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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fortieth session

SUMMARY RECORD (PARTIAL)* OF THE 16th MEETING

Held at the Palais Wilson, Geneva,
on Thursday, 8 May 2008, at 3 p.m.

Chairperson: Mr. TEXIER

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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 3.05 p.m.

CONSIDERATION OF REPORTS:

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

Fifth periodic report of India (E/C.12/IND/5; E/C.12/IND/Q/5 and Add.1 and 2)

1. At the invitation of the Chairperson, the members of the delegation of India resumed their places at the Committee table.

Articles 10 to 15 of the Covenant (continued)

2. The CHAIRPERSON invited the members of the Committee to put their remaining questions to the delegation.
3. Mr. PILLAY drew attention to the FIAN International report on the right to adequate food in India, which documented many cases of forced eviction that ran contrary to the guidelines set out in the Committee's general comment No. 7, and had led not only to a denial of the right to housing, but also of the right to food. He expressed concern that, although tribals accounted for only 8 per cent of the general population, they made up 40 per cent of those affected by forced evictions. He asked the delegation to comment on two of the cases included in the report, one in which the Government had still not implemented a 2006 Supreme Court order to restore land to 154 Dalit families in Uttarkhand, and the other relating to the excessive use of force by the police during protests against evictions in Nandigram. Again contrary to the Committee's guidelines, the State party had not provided any disaggregated data on forced evictions. On the question of discrimination, he noted that Dalits made up 36.25 per cent of the population living below the poverty line.
4. Mr. SADI said that India was making considerable efforts to accommodate different religious groups with regard to personal matters such as marriage and divorce. However, he considered it important that there should be a national code to regulate those matters for all communities without exception, in order to avoid polygamy, for example.
5. According to one source, 53 per cent of children in India had been subjected to sexual abuse. That was a phenomenally high figure and he wondered if it could be accurate. He was also concerned that children apparently continued to be forcibly recruited in areas of armed conflict. He asked the delegation to comment on the observation of the Special Rapporteur on violence against women that India continued to be a source and transit point for persons trafficked to Pakistan and the Gulf States. In that context, he welcomed the fact that India had ratified the South Asian Association for Regional Cooperation (SAARC) Convention on preventing and combating trafficking in women and children for prostitution and asked about the effectiveness of that association. He asked the delegation to comment on statistics showing that 15 per cent of the country's estimated 2.3 million prostitutes were children and half the children trafficked within India were between the ages of 11 and 14. Lastly, was it true that the age of criminal responsibility under the Penal Code was set at 7?

6. Mr. KERDOUN invited the delegation to comment further on the claim that the school drop-out rate was decreasing and to furnish statistics for the various school levels. He would be interested to know the causes of the high drop-out rate and what measures were being considered to reduce it further. He asked why implementation of the constitutional right to education remained at the discretion of each state. Under the Constitution, primary education was to be free and compulsory; was that the case in practice? He wished to know whether all children, including members of the scheduled castes and tribes, enjoyed the right to education.

7. Noting that literacy rates varied considerably from state to state, he asked whether the current literacy policy would apply to the entire country or would depend on each state's resources. Noting that higher education was not free but was supposed to be affordable, he asked for details of university fees.

8. He asked how many persons were enrolled in adult education, and what was covered by those programmes. He asked whether the 2007 literacy target of 75 per cent had been met. He requested further information on what sector of the population was targeted by continuing education schemes, and what courses were offered. He wondered whether the Government's efforts in the field of literacy would help eradicate general regional disparities in India.

9. Ms. BARAHONA RIERA expressed concern at the high number of girls under the age of 18 getting married, which indicated that they did not enjoy the right to education. She asked what programmes were in place to educate the population in general, and young people and children in particular, on reproductive and sexual health, including abortion.

