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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS
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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT**

**Concluding observations of the Committee on Economic,
Social and Cultural Rights**

EL SALVADOR

1. The Committee on Economic, Social and Cultural Rights considered the second periodic report of El Salvador on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/1990/6/Add.39) at its 36th and 37th meetings, held on 8 and 9 November 2006, and at its 53rd meeting, held on 21 November 2006, adopted the following concluding observations.

A. Introduction

2. The Committee welcomes with satisfaction the second periodic report of the State party and its written replies to the list of issues. It regrets, however, that, as was also the case in 1996, its written replies were not submitted sufficiently in advance to allow them to be translated into the Committee's other working languages.

3. The Committee is pleased with the frank and constructive dialogue that it held with the delegation of the State party.

B. Positive aspects

4. The Committee notes with satisfaction that, during the period covered by the second periodic report, the State party ratified a number of international instruments, in particular the Additional Protocol to the American Convention on Human Rights in the Area of Economic,

Social and Cultural Rights (Protocol of San Salvador) and International Labour Organization (ILO) Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize of 1948 and ILO Convention No. 98 concerning the Application of the Principles of the Right to Organize and to Bargain Collectively of 1949.

5. The Committee notes with satisfaction the State party's various plans and measures, such as the Presidential Programme on Opportunities, the Plan and National Council for the Elimination of the Worst Forms of Child Labour, the labour inspections carried out by the Directorate-General for Labour Inspection, and the various measures to assist Salvadoran migrants in other countries.
6. The Committee welcomes the Domestic Violence Act adopted in 1996 and article 200 of the new Criminal Code of 1998, which criminalizes domestic violence.
7. The Committee welcomes the fact that the National Housing Policy, adopted in June 2005, explicitly recognizes the right to housing as a human right.

C. Factors and difficulties impeding the implementation of the Covenant

8. The Committee notes that, during the period covered by the report, the State party was struck by a number of natural disasters, such as Hurricane Mitch in 1998, earthquakes in 2001, Tropical Storm Stan and the eruption of Santa Ana volcano in 2005, which impeded the full implementation of the Covenant.

D. Principal subjects of concern

9. The Committee notes with concern that, according to information it has received, some members of the Office of the Procurator for the Protection of Human Rights, including the Procurator herself, have received threats in the exercise of their duties. The Committee is also concerned at the apparent lack of coordination and communication between this institution and the Government.
10. Although it welcomes the establishment of the Salvadoran Institute for the Advancement of Women in 1996, the Committee notes with concern the discrimination faced by women in El Salvador, which is perpetuated by prejudices and traditional social conditions, in spite of the considerable number of legal instruments and programmes that have been adopted by the State party.
11. The Committee notes with concern that, although the unemployment rate in El Salvador has declined in recent years, the number of people working in the informal sector continues to be alarming.
12. The Committee is concerned at the insufficient level of the minimum wage, which does not allow workers and their families to live adequately in accordance with article 7 of the Covenant.
13. The Committee notes with concern that, although freedom of association and the right to strike are recognized in the Constitution and the Labour Code, in practice the exercise of these rights faces a series of obstacles. The Committee is disturbed at the fact that, as a consequence of the restrictions on the right to strike, most strikes have been declared illegal.

14. While it notes that labour inspections have increased in El Salvador, the Committee is concerned at the precarious labour status of certain persons, particularly women who work in maquiladoras (in-bond assembly and finishing plants), many of which do not respect the employment regulations and working conditions established in the Labour Code.
15. The Committee notes with concern reports that the social security system adopted in El Salvador in 1998 entrusted the administration of the pension fund to private organizations, dispensing with the principle of solidarity of the redistributive system. The Committee is also disturbed by the fact that this system does not establish the mechanisms necessary to guarantee that agricultural workers and domestic employees have access, and is not equally beneficial to men and women. The Committee regrets that it did not receive a reply to the oral questions that it put to the delegation on this matter.
16. The Committee notes with concern that the minimum coverage provided for in the new social security system is not sufficient to guarantee a decent standard of living and does not enable pensioners and their families to acquire the basic food basket.
17. While it notes that the State party has taken some steps to combat poverty, such as the poverty map, and a series of plans of action focusing on specific sectors of the population, the Committee deplores the great inequality in wealth distribution in El Salvador and the growing polarization between rich and poor. The Committee is also concerned at the inequality that exists between rural and urban areas, particularly with regard to medical services, education, wages and the quality of the basic food basket.
18. The Committee is concerned that, despite the constitutional recognition of indigenous peoples, their economic, social and cultural rights are not guaranteed in practice. It is particularly concerned that, since 1930 the State party has not carried out a census of indigenous peoples, and that the lack of statistics makes it difficult to evaluate these peoples' effective exercise of the rights established by the Covenant.
19. The Committee notes with concern the adverse effects of the implementation of the Free Trade Agreement, which entered into force in El Salvador on 1 March 2006, on the exercise of the rights established in the Covenant by the most vulnerable sectors of the population.
20. The Committee is concerned at the precarious situation of a growing number of families who do not have decent housing in El Salvador and who settle, for example, along the railway or rivers, or in volcanic areas.
21. The Committee notes with concern that, owing to a lack of economic opportunities, nearly one out of every three Salvadorans emigrates, and that this has negative consequences, such as the disintegration of the family, lack of protection for families, particularly women, who are forced to be heads of single-parent families, and children and adolescents, who do not receive adequate care, as well as the increase in violence and the spread of youth gangs (*maras*).
22. The Committee is concerned that, in spite of the País Seguro (Safe Country) plan, violence in El Salvador has increased, and that women have been the principal victims. It also notes with

