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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Forty-first session

SUMMARY RECORD (PARTIAL)\* OF THE 31st MEETING

Held at the Palais Wilson, Geneva,  
on Wednesday, 5 November 2008, at 10 a.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 10.15 a.m.

CONSIDERATION OF REPORTS:

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

Second, third and fourth periodic reports of Nicaragua (E/C.12/NIC/4; E/C.12/NIC/Q/4 and Add.1)

1. At the invitation of the Chairperson, the members of the delegation of Nicaragua took places at the Committee table.
2. The CHAIRPERSON invited the delegation of Nicaragua to respond to the questions put by Committee members at the previous meeting relating to articles 10 to 15 of the Covenant.
3. Mr. SOMARRIBA FONSECA (Nicaragua) said that while the Government had limited resources, Nicaragua received support from the Bolivarian Alternative for the Americas, and it had undertaken a process to streamline foreign cooperation to bring it into line with the country's needs. The 2008 budget had already increased investment in health and education, which respectively represented 16 per cent and 15 per cent of the national budget; in 2009, those sectors would once again rise as a percentage of the State budget, respectively by 0.3 percentage points and by 1.1 percentage points. Some 6.1 per cent of the State budget for the current year went to debt servicing.
4. The National Health System, the main recipient of State budget financing, provided free family and community health services by sending health brigades to the country's most isolated communities, including indigenous communities. Priority was given to the provision of services for children, women and the elderly. Some 1,000 doctors took part in the programme, which in the first 10 months of 2008 had held 63,000 consultations and had carried out over 2,200 operations and 2,300 ultrasound examinations. Such services were additional to those provided in hospitals and health centres run by the Ministry of Health.
5. Since 1987, 3,465 cases of HIV or AIDS had been registered in Nicaragua, including 723 cases in which the patients had died. A recent survey of women and girls between the ages of 15 and 49 had found that 97 per cent were aware of at least one means of prevention and 16 per cent had undergone an HIV test. Nicaragua had adopted a law to promote, protect and defend human rights in the context of AIDS, and was implementing a policy aimed at ensuring equal access to prevention and care for men and women. In 2007, two important regional events devoted to people living with AIDS had been held in Nicaragua, which had helped to raise awareness of the need to combat discrimination and to change the population's attitude toward the disease.
6. In 2007 the Government had adopted a law on national water supplies, which governed all uses of water and inter alia established the National Commission on Drinking Water and Sewerage as the agency responsible for drawing up policy in that area.
7. Mr. CRUZ TORUÑO (Nicaragua) said that the Central American-Dominican Republic Free Trade Agreement had resulted in a doubling of investment in export processing zones between 2007 and 2008. That had brought about the creation of thousands of jobs, and had had a

very positive effect in some economic sectors, but the delegation unfortunately did not have an overview of all the Agreement's repercussions for the implementation of economic, social and cultural rights in the country. While Nicaragua had not ratified the Social Security (Minimum Standards) Convention, 1952 (No. 102) of the International Labour Organization, the President had stated that the country should review its position in respect of that international instrument and many others, and Nicaraguan domestic law provided for many of the guarantees set out in the Convention. For example, Nicaraguan law made provision for maternity insurance, maternity leave, including double leave in the event of multiple births, and other forms of worker protection in the event of childbirth, including the provision of maternity grants. In 2006, some 11,000 women had benefited from maternity grants, and in 2007 the figure had risen to over 15,000. The amount provided to individuals had risen as well.

8. While de facto discrimination had existed in the job market, the law prohibited discrimination based on gender, and men and women were entitled to equal pay and benefits for equal work in both the public and the private sector. Nicaragua had no specific programme to deal with the impact of the current world financial crisis. For the time being, there had been no perceptible change in the amount of remittances arriving in the country. The minimum wage did not cover the basic shopping basket of goods.

9. In respect of migration and the rights of migrant children, Nicaragua was mainly a country of origin, but it was also a host country not only for migrants in transit, but also for a small number of agricultural migrant workers on sugar and coffee plantations. Such workers generally did not come to the country with their families, and the Government kept no registry of migrant workers or their families.