10. She was also concerned at the problem of trafficking in persons and organs, and wondered whether the Government was considering the introduction of more stringent criminal legislation in that area. It was regrettable that the law on domestic violence adopted in 2005 overlooked a number of offences, such as marital rape and child sexual abuse, or did not punish them sufficiently severely. She asked what was being done to address those shortcomings.

11. Women still did not enjoy equal inheritance rights and had difficulty asserting their property rights if they divorced. Although women accounted for 20 per cent of heads of household, only 2 per cent of them held land titles. Anti-poverty programmes aimed at women should take the question of land title into account.

12. Mr. ZHAN Daode said that one of the major shortcomings of the State party report was the absence of up-to-date statistics, which made it difficult to assess the problems properly. The figures on child labour, for example, dated from 2001, and he would be interested to hear more about the current situation in that regard. He asked whether the target of reducing infant mortality to 45 per 1,000 by 2007 had been met.

13. Mr. MARCHÁN ROMERO said that there was constitutional recognition of the right to participate in cultural life, but he would like to know whether and how the Government guaranteed the right of people to access culture in practice, because the right to participate in cultural life was meaningless without specific opportunities for all to do so. He asked whether the concept of positive discrimination, particularly in respect of the Dalits, also applied in that field.

14. The Government's view that all India's peoples were indigenous implied that all peoples were entitled to enjoy the rights related to indigenous status, such as access to their ancestral lands. He would be interested to hear how the Government protected intellectual property rights in respect of traditional knowledge and medicine, for example. In that connection, he drew the delegation's attention to the Committee's general comment No. 17 on the right of everyone to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he or she is the author. Public and private projects had an impact on the development of cultures located on the land affected and he wondered how the Government protected those lands, which were an element of culture and tribal identity.

15. India's largest Buddhist temple, Mahabodhi Mahavihara, was under Hindu administration and he asked how Buddhists' right of access to their temple was protected.

16. Ms. BONOAN-DANDAN said that it was regrettable that the State party had left many of the questions on the list of issues unanswered. She asked the delegation to provide information on young girls driven to prostitution as a consequence of the practice of devadasi. She also asked for information on the extent of female sterilization as a method of contraception.

17. There were 700,000 primary schools in the State party. Many of them were understaffed, which contributed to the high school drop-out rate. In addition, the increase in the number of children engaged in child labour (from 115 million in 1996 to 140 million in 2007) also influenced drop-out rates. Although the hot meals provided were a good incentive for many children to attend school, she cautioned that if quality education was not also provided, schools would become mere feeding centres. She asked whether the special allocation to develop 6,000 high quality schools would be made on an annual basis; if so, even allowing for the progressive realization of the right to education, it would take more than 100 years for all schools to reach that standard. She asked whether the Government might consider another, more achievable, strategy.

18. She asked whether human rights education was included in the primary school curriculum and, if so, whether it focused on the promotion of tolerance and respect for all groups. What role did the media play in human rights education?

19. Mr. SEN (India) said that the framework for gender equality applied to the country as a whole. Every major anti-poverty programme required a minimum percentage, usually 30 per cent, to be reserved for women. In addition, some programmes were primarily, if not exclusively, aimed at women. The most important of those was the self-employment programme, which involved the creation of self-help groups and the provision of microcredit. It was the fastest growing and most effective anti-poverty programme in the country. Most of the self-help groups were composed of women, and practically all the microcredit was directed towards those groups. The microcredit system had initially been funded primarily by the Government, through the National Bank for Agriculture and Rural Development, but since then a large number of commercial banks had become involved and of late there had even been interest on the part of some multinational banks.

20. Regarding the political empowerment of women, he said that it was true that they were represented mostly at the local and state levels. However, a bill had just been tabled on the parliamentary quotas for women.