concern that the youth gangs (*maras*) are composed mainly of socially and economically marginalized young men, and that most of the gangs have arisen owing to problems such as unemployment, the use of child labour, urban violence and family disintegration.

23. The Committee regrets that, despite the State party's efforts to eliminate child labour, particularly in the sugar cane sector, this practice persists in El Salvador, particularly in domestic service. The Committee is particularly alarmed at reports that girls, including very young girls, are employed as domestic workers, and regrets that it has not received any information in this regard from the State party.

24. The Committee considers that the budget allocated for the health sector is insufficient in order to provide adequate coverage for the population, in particular for vulnerable groups. It notes that access to health services is limited owing to the lack of financial means allocated by the State party to the public sector, and by the preference for a private-sector approach to the management, financing and provision of services, to the detriment of those who are unable to pay for such services.

25. The Committee notes with concern that, under the State party's legal system, abortion is illegal in all circumstances, even when the life of the mother is in danger, and that clandestine abortions and HIV/AIDS are among the principal causes of women's death.

26. The Committee notes with concern that the families of primary schoolchildren are obliged to pay fees even in the public system, and that the fact that secondary and higher education is mainly provided by private centres may increase the school dropout rate.

E. Suggestions and recommendations

27. The Committee encourages the State party to carry out investigations to identify and punish the authors of the threats received by the members of the Office of the Procurator for the Protection of Human Rights. It also recommends that the State party adopt the necessary measures to guarantee the proper functioning of this institution, for example by providing adequate financing and strengthening cooperation between the Office of the Procurator and the Government, including through the exchange of information.

28. The Committee requests the State party to ensure the equality of men and women in all spheres of life, in particular by taking effective measures to combat discrimination in the education of girls and young women, to facilitate their access to employment, to uphold the principle of equal pay for equal work and to ensure adequate working conditions. The Committee recommends that the State party adopt a law on equal opportunities for men and women and ensure that the activities of the Salvadoran Institute for the Advancement of Women (ISDEMU) have an impact on women's lives.

29. The Committee invites the State party to take effective measures, such as an employment action plan, to ensure the gradual reduction of the percentage of employment in the informal sector and of the unemployment rate.

30. The Committee urges the State party to take the necessary measures to ensure that the minimum wage enables workers and their families to enjoy an adequate standard of living.