10. Ms. CRUZ CHIRINO (Nicaragua) said that the aim of the National Human Development Plan was to facilitate development in such a way as to reduce poverty, for example through Government programmes providing free education, health care and public services. The Plan itself had been drawn up after consultation with civil society organizations, non-governmental organizations (NGOs), youth groups, small and medium-sized agricultural enterprises, craftsmen's associations, cooperatives and employers' associations, and representatives of the people living on the Atlantic coast. A special event would be held in 2010 to assess the progress made in implementing the Plan.

11. Sixty-five per cent of the population had an income of less than US\$ 2 a day; that included about 35 per cent of the population who lived on less than US\$ 1 a day.

12. Finding sufficient resources to implement the Plan properly could prove challenging, particularly in view of the negative effects of the energy crisis, Hurricane Felix and the global financial crisis. Steps were being taken to raise awareness among the business community and the population in general of the need to pay taxes so that more revenue could be channelled into development activities; food production was being promoted, particularly by micro, small and medium-sized enterprises; and greater investment from both public and private sources was being sought. International coordination and cooperation were being harmonized. Steps were being taken to assess the level of resources that would be required to implement the Plan as foreseen until 2012.

13. Ms. MEDAL GARRIDO (Nicaragua) outlined the 12 strategic objectives within the national gender strategy, which were intended to be applied across all ministries with the aim of making women a force for change in the country. Many women were heads of household in Nicaragua and could contribute to socio-economic development with proper support from the Government. The various poverty reduction programmes in place were already yielding positive results and were being extended.

14. The amount of the budget allocated to contraception had increased from US\$ 9,000 in 2006 to US\$ 688,000 in 2008, reflecting the importance the Government attached to sex education. Resources for women's health, including obstetric care and screening and treatment for cervical cancer, had also increased.

15. Placing the Nicaraguan Institute for Women under the direct authority of the Presidency would certainly not compromise its independence: quite the reverse. The aim was to increase its importance and highlight its role in restoring rights to women. The Government remained fully committed to the Institute's objectives, vision and mission.

16. With regard to the apparent increase of 36 per cent in domestic violence against women, she stressed that the figure was more indicative of an increase in reporting and should be viewed in a positive light, as it showed that campaigns to raise awareness were having an effect and women were beginning to feel comfortable about reporting such crimes to the appropriate authorities, confident that they would be listened to and that offenders would be punished. The establishment of dedicated police departments for women was an innovative practice that had already been followed by other countries in the region.

17. Mr. ROBELO RAFFONE (Nicaragua), noting that much of the socio-economic progress achieved by the Sandinista Revolution, particularly in the area of education, had been lost during 16 years of neoliberal government, confirmed that education was included in the National Human Development Plan, as it was recognized as a crucial factor in the development of every citizen. Although solving the problem of illiteracy altogether would be difficult, not least for technical and logistical reasons, it was hoped that the National Literacy Campaign, which formed a key part of Nicaragua's institutional development plan for 2008-2010, would enable significant progress to be made. During 2007 and 2008, national illiteracy levels had fallen by some 13 per cent, with 32 districts declared free of illiteracy. The operation of the National Literacy Council, together with national, regional and local literacy bodies, was being consolidated to guarantee their activities. Particular attention had been devoted to literacy for disabled persons, including through the introduction of a Braille system. A nationwide literacy census of all 3- to 18-year-olds had been carried out in November and December 2007, although it had not been possible to reach some very isolated communities. He would provide the Chairperson with some results from the survey in writing.

18. The 15 per cent of the proposed national budget for 2008 allocated to education represented a 2 per cent increase on 2007 and a 5 per cent increase on 2006. The proposed budget also included 50 million córdobas for intercultural bilingual education, which the Government supported as a means of providing significant opportunities for indigenous peoples. Work was under way to develop curricula that responded to both the need for harmonization and the need for primary bilingual education, particularly on the Caribbean coast, and a degree course in bilingual education had been established in some areas.

