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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fortieth session

SUMMARY RECORD OF THE 2nd MEETING

Held at the Palais Wilson, Geneva,  
on Monday, 28 April 2008, at 3 p.m.

Chairperson: Mr. TEXIER

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The meeting was called to order at 3.10 p.m.

## RELATIONS WITH UNITED NATIONS ORGANS AND OTHER TREATY BODIES

1. Mr. SINGH (Coordinator, follow-up to Conventions and recommendations in the field of education, United Nations Educational, Scientific and Cultural Organization (UNESCO)) stressed the importance of the Committee's cooperation with his organization to promote education for all. According to the Education for All Global Monitoring Report 2008, a decrease in donor assistance meant that the goal of universal primary education by 2015 might not be achieved. Furthermore, important areas such as early childhood education, youth and adult education, adult literacy, in particular for women, and gender parity at the primary and secondary levels of education, were being neglected. The needs of fragile countries, especially those facing conflict or disasters, required particular attention.
2. During the 34th session of the UNESCO General Conference, in October 2007, the Ministerial Round Table on education and economic development had reaffirmed that equality in education was the basis for the realization of other rights, social cohesion and personal fulfilment. Subsequently, in December 2007, the High-Level Group on Education for All had called upon governments to identify excluded groups, strengthen legislation promoting the right to education and calculate the resources needed to assist marginalized groups. It had also stressed the urgency of raising the profile of basic education at key global meetings in 2008, for example the G8. The Global Action Week, held from 21 to 27 April 2008, on the theme of "Quality Education to End Exclusion" had been an important communication initiative.
3. The UNESCO (Committee on Conventions and Recommendations)/Economic and Social Council (Committee on Economic, Social and Cultural Rights) Joint Expert Group on the Monitoring of the Right to Education, at its meeting at UNESCO headquarters on 7 December 2007, had discussed measures to be taken for the implementation of the UNESCO Convention against Discrimination in Education. He said that it was crucial to monitor the right to education more effectively, eliminate inequities and encourage Member States to promote fair and universal access to education. The Expert Group had discussed reporting procedures and monitoring mechanisms and the need to adopt a holistic approach to reporting in the field of the right to education. In that context, he drew attention to the framework guidelines for the preparation of reports by States adopted by the Executive Board of UNESCO in October 2007.
4. The next meeting of the Joint Expert Group on 6 May 2008 would be devoted to intensifying normative action for inclusive approaches and wider access to education.
5. UNESCO continued to provide technical assistance to Member States with a view to implementing international norms and promoting the right to education at the national level. Assistance had been provided to States such as Afghanistan, Fiji, Moldova and the Philippines and the status of education legislation in countries such as Uruguay, Cameroon and Peru was being monitored. Information had likewise been provided to the Committee on the situation of education in countries whose reports were to be considered during the current session.