21. There was no gender distinction in the provision of social security; the only criterion for old-age benefits was age.
22. All labour and employment laws and rights applied equally to the special economic zones, and the only distinction was in terms of the fiscal system.
23. Ms. BHAT (India) said that her Government was committed to the empowerment of women. The Constitution contained numerous articles guaranteeing women equal rights, including article 14 on equal rights and opportunities for men and women; article 15 prohibiting discrimination on any grounds and its paragraph 3 providing for affirmative discrimination measures for women; article 16 on equality of opportunity in public appointments; article 39, paragraph (a), on the right of all citizens to a livelihood and paragraph (c) on equal pay for equal work. Article 42 guaranteed just and humane conditions of work and maternity relief, while article 51, paragraphs (a) and (e), required every citizen to renounce practices derogatory to the dignity of women.
24. Numerous legislative measures had been enacted to promote the rights of women: the Equal Remuneration Act, the Immoral Traffic (Prevention) Act, the Dowry Prohibition Act, the Child Marriage Restraint Act and the Protection of Women from Domestic Violence Act. The National Commission for Women had been established in 1992 and 24 out of 28 states had set up women's commissions. A Parliamentary Committee on the Empowerment of Women considered the reports of the National Commission for Women and monitored government efforts to promote equality for men and women.
25. A National Policy for the Empowerment of Women had been adopted in 2001 to ensure women's active involvement in all spheres of life and activities. A plan of action for the implementation of that Policy was currently being prepared. The Government's various poverty alleviation and rural development programmes all contained components relating to women. Women's self-help groups for income generation activities were actively promoted and there were currently 1 million women in such groups. A National Credit Fund for Women had been established to provide microfinance to poor women. Gender considerations were mainstreamed throughout the budget allocation process.
26. Her Government had implemented a scheme to assist the victims of trafficking for sexual exploitation and was planning a similar scheme for rape victims. More than 565 homes, shelters and helplines were available for women in distress. In order to improve women's educational status, plans to make elementary education universal included a pronounced gender focus and there were targeted programmes for girls at the elementary level in regions where female literacy was below the national average. The National Rural Health Mission gave women's needs special priority; emphasis was placed on reducing maternal and neonatal mortality by promoting delivery in a health-care institution for poor pregnant women.
27. Significant gains had been made in many areas of concern to women. Women's life expectancy was currently 65.37 years, more than for men, and the current crude birth rate had declined from 35.6 per cent in 1981 to 25.4 per cent in 2001. Women's literacy rate had increased from 39.3 per cent in 1991 to 53.7 per cent in 2001 and more girls were enrolling in

higher and technical education. Women's participation rate in the workforce had increased from 14.2 per cent in 1971 to around 25 per cent in 2001, including an increase in the formal sector of 11 per cent to 17.2 per cent over the same period. Lastly, as a result of the seventy-third and seventy-fourth amendments to the Constitution, adopted in 1993, women's participation in grassroots democracy and local government had increased greatly; currently approximately 1 million women occupied offices at the local level.

28. Ms. TRIPATHI (India) recalled that India had the largest child population in the world. It had ratified the Convention on the Rights of the Child and had adopted a National Charter for Children in 2004. In 2005 it had adopted a National Plan of Action for Children aimed at improving children's nutritional status, reducing infant and maternal mortality, ensuring universal primary education and improving immunization rates. In addition, the National Commission for the Protection of Child Rights had been established in 2007 to promote the effective implementation of children's rights.

29. The Integrated Child Development Services programme, launched in 1975, provided supplementary nutrition to over 78 million women and children and preschool education to 32 million children. The Reproductive and Child Health Programme, launched in 1997, provided maternal and child health care, nutrition interventions for vulnerable groups and reproductive health services for adolescents. Her Government had also implemented a school lunch scheme.

30. The 2000 Juvenile Justice Act was the primary legal framework for protection of children in difficult circumstances or in conflict with the law. An integrated child protection services programme was being developed to support those children. A multipronged approach had been adopted to eliminate child labour and provide rehabilitation for working children and their families in the context of poverty eradication and income generation programmes; initial priority was given to hazardous occupations. An amendment to the Child Labour Prevention Act in 2006 made employing children under 14 as domestic servants or in the hospitality sectors a punishable offence.

