spending. The phenomenon of Nepalese citizens selling their kidneys in India was due to poverty and a lack of social mobility. It was indeed a significant problem and one that also affected women.

Romania

29. **Mr. Braeunlich** (Amnesty International) said that the Roma in Romania continued to be exposed to forced evictions and that Romanian legislation did not conform to international standards with regard to the right to adequate housing. Loopholes in the law allowed the authorities to carry out large-scale forced evictions of Roma communities and to resettle them in unsafe and polluted sites or even leave them effectively homeless. The legal framework did not expressly prohibit racial segregation as a form of discrimination, which in practice meant that Roma were often segregated in housing projects that were far away from the services and infrastructure they needed.

30. **Mr. Buhuceanu** (Euroregional Center for Public Initiatives) said that there was a lack of government action to prevent maternal mortality, even though Romania had one of the highest maternal mortality rates in the European Union. Sex education was not mandatory in schools, and enrolment in such classes was low, while Romania had one of the highest teenage pregnancy rates in Europe. Access to contraceptives continued to be restricted for many women. In addition, there was a lack of access to safe and legal abortion, in part because of a widespread conscience-based refusal by health-care professionals to

perform abortions. Lastly, women living with HIV/AIDS were often denied access to sexual and reproductive health services and maternal care.

31. **Ms. Bras Gomes** asked whether any progress had been made regarding the general public's perception of the issue of Roma segregation. She also asked whether any cases concerning that issue had been brought before the European Court of Human Rights.

32. **Ms. Shin** asked about the maternal mortality rate among the Roma community. She asked whether the NGO representatives could provide any analysis of the causes of maternal deaths and the extent of the problem. Lastly, she requested information on the sexual and reproductive health of women with disabilities.

33. **Mr. Sadi** said that he would appreciate information on issues other than the Roma and sexual and reproductive health.

34. **Mr. Buhuceanu** (Euroregional Center for Public Initiatives) said that there were no official data on maternal mortality among the Roma, but that his organization had provided documentation to State institutions showing that the Roma, and Roma women in particular, suffered from discrimination in access to health-care services. The Government did not analyse the data on maternal deaths in a consistent or reliable manner, which further complicated the issue. Analyses performed by the National Council for Combating Discrimination had shown persistent discrimination on the ground of ethnicity in the health-care system, which particularly affected Roma teenagers. While he was not aware of any official documentation on the situation of women with disabilities, a report prepared by a group of NGOs had shown systematic abuses of women with mental disabilities and a complete denial of their sexual and reproductive rights in hospitals and other State institutions.

The discussion covered in the summary record ended at 11.50 a.m.