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6. Mr. FELNER (Centre for Economic and Social Rights) said that better data and quantitative indicators would help in monitoring the implementation of economic, social and cultural rights. Recent efforts to develop such data had either been conceptual in nature, relating to process and outcomes, or had related to a specific right, for example maternal mortality indicators in the area of health. The challenge was to use the data to evaluate States parties' fulfilment of their obligations. Most human rights experts were not statisticians, however, and did not know how to access or interpret the data.
7. His organization had gathered data from international agencies in order to prepare fact sheets on individual countries' efforts to meet their international obligations and compare them with those of other countries. Referring to the fact sheet on India distributed in the meeting room, he noted that, in spite of an impressive 58 per cent increase in economic growth between 1995 and 2005, India had reduced under-5 mortality rates by only 23 per cent, unlike neighbouring countries such as Sri Lanka and Bangladesh, where economic growth of 43 per cent and 38 per cent respectively had been matched by a decrease in under-5 mortality rates of 44 per cent and 39 per cent. That called in question India's commitment to allocating sufficient resources to reducing under-5 mortality rates.
8. Turning to the fact sheet on Bolivia, he said that available data showed wide disparities in illiteracy rates in that country. For example, 2.5 per cent of urban men were illiterate, a figure equivalent to that of Argentina, yet 37.9 per cent of rural women were illiterate, a figure worse than that of Malawi. Such data were useful indicators for analysing and comparing States parties' progress towards the implementation of economic, social and cultural rights, and were a valuable contribution to the work of treaty bodies and the universal periodic review as well as to NGOs' monitoring and advocacy work.
9. Mr. RIEDEL said that the fact sheets were an excellent source of information but statistical data should form part of a controlled and coordinated development of indicators, benchmarks and scoping assessments. Moreover, while comparative data were interesting, the Committee was more focused on a country by country approach.
10. Ms. BARAHONA RIERA said that many international and regional bodies, such as the Economic Commission for Latin America and the Caribbean (ECLAC), were trying to develop statistical data and it was important to coordinate their efforts.
11. Ms. BONOAN-DANDAN said that there was a risk that experts could be overwhelmed by data of many different types from many different sources. Experts were not statisticians and did not have the time to adequately study large amounts of data. Statistics should be presented in a simple and coordinated manner that reflected the Committee's efforts to make its reporting procedures more efficient and effective.

12. Ms. BRAS GOMES said that although it was important not to be overwhelmed by data, the Committee required more information on individual States parties in order to set goals and benchmarks for the promotion of human rights that took account of specific situations.

13. Mr. FELNER agreed that international efforts to develop complete and reliable statistics and identify indicators should be coordinated and that more data should be collected on the situation in individual countries. That would require increased effort on the part of civil society organizations and international and regional bodies.

14. Ms. RATJEN (FIAN International) welcomed the revised draft optional protocol to the Covenant that had been submitted to the Human Rights Council. Progress had been made in monitoring the right to adequate food, pursuant to article 11 of the Covenant. The Office of the United Nations High Commissioner for Human Rights (OHCHR), the Food and Agriculture Organization of the United Nations (FAO), academics and civil society stakeholders including FIAN had developed indicators relating to that right. In addition, in cooperation with FAO and in the context of the FAO voluntary directives on implementation of the right to food, a tool to monitor public policy had been developed. The first two reports based on that monitoring tool, concerning the situation of the right to food in India and Bolivia, had been provided to the Committee.

15. The increasing use of agrifuels was exacerbating the long-standing international food crisis, affecting food production, leading to expulsions of rural communities and indigenous peoples and contributing to rising land costs. She urged the Committee to raise the issue during its consideration of the periodic reports of States parties.

16. Ms. HABCHI (Ni Putes Ni Soumises) said that her organization worked to promote the rights of women in France, in particular immigrant women and eliminate discrimination against women. Immigrant women suffered gender and ethnic discrimination and were stigmatized by living in problem-ridden suburbs. The State party should increase the availability of free French-language classes in order to facilitate their integration into society.

17. Stressing the equal right of men and women to the enjoyment of all economic, social and cultural rights, as set out in the Committee's general comment No. 16, she called for the elimination of all forms of indirect discrimination against women. She called for the abolition of bilateral conventions between France and Algeria and Morocco which violated that principle. For example, pursuant to the 1981 Convention between France and Morocco on civil status, the family and judicial cooperation, a Moroccan woman residing in France who wished to divorce her husband would be subject to the law of her country of origin rather than the French Civil Code. She also highlighted the importance of the secular State and deplored the increasing number of immigrant women wearing the veil. Her organization supported the banning of religious symbols at school as a measure that protected women's freedom of choice. She also called for repeal of the law requiring DNA testing for family reunification, which weighed most heavily on immigrant women living in France without their families and made them even more vulnerable to exploitation and violence.