31. The National Child Labour Project targeted districts where child labour was endemic while other initiatives aimed at increasing awareness among stakeholders as well as strict enforcement of the law. Beginning with the garment industry, corporations were being encouraged to eliminate child labour from their supply chains, with a view to eliminating child labour while providing employment to their families. The Indus Project to rehabilitate child workers, launched in 2003 in cooperation with the United States Department of Labor, was being implemented in 21 districts. Working children were also provided with non-formal education and vocational training with a view to facilitating their entry or re-entry into the mainstream educational system. Lastly, a Central Adoption Resource Agency had been established in 1990 to promote domestic adoption and regulate inter-country adoption in accordance with government guidelines.

32. Mr. MAHAWAR (India) said that the current HIV infection rate was relatively low, at 0.36 per cent (down slightly from 0.45 per cent in 2002) or around 2.47 million individuals. The National AIDS Control Programme targeted risk groups and provided advocacy, counselling and testing services, treatment for sexually transmitted diseases and opportunistic infections, and

antiretroviral therapy. In order to promote a multisectoral response, the National Council on AIDS, chaired by the Prime Minister, had been established; membership included representatives from Government, the private sector, civil society and stakeholder groups.

33. Free counselling and testing was available at 4,567 public hospitals and health centres. Individuals could not however be forced to take a test, even as a precondition for employment, with the exception of the armed forces, where HIV screening could be carried out on a voluntary and confidential basis, and with pre- and post-test counselling.

34. Antiretroviral treatment was provided free of charge at 157 hospitals across the country and centres for antiretroviral care were being established for patients whose condition was stable. Nearly 400,000 individuals were registered at those hospitals for regular check-ups and testing, while more than 1.4 million patients were receiving antiretroviral treatment. Special efforts were made to increase awareness among risk groups, young people and women with a view to providing an enabling environment and reducing discrimination against persons infected with HIV and their families. A bill was currently under consideration to prohibit discrimination relating to HIV/AIDS in the public and private sectors.

35. Mr. SEN (India) said that workers' right to organize was guaranteed in the informal and formal sectors although official registration could be denied for various reasons.

36. As to the outcomes of plans and policies, he said that every attempt was made to incorporate measurable goals in such plans. In some areas, such as mortality rates and communicable diseases, reliable data was available. In the sensitive area of mental health, no surveys had been able to provide reliable data and the Government had to rely on hospital records.

37. The situation in prisons was aggravated by the fact that all prisons were operating at two to three times capacity. Regular health checks were carried out but currently the best that could be done was to monitor the situation. He shared the Committee's concerns about the unregulated health sector and the potential for illegal trading in organs. It was also difficult to persuade health workers to work in smaller towns and villages although there was likewise a shortage in urban centres. He acknowledged that corruption existed, but traditional practices such as bakshish, though illegal, were difficult to eradicate.

38. The right to water, and the provision of clean water, was a major priority for his Government. In some areas, such as Bhopal, the water supply had been contaminated by an industrial disaster and aquifers were increasingly contaminated by heavy metals. Improved sanitation was another priority for the Government; the high rate of gastrointestinal illnesses testified to the poor state of sanitation, especially in rural regions. It was hoped that over the next seven years access to sanitation networks would be extended to 17 per cent of the population.

39. The minimum legal age for marriage for boys and girls had been increased to 18 and the mean age of marriage for girls was 19.2. An estimated 30 to 35 per cent of girls continued to get married before they were 18, however. On the question of child labour, he said that it was illegal for children under 14 to work but it was true that children as young as 5 worked. To some extent

the high number of child workers could be attributed to the fact that the Government considered a child who was not in school to be at work. The number of child workers had declined greatly, however, and was currently estimated at around 2.5 million. He confirmed that a child between 14 and 18 years of age could work in a hazardous occupation.