19. Under the various neoliberal Governments, many schools had been effectively privatized, in fact if not in law, by the introduction of a practice of requesting “voluntary” contributions from parents, ostensibly to reduce public costs. Non-payment of such contributions had frequently resulted in children being excluded from schools. The policy had discriminated against many poorer families and restricted access to education, and had now been abandoned. Primary and secondary schools were once again free and primary schooling was obligatory. One of the Government’s next challenges would be to complete construction of some 3,000 unfinished schools, begun under previous Administrations, for which assistance was being provided by Cuba.

20. Ms. LOVO HERNÁNDEZ said that private education was not provided for in legislation, and that the principle of free, compulsory education continued to be enshrined in the Constitution. The “voluntary” education fees instituted by the previous Government had in practice turned into a system of compulsory fees, which the current Government was in the process of eliminating, carrying out awareness-raising campaigns on the free nature of education and on the need for parents - including those living in poverty - to send their children to school. There was no charge for school materials, and children did not need to wear a uniform.

21. The Nicaraguan Centre for Human Rights was consulting with various national institutions with a view to promoting ratification of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador). There were currently a total of 28 petitions concerning Nicaragua before the Inter-American Commission on Human Rights, and two before the Inter-American Court. In those two cases, which concerned the indigenous population and had been brought against the State of Nicaragua by YATAMA and the Awas Tingni community - the Court had found against Nicaragua. While the State party had already complied with certain aspects of the Court’s ruling, it would take some time before the required electoral law reform could be brought about.

22. With regard to penalties established in legislation for sexual offences against children, she said that revised Criminal Code provisions on offences against sexual freedom defined sexual abuse, which was punishable by a prison sentence of 5 to 7 years (7 to 12 years if accompanied by violence), with the maximum sentences being imposed if the victim was a girl, boy or adolescent. Lack of consent, which was one component in the definition of sexual abuse, was not required to be established if the victim was under the age of 14 or had a physical or mental disability. Article 168 of the Criminal Code provided for prison sentences of 12 to 15 years for the rape of minors under the age of 14, irrespective of whether the victims had given their consent.

23. It had been intended to ensure harmonization between the Criminal Code and the Children and Adolescents Code, but revision in some areas relating to the age of minors was perhaps still required. Currently, the age of majority differed according to context; for example, the age of majority for civil and political rights (access to identity papers, right to vote, etc.) was 16; the age of majority in general was 21; and the age of consent to marriage was 18 for women and 21 for men.

24. On the issue of indigenous peoples, and their access to land titles, she said that the current Government was making every effort to promote and guarantee the rights of indigenous peoples. Draft legislation for the recognition of indigenous peoples, which included provisions on

property issues, was currently before the National Assembly. More than three lawsuits concerning communal land disputes had been brought against the State party by indigenous peoples from the Pacific, central and northern regions. The Government was working on administrative solutions, including examination of the land registry records kept by indigenous communities, and the establishment of appropriate rules and regulations. The process, however, was a long and complex one.

25. The problem of overcrowding in places of detention in Nicaragua, especially in the North and South Atlantic Autonomous Regions, had been raised in a recent public hearing before the Inter-American Commission on Human Rights. The South Atlantic Autonomous Region had one prison, while the North Atlantic Autonomous Region, which was more remote, had none. That situation led to persons arrested for committing an offence in the North Atlantic Autonomous Region being detained in police stations instead of in prisons, in violation of existing legislation. To remedy that situation, the Ministry of the Interior had made the construction of prisons in both regions one of its priorities. In the meantime, measures were being taken to improve police infrastructure, in order to ease the situation of overcrowding in police stations.

26. The Government had made significant progress in the area of housing. There was currently a housing deficit of nearly 1 million housing units. Only 22.5 per cent of the 1,100,000 existing housing units were in good condition; 47 per cent were in average condition; and 31 per cent were in poor condition.

27. In recent years there had been a proliferation of housing construction projects, but in the private sector. The majority of the population - two thirds of whom lived in poverty - was unable to afford the high monthly mortgages required to purchase those homes.

28. While those factors did provide a solution to housing problems, they did not address the needs of the poorest sectors of the population. The Human Development Plan, however, was designed particularly for that purpose. Given that the Government had only a small budget with which to resolve all the nation's problems, it had been important to establish priorities with regard to housing. Two projects had therefore been established: one, named "A House for the People", focused on the construction of housing for those with low incomes who did not own a plot of land on which to build, and the other, named "A Better House", provided low-interest funding and direct subsidies to low-income families.