18. While women in general earned 20 per cent less than men and were underrepresented in positions of authority, immigrant women's situation was even worse. They were more than twice as likely as non-immigrant women to be employed in unskilled work, or as caregivers or

domestic help or in the service sector; they were also twice as likely to be unemployed. The public and private sectors must do more to address the problem of discrimination against immigrant women when negotiating collective agreements. Policies must also be implemented to provide employment stability for women, who accounted for 59 per cent of temporary employees and 82 per cent of part-time employees.

19. Recalling that the Committee's proposed general comment No. 19 on the right to social security stressed the importance of social security for guaranteeing a family's right to an adequate standard of living and health, she underscored the plight of mothers, in particular single mothers, many of whom survived on only the minimum wage. More must be done to raise social assistance benefits, increase the availability of childcare and provide job training to mothers. Improving services and raising their standard of living, in particular for immigrant mothers, would strengthen family ties and give them more control over their children, thereby lessening tension and conflict in the suburbs where most immigrants lived.

20. More must also be done to address the problem of domestic violence, the risk of which was exacerbated by social instability and job insecurity. More services should be provided to women victims and steps should be taken to eliminate such practices as forced marriage and female genital mutilation. Awareness of women's rights in general must be increased by promoting the concepts of respect, equality and citizenship in the educational system, in order to emancipate future generations.

21. Mr. BILBAO (Observatory of Linguistic Rights) said that it was clear from the third periodic report of France (E/C.12/FRA/3) that the State party had failed to act on a number of the recommendations made by the Committee in 2001. It had also failed to respond to several of the issues raised by the Committee with regard to the report (E/C.12/FRA/Q/3). For example, no information had been provided on resources to improve bilingual education or on measures adopted to preserve regional and minority languages and ensure the right of persons belonging to linguistic minorities to use their regional languages.

22. The position of the State party with respect to the Council of Europe Framework Convention on the Protection of National Minorities and the European Charter for Regional or Minority Languages had not changed, and it had not implemented the Committee's recommendations. France should change its Constitution in order to recognize the existence of minorities and ratify the European treaties on minority rights, and withdraw its reservations to article 27 of the International Covenant on Civil and Political Rights and article 30 of the Convention on the Rights of the Child. It should also give Basque and other minority languages their rightful status.

23. Mr. LOUARN (French Committee of the European Bureau for Lesser Used Languages) said that, while some progress had been made in France in the area of bilingual education, it was insufficient. Moreover, the growth in bilingual education had been due mainly to the efforts of civil society groups. The Government had done little to support such initiatives and in some cases had actually thwarted them. Insufficient public funding was provided for bilingual education and the level of instruction was too basic to enable students to become truly conversant in their regional or minority language. He urged the Committee to repeat its recommendations concerning recognition of linguistic diversity and ratification of the Charter for Regional or Minority Languages.

24. Mr. FERKAL (Tamazgha) said that some two million Berbers lived in France and many of them were French citizens. However, they enjoyed virtually no linguistic or cultural rights. France had no legislative or institutional provisions for the protection and promotion of the Berber language, although it was recognized as one of the “languages of France” alluded to in the State party’s replies to the list of issues (E/C.12/FRA/Q/3/Add.1, para. 361) and two reports commissioned by the Government had recommended providing education in the Berber language. A framework agreement to that effect, signed by the Government, had not been honoured.

25. He urged the Committee to call on the State party to take concrete action to promote the Berber language and culture in France and to ensure that it was taught in public schools at all levels. Tamazgha reiterated the proposals put forward in its report to the Pre-Sessional Working Group in May 2007.

26. Mr. VILLEROUCHE (Association des Inventeurs de Paris), speaking on behalf of four inventors’ NGOs, said that France was not fulfilling its obligations under article 15 of the Covenant with respect to protection of inventors’ rights. According to the Committee’s general comment No. 17, remedies for the protection of the moral and material interests of authors must be affordable, but independent inventors in France could not afford the high cost of obtaining patents for their inventions. France was not facilitating access to alternative remedies, nor was it taking financial or other measures to facilitate the formation of professional and other associations representing the moral and material interests of authors.