40. With regard to efforts to prevent blindness, he said that he was not aware of any international funding contributions. The Government had programmes to promote eye health, for example to treat glaucoma, and had set up rural eye clinics.

41. As to the right to cultivate a sufficiently large area of land, he said that, when the Government redistributed land, priority was given to the 40 per cent of agricultural labourers who were landless, even if the area allotted was not enough to provide a livelihood. The situation of the homeless was closely monitored and the next five-year plan provided for the construction of 27 million homes. Efforts to combat homelessness targeted the scheduled castes and tribes and the disadvantaged in particular. The problem of homelessness was aggravated by the breakup of the extended family into smaller units. Strategies to reduce homelessness included programmes in rural and urban areas whereby the Government would subsidize the construction of a home if the individual owned land on which to build. No accurate surveys of street people were possible since they had no fixed address and the only relevant information came from the censuses held every 10 years.

42. The Government's food security programme had been modified in the mid-1990s to give priority to those living below the poverty line. Rather than charging all segments of the population the same price for food, a larger subsidy was provided to those living below the poverty line, who paid only half the price for the same food items as those living above the poverty line. Assistance schemes were devised in areas such as poverty, food, education and health in proportion to the level of deprivation suffered by specific groups. Measures to meet the needs of the population contributed to the progressive realization of economic, social and cultural rights.

43. The reason 48 per cent of forced evictions involved the scheduled tribes and castes, who only represented 8 per cent of the total population, was that most such evacuations occurred in the context of mining, irrigation and hydroelectric projects, and those were located in the tribal areas of the country. While incidents of the use of excessive force in such evacuations were an embarrassment and not in keeping with the Government's land acquisition policies, he believed that generally speaking agents of the State were not responsible for the violence.

44. Any amendment of the personal law for minorities was a highly politicized issue which would require much negotiation. Progress had been made towards ensuring the fundamental rights of all citizens.

45. He said that he did not believe that 53 per cent of children in India suffered some form of sexual abuse and asked how that figure had been arrived at. There had been a few cases of forced conscription of children in conflict areas, mainly in isolated regions in the north-east. Lastly, with regard to trafficking in women and children, and the use of India as a transit country, he said that the authorities were negotiating with international police partners on the exchange of information and prevention of trafficking.

46. Mr. Narinder SINGH (India) said that pursuant to section 83 of the Penal Code, children over 7 and under 12 years of age could not be found guilty of a criminal offence unless they had attained sufficient maturity to understand the nature and consequences of the offence. A child under 7 was deemed to be incapable of committing a criminal offence. The Juvenile Justice Act required that child offenders under the age of 18 served their sentences in special juvenile detention centres rather than the adult prison system. Furthermore, the Probation of Offenders Act allowed first-time offenders, even those above 18, to be sentenced to probation rather than imprisonment.

47. Mr. SEN (India) said that the school drop-out rate had fallen from 68 per cent to under 50 per cent. The goal was to reduce it to 20 per cent by the end of the current planning period. Factors that led parents to withdraw their children from school included poor quality of education and lack of separate toilet facilities for girls and boys. The *Sharva Shikshah Abhiyan* programme sought to improve school curricula and ensure that every school was staffed by at least two teachers and had adequate toilet facilities. All children, regardless of sex or social class, benefited from the programme, whose objective was 100 per cent enrolment.

48. Primary schooling was free. Provision of primary education was one of the functions that had been devolved to local governments. Village education committees received funding from the national and state budgets for that purpose. Because the committees were composed of parents, they made more effective use of the money than would be the case if a government bureaucracy were in charge. University education was not free but it was affordable. Monthly fees at Delhi University and other elite institutions averaged about US\$ 6 a month.