29. In response to a question that had been asked regarding legislation on abortion, she clarified that at no stage were doctors prohibited from administering emergency care to women whose health was in danger. Health professionals and the women themselves were prohibited from participating in voluntary abortion. She drew attention to articles 143 to 145 of the new Criminal Code, which established the respective penalties for persons who participated in abortion, performed an abortion without the consent of the woman or caused an abortion as a result of negligence. The new provisions regarding abortion had been adopted by parliamentary majority in the National Assembly and therefore reflected the views of the majority of the Nicaraguan population. Most people in Nicaragua believed that birth control should be achieved not through abortion, but through prevention by using contraceptives. For many years, therapeutic abortion had been permitted, but that situation had now changed; since Nicaraguan citizens were entitled to present initiatives for legislation, abortion was an open subject that would constantly be under debate. If, in the future, it happened that a majority emerged in favour

of therapeutic abortion, then the legislation would be amended again. The Government was obliged, through the health system, to promote all methods of birth control, but abortion was not counted among them. Health centres in local communities held prenatal talks and attended to the basic medical needs of pregnant women, but also provided advice on contraception. While religion did not directly affect citizens' views on abortion, the fact that 90 per cent of Nicaraguans belonged to a church of some denomination meant that religion was likely to affect people's moral values.

30. Ms. BARAHONA RIERA, noting that according to some religious views contraceptives such as condoms and the contraceptive pill should not be permitted either but that they were not mentioned in the legislation, requested details on the State policy on contraceptives; for example, whether they were distributed free of charge or to doctors.

31. Ms. LOVO HERNÁNDEZ (Nicaragua) confirmed that contraceptives were not prohibited. However, it was true that a portion of the 90 per cent of Nicaraguans who belonged to a church did not use contraceptives because they were unacceptable under Catholicism. The State promoted the use of contraceptives, and its policy focused on the talks given to women in health centres and distribution of the contraceptive pill as a method of birth control. Condoms were not distributed free of charge, but were readily available and inexpensive.

32. Ms. MEDAL GARRIDO (Nicaragua) said that the Government focused its efforts on prevention. Health budget funding for contraceptives had increased considerably, from US\$ 9,000 in 2006 to US\$ 688,000 in 2008. Although it was true that the State did not have the resources to distribute condoms free of charge, support from NGOs and the international community meant that they were commonly distributed at higher education institutions. Sexual education formed part of the school curriculum, and sexual health campaigns were run on the radio and television and through community talks.

33. Ms. WILSON said she had noted with interest the State party's comments regarding abortion, and she agreed that abortion should not be a form of birth control. However, she specified that the Committee's concerns had been with respect to therapeutic abortion, in the case of victims of rape or incest. The repeal of the act was forcing desperate women in that situation either to have an illegal abortion or to travel to a country in which abortion was legal. In those cases, the issue of birth control was irrelevant as the women concerned had had no choice.

34. Ms. LOVO HERNÁNDEZ (Nicaragua) clarified that therapeutic abortion was illegal in the State party, even in the circumstances described. That was the situation under current legislation, reflecting the will of the people. However, if the will of the people changed, the issue would be re-examined.

35. Mr. ROBELO RAFFONE (Nicaragua) thanked the Committee for its careful attention throughout the examination of his country's report. Nicaragua recognized the importance of the review process as the main way of monitoring compliance with the Covenant and the obligations undertaken by States parties. As an ambassador and as a citizen, he recognized the need for

international bodies to guarantee basic human rights. Despite the great difficulties that his Government was currently facing after 16 years of neoliberal policies, which had concentrated on satisfying the interests of the few, it was firmly committed to the tireless fight against poverty and for freedom. The State party was only too aware that to live with hunger was to live without freedom.

36. The CHAIRPERSON thanked the delegation for responding to the Committee's questions, agreeing that commitment to the fight against poverty was undoubtedly fundamental to achieving freedom.

The discussion covered in the summary record ended at 12.15 p.m.