27. Mr. LEVESQUE (Bretagne Réunie) recalling that the Brittany region of France had been split in 1941, said that a recent survey had shown that the vast majority of Bretons favoured reunification of the region, but the Government of France was nevertheless pursuing a policy of forced assimilation of the Breton population living in the artificial region known as Pays de la Loire. That policy included discontinuation of media broadcasts in the Breton language, elimination of Breton symbols and replacement of the Breton identity with a new “*ligérienne*” identity. He urged the Committee to recognize the existence of the policy of forced assimilation of a minority population and to call on the State party to reinstate Breton television and radio broadcasts in the department of Loire-Atlantique and move towards the administrative reunification of Brittany.

28. Mr. GUIBERT (Plateforme française pour les droits économiques, sociaux et culturels) drew Committee members’ attention to the recommendations put forward by his organization in its written report, which was also available in English. The recommendations concerned labour rights, union rights, social security, mental and physical health, poverty and exclusion, housing, education, cultural rights, migrants’ economic and social rights, and France’s international obligations with regard to official development assistance, the activities of French multinational companies in Africa and economic partnership agreements with African, Caribbean and Pacific countries.

29. Ms. MANKAME (FIAN International) drew attention to her organization’s report on the right to adequate food in India, which made it clear that India was failing to comply fully with its obligations under article 11 of the Covenant. Vulnerable communities in India had lost their livelihoods as a result of the development of special economic zones, large-scale mining activities and loss of agricultural land to industrial projects and dams. Most of those affected had

not been consulted or given adequate compensation or an alternative livelihood. Hunger and malnutrition among vulnerable groups were not being adequately addressed and no mechanisms were in place to prevent death from starvation. The report contained a set of recommendations on policies and legislation on the protection of vulnerable groups, access to productive resources, water and social security, to ensure that the Government of India fulfilled its obligations with regard to Indian people's right to adequate food.

30. Ms. GOODMAN (3D Trade - Human Rights - Equitable Economy) drew the Committee's attention to a publication prepared by her organization outlining its concerns over the impact of intellectual property standards on access to seeds, and thus on the right to food, in India. Under recent changes to India's legislation, made primarily to comply with the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), genetically-modified seeds had been introduced and farmers were now restricted from saving, resowing, selling or exchanging seeds. The resulting high price of certain seeds, together with other factors such as the high cost of credit and varying climatic conditions, had led to an alarming spate of farmer suicides and caused countless cases of malnutrition and loss of livelihood. Proposals to introduce new and more stringent intellectual property laws could exacerbate existing problems, with dramatic effects on human rights. Limiting the saving, resowing and exchange of seeds would increase the cost of food and jeopardize farmers' ability to live off farming. Moreover, the exchange of seeds between farmers was crucial in maintaining biodiversity and in adapting seeds to specific climatic and soil conditions, which ensured long-term agricultural sustainability and food security. In the shorter term, saving and resowing seeds was vital for the realization of the right to food, as it meant that farmers did not have to buy new seeds each season.

31. She urged the Committee to recommend to all States parties, including India, that changes to intellectual property laws that affected plant varieties and agricultural research should be linked to their strategies for realizing human rights, particularly the right to food and the right to take part in cultural life. In particular, India should refrain from entering into trade or other international agreements that could compromise farmers' right to save, resow or exchange seeds without first having assessed their likely impact on the enjoyment of economic, social and cultural rights, particularly among vulnerable groups such as women, children, rural communities and indigenous groups. Her organization encouraged the Committee to recommend that countries should make full use of the flexibility permitted under the TRIPS Agreement to ensure that seeds remained accessible to farmers, particularly the poorest and most vulnerable among them.