31. The Committee encourages the State party to take the necessary steps to guarantee freedom of association and to remove administrative obstacles to the exercise of the right to strike. The Committee recommends that the restrictions on strikes should not become general practice.
32. The Committee encourages the State party to ensure that labour inspections are carried out regularly in places of work, particularly in the maquiladoras, and to ensure that victims of violations are provided with fair and satisfactory working conditions and with the means and information necessary to report violations to which they have been subjected.
33. The Committee recommends that the State party conduct an evaluation of the social security system adopted in 1998. The Committee requests the State party to establish the mechanisms necessary to guarantee that social coverage extends to agricultural and domestic workers and persons who have not been covered, and to grant equal benefits to men and women. The Committee requests the State party, in its next periodic report, to provide information on progress made in this regard.
34. The Committee requests the State party to take the necessary measures to establish effective mechanisms to guarantee that the minimum social security coverage allows pensioners and their families, who are members of the previous social security system or the new one, to have a decent standard of living.
35. The Committee calls upon the State party to take all necessary measures to reduce poverty and to improve its social development strategies, including coordination measures among the various institutions, as well as evaluations to assess the impact of plans and identify their shortcomings. Such measures should guarantee that the rights established in the Covenant are enjoyed to the same extent in both rural and urban areas. In this respect, the Committee invites the State party to take into consideration its statement on “Poverty and the International Covenant on Economic, Social and Cultural Rights”, adopted on 4 May 2001 (E/C.12/2001/10).
36. The Committee encourages the State party to develop indicators and set annual objectives, disaggregated by sex, age, urban and rural population and ethnic group, in order to determine the specific needs of disadvantaged and marginalized individuals and groups, and requests that this information be included in its next periodic report.
37. The Committee encourages the State party to conduct a census of the indigenous population, which will make it possible to ascertain the current situation with regard to the effective exercise of economic, social and cultural rights by indigenous peoples, and to provide, in its next periodic report, information on progress made in this area.
38. The Committee strongly recommends that the State party, in its negotiations and bilateral agreements, take account of all its obligations under the Covenant, and that such negotiations and agreements do not impinge on the enjoyment of economic, social and cultural rights. The Committee recommends that the State party assess the impact of the Free Trade Agreement, which entered into force on 1 March 2006, on the enjoyment of economic, social and cultural rights by its population, particularly the most vulnerable sectors, and adopt remedial measures, as required. The Committee also recommends that the State party consider the possibility of

re-establishing the Forum for Economic and Social Consultation, bearing in mind its inspiring principles. The Committee requests the State party, in its third periodic report, to provide precise and detailed information on this subject.

39. The Committee encourages the State party to take the necessary steps to guarantee the right to housing, paying special attention to risk areas. It calls upon the State party to take effective preventive measures, ensuring that housing is constructed in accordance with the standards for resisting earthquakes and cyclones, and to adopt a national territorial classification plan, avoiding construction in areas prone to natural disasters. The Committee draws the State party's attention to its general comments No. 4 (1991), concerning the right to adequate housing, and No. 7 (1997), concerning the right to adequate housing: forced evictions (article 11, paragraph 1, of the Covenant).

40. The Committee recommends that the State party take the necessary measures to encourage the population to remain in the country, through the creation of jobs and the payment of fair salaries. The Committee urges the State party to provide assistance to women who are heads of single-parent families, and to implement support programmes for children and adolescents whose parents have emigrated.

41. The Committee encourages the State party to redouble its efforts to combat violence and adopt integration and development measures for children and young people from broken families, identifying them from an early age. The Committee requests the State party to take the necessary measures to protect victims of violence, particularly women, and to conduct an assessment of the impact of the País Seguro programme. It further requests that the State party include information on this subject in its next periodic report.

42. The Committee urges the State party to increase its efforts to combat child labour, in particular in domestic service. It encourages it to take appropriate measures, including the provision of financial assistance, for families living in poverty in order to enable them to provide adequate care and protection for such children. The Committee requests the State party to provide information on this question in its next periodic report.

43. The Committee recommends that the State party take the necessary measures to consolidate a national health system based on equity and accessibility, in accordance with article 12 of the Covenant, guaranteeing essential health services for the entire population, in particular for vulnerable groups, by increasing the budget allocated for such purposes.

44. The Committee urges the State party to reform its abortion legislation and to consider exceptions to the general prohibition of abortion, in cases of therapeutic abortion and pregnancy resulting from rape or incest. It strongly encourages it to take the necessary measures to combat HIV/AIDS and to guarantee adequate medical treatment for persons with this illness. The Committee recommends that school curricula openly address the subjects of sex education and family planning in order to spread information on early pregnancy and the transmission of HIV/AIDS.

45. The Committee requests the State party to take effective measures to guarantee the right to education to all sectors of the population without discrimination, and to provide detailed information in this respect in its next periodic report, including disaggregated statistics on the school dropout rate.

46. The Committee requests the State party to disseminate widely the present concluding observations at all levels of society and to inform the Committee in its next periodic report about all steps taken to implement them. It also encourages the State party to engage non-governmental organizations and other members of civil society in the process of discussion at the national level, prior to the submission of its next periodic report.

47. The Committee calls upon the State party to update its core document in accordance with the harmonized guidelines on reporting under the international human rights treaties.

48. The Committee requests the State party to submit its third, fourth and fifth periodic reports as a single document by 1 December 2010 at the latest.