49. Illiteracy rates remained relatively high among older adults with low levels of education and progress in reducing those rates had been slow. The aggregate literacy rate reflected the changing age structure of the population. As the proportion of older people diminished, literacy rates would rise simply because the rates among younger groups were much higher. Distance learning was a major component of the Government's efforts to achieve universal literacy. India's open university system was regarded as one of the best examples of distance learning in the world. As to whether increased literacy would eliminate socioeconomic disparities, it was hard to say. Certainly, it would help to improve productivity in regions that were lagging behind, but it might not do away with disparities because highly educated people might migrate to other regions.

50. The infant mortality rate was currently 54 per thousand live births and the goal was to reduce it to 45 per thousand by 2007 and to 30 per thousand by 2012.

51. Mr. PURI (India), responding to questions about the right to culture, said that the Mahabodhi temple was managed by a government committee, whose members included an administrator who was a government official, and the chief priest of the temple, who was, of course, a Buddhist. The current administrator happened to be a Hindu, but that did not mean that temple management was in the hands of Hindus. It was a government responsibility. The temple's importance to the international Buddhist community was recognized, and a special

advisory board of representatives of the Buddhist faith had therefore been set up. Its members included the ambassadors of all countries with large Buddhist populations and a representative of the Dalai Lama.

52. Mr. SEN (India) said that he did not have data on the number of devadasis but would provide it at a later date. Concerning female sterilization, the Government did not have any sterilization targets, nor did it coerce women into sterilization. With regard to child labour, he found it difficult to credit the UNICEF figure of 140 million, which contrasted starkly with the 12 million reported by the most recent census. That figure would mean that around 60 per cent of Indian children worked, which was simply not true.

53. With respect to the place of human rights in the education system, school curricula did not address human rights per se, but there was instruction in civics, which covered the duties and rights of citizenship, including human rights.

54. Mr. MARCHÁN ROMERO regretted that the delegation had provided so little information on the right to culture, which was every bit as important as the other rights covered by the Covenant but tended not to receive as much attention. Could the delegation provide more detailed information on what was being done in India to protect the right to culture?

55. Ms. BARAHONA RIERA was disappointed at the lack of in-depth discussion on India's health system, in particular the impact of privatization on access to health services.

56. Mr. ABDEL-MONEIM, referring to the delegation's comments on the relationship between economic theory and economic, social and cultural rights, said that he did not agree with the assumption that growth of the gross national product (GNP) would necessarily lead to growth of employment. Indeed, that assumption was not borne out by the delegation's statistics. His own calculations indicated that, over the previous 25 years, employment had grown at less than half the rate of GNP.

57. Ms. PANT (India) said that the Government was committed to preserving scheduled tribes' culture and way of life. It had 18 tribal research institutes that were actively engaged in documenting tribal culture. Education in tribal languages was encouraged and instructional materials were being developed for that purpose.

58. Mr. SEN (India) said that it was mandatory for displaced populations to be resettled together in the same location and that schooling suited to the needs of the population had to be provided in the new location.

59. Privatization of the health system was the subject of intense debate in India. The Government had attempted to address the issue of affordability of private health care for the poor through insurance schemes, but the results had been less than encouraging because insurance companies had made it very difficult for beneficiaries, especially those who were illiterate, to submit claims and obtain reimbursement.

60. Mr. Swashpawan SINGH (India) thanked the Committee for a free and frank dialogue. His delegation had been touched by members' expressions of goodwill for India and by their clear acknowledgement of his Government's efforts to promote and protect economic, social and cultural rights. It was gratifying to know that some of India's initiatives were recognized as examples of best practice. His delegation had listened carefully to the Committee's concerns and looked forward to receiving its concluding observations, to which the Government would give its most serious consideration. He reiterated India's firm commitment to the realization of economic, social and cultural rights for all its people.

61. The CHAIRPERSON thanked the delegation for responding to the Committee's questions and asked the Government to submit its next periodic report in a timely manner.

The discussion covered in the summary record ended at 5.20 p.m.