32. Ms. MANKAME (People's Collective for Economic, Social and Cultural Rights, India) noted that India's periodic report had not been prepared through a consultative process and drew the Committee's attention to her organization's parallel report. Her organization was particularly concerned at the fact that the benefits of the recent growth in the Indian economy had bypassed large sections of the population and unemployment, poverty and starvation remained prevalent; at the absence of basic entitlements to ensure the right to survival, life and dignity for women, who made up the majority of India's poor; and at the usurpation of the resources of tribal and other forest-based populations by the State and private interests through land acquisition and the establishment of special economic zones. The realization of economic, social and cultural rights in India was not a matter of resources but rather of priorities.

33. She suggested a series of recommendations that the Committee might wish to make. The Indian Government should abolish all tax exemptions in the central tax system, in order to increase revenue. There was an urgent need to establish proper monitoring, assessment and evaluation systems to ensure that allocations reached the local level. Data on socio-economic indicators should be disaggregated by sex, and also by caste, minority, ethnicity, and rural and urban populations. An employment programme should be developed to work towards the long-term goal of enhancing livelihood security. India should develop comprehensive legislation providing for non-contributory, non-insurance-based social security for all, including the unorganized sector. Women's unpaid work should be recognized as unorganized sector work and for its contribution to GDP. The Indian State must take steps towards reforming the discriminatory provisions of personal laws. As developed countries provided subsidies to keep the international prices of basic foods artificially low, India should stop liberalizing those foods under trade agreements to avoid the dumping of those products, and as tax subsidies were provided to the corporate sector, equal and proportionate direct income support should be extended to farmers. Maximum available human and financial resources should be provided for the realization of women's health rights. The eighty-sixth constitutional amendment should be implemented and education made a fundamental right. Finally, redress mechanisms should be provided for cases of violation or non-fulfilment of economic, social or cultural rights.

34. Mr. BHATT (Navdanya), introducing his organization's parallel report, said that the use of genetically modified organisms (GMOs) in India - the world's fourth largest producer of genetically modified agricultural products - seriously violated the economic, social and cultural rights of Indian farmers and their families. Despite the recent growth of the Indian economy as a whole, the rural economy had suffered a serious decline. Far from bringing the benefits they had hoped for, the introduction of Bt cotton had had drastic consequences for Indian farmers. When the Monsanto corporation had introduced its genetically modified cotton seeds, it had bought up all other seed companies in the area so that only Monsanto Bt cotton seeds would be available. Since those cotton seeds were 10 times more expensive than local seeds, farmers had to borrow in order to afford them, although they were only 6 to 8 per cent more productive. In order to repay their loans, they had to produce more, which required an increased use of pesticides and fertilizers. Caught up in a spiral of debt, and seeing no way out of their situation, some 200,000 farmers had committed suicide. Workers coming into contact with Bt cotton had also developed a series of health complications and many animals had died.

35. His organization urged the Committee to call on the Government of India to ban GMOs in food production and agriculture, to provide compensation for the economic losses of farmers whose Bt cotton crops had failed, to secure access to food for the poorest people and to ban child labour in the production of Bt cotton hybrids.

36. Ms. SUÁREZ FRANCO (FIAN International), speaking on behalf of the Asociación de Instituciones de Promoción y Educación (AIPE) introduced a report by AIPE that outlined the situation of human rights and adequate food in Bolivia. The report had been prepared in accordance with the FAO Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security.

37. The absence of economic development policies in Bolivia covering vulnerable sectors of society had led to calls for a new constitution and the development of strategies prioritizing the right to food. It had also been proposed that the ways in which the indigenous peoples and small



producers structured their economic enterprises in relation to the market should be recognized and catered for in policies allowing sufficient levels of competition. Accordingly, a new draft constitution was under consideration and would be submitted to a referendum in 2008.

38. The people of Bolivia wished to establish new institutions to ensure that their rights were realized not only at the national level, but particularly at the local state level so that they could combat poverty and ensure the right to adequate food. In response to the lack of policies guaranteeing employment, sustainability of resources or access to the benefits of the land or to drinking water for the entire population, civil society organizations had worked to increase their visibility and enter into dialogue with the Government and they hoped also to be involved in the drafting of legislation to implement the constitutional agreements and establish national, regional and local programmes guaranteeing their rights.

39. Noting that indicators showed that the prevalence of chronic malnutrition among children under 2 had increased between 2003 and 2007, she said that, despite the Government's political will, it was still difficult to formulate policies guaranteeing sufficient financial resources to address the challenges in that area. The Constituent Assembly was also looking at the perverse effects of single crop farming, which could undermine the sustainability of access to food for Bolivians. A policy was needed that would encourage the export industry to act in such a way as to guarantee sustainability.

40. The CHAIRPERSON invited members of the Committee to put questions to the NGO representatives.

41. Mr. KERDOUN requested clarification on the history of Nantes as a part of Brittany.

42. Mr. LEVESQUE (Bretagne Réunion) said that Nantes had historically been part of the province of Brittany, and the capital of the Duchy of Brittany for six centuries until 1532.

43. Mr. KERDOUN asked the representative of Ni Putes Ni Soumises whether her organization acted on behalf of all French women or only those of immigrant origin. He also wished to know what role such organizations played, given that France had a number of national institutions for women's rights.

44. Ms. HABCHI (Ni Putes Ni Soumises) explained that her organization focused on social problems in ghetto neighbourhoods which, unfortunately, had a particularly high concentration of women of immigrant origin. Her organization was a member of a number of national institutions and worked to raise awareness of the resources available to women and to ensure the effectiveness of national policies. Despite the existence of legislation, there was still a need for organizations such as hers to create a link with the women concerned.

45. Ms. BRAS GOMES asked the representative of the Plateforme française pour les droits économiques, sociaux et culturels what the Committee should recommend to the French Government with regard to social inclusion. She asked the representatives of Indian NGOs what the current situation was in regard to the proposed comprehensive social security package.

46. Mr. SADI asked whether the NGO representatives considered that the Committee should have been more specific in its last recommendation to the French Government concerning

minority languages and what exactly they suggested France should do to promote minority rights. What distinction should be made between the promotion of regional languages and the languages of immigrants?

47. Ms. BARAHONA RIERA, noting the controversy surrounding the term “integration”, asked what alternative terms could be used. With regard to domestic violence in France, she asked whether more legal instruments were required or envisaged in that area. On the question of food security and seeds, she asked what concrete proposals would be viable in developing countries.

48. Ms. GREROT (Plateforme française pour les droits économiques, sociaux et culturels) stressed the importance of policies that maintained existing rights for the unemployed, and she mentioned the concept of active solidarity income to facilitate their return to work. It was also important to ensure the realization of the statutory right to housing. The universal right to medical care was compromised by charges that made it difficult for the disadvantaged to obtain care. Lastly, she expressed concern that the abolition of the carte scolaire might be conducive to segregation in schools.

49. Mr. LOUARN (European Bureau for Lesser Used Languages) said that the treatment of regional and immigrant languages was based on the provisions of the European Charter for Regional or Minority Languages. Indigenous languages had collective rights to co-officiality. His organization suggested that the Committee should reaffirm what it had previously stated with regard to preserving regional languages and should call for an amendment to the French Constitution recognizing the status of regional languages and encouraging the teaching of regional languages, including in the media.

50. Ms. HABCHI (Ni Putes Ni Soumises) said that the main barrier to creating a comprehensive policy aimed at all women was the cultural barrier in relation to immigrant women. In many countries, including France, respect for cultural diversity had taken precedence over ensuring the rights of women.

51. Ms. SUÁREZ FRANCO (FIAN International) said that it was necessary to apply a human rights-based approach to trade agreements. It was difficult to demonstrate the direct effect of trade on human rights. States parties must introduce safeguards to protect small producers from human rights violations.

The meeting rose at 6.10 p.m.