



**Economic and Social
Council**

Distr.
GENERAL

E/C.12/1/Add.93
12 December 2003

Original: ENGLISH

COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS
Thirty-first session
10-28 November 2003

**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**

GUATEMALA

1. The Committee on Economic, Social and Cultural Rights considered the second periodic report of Guatemala on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/1990/6/Add.34 and E/1990/6/Add.34/Rev.1) at its 37th and 38th meetings, held on 14 November 2003 (see E/C.12/2003/SR.37 and 38), and adopted, at its 56th meeting, held on 28 November 2003 (see E/C.12/2003/SR.56), the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the second periodic report of Guatemala, which was prepared in general conformity with the Committee's guidelines, as well as the information provided in the written replies to its list of issues (E/C.12/Q/GTM/1).

3. The Committee welcomes the open and constructive dialogue with the delegation of the State party.

B. Positive aspects

4. The Committee notes with satisfaction the constitutional provisions establishing the post of the Prosecutor for Human Rights (articles 273-275 of the Constitution), as well as the adoption of the Law on the Parliamentary Commission on Human Rights, and the Law on the Prosecutor for Human Rights. The Committee also welcomes the elaboration by the Prosecutor for Human Rights of a Management Plan for the period 2002-2007.
5. The Committee welcomes the establishment of the Office for the Defence of Indigenous Women's Rights for the promotion and development of proposals for government policies, plans and programmes for the defence of the rights of indigenous women.
6. The Committee takes note with satisfaction of the adoption of Legislative Decree No. 19 of May 2003 on national languages recognizing, promoting and respecting the languages of the Maya, Garifuna and Xinka people.
7. The Committee welcomes the ratification by Guatemala of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, as well as its adherence to the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities.
8. The Committee welcomes the invitation extended to it by the State party's delegation to visit Guatemala in the foreseeable future.

C. Factors and difficulties impeding the implementation of the Covenant

9. The Committee takes note that the consequences of the armed conflict have seriously affected the full enjoyment of economic, social and cultural rights.

D. Principal subjects of concern

10. The Committee is concerned by the insufficient progress made by the State party towards the effective implementation of the Peace Agreements of 1996 (including the Global Agreement on Human Rights, the Agreement on Social and Economic Aspects and the Agrarian Situation) which have led to persistent serious problems, such as violence at the national level, intimidation, corruption, impunity and lack of constitutional, fiscal, educational and agrarian reforms. All these have impacted adversely on the full realization of economic, social and cultural rights enshrined in the Covenant, particularly with regard to indigenous peoples.
11. The Committee is concerned about the persisting discrimination against indigenous peoples, with regard to access to, inter alia, land ownership, work, education, health services and adequate nutrition and housing.
12. The Committee is concerned about the de facto inequality between women and men, which is perpetuated by traditional prejudices and social conditions, in spite of an important number of legal instruments adopted by the State party.

13. The Committee is concerned about the high level of unemployment, in particular among indigenous peoples. In this regard, the Committee takes note that the State party has not yet ratified International Labour Organization Convention No. 2 on Unemployment.
14. The Committee is particularly concerned that the minimum wage is not sufficient to provide a decent living for the workers and their families and that, in practice, such insufficient salary is not always paid.
15. Notwithstanding the measures taken by the State party to decentralize and expand the labour inspections services, the Committee is concerned that labour inspections are not carried out regularly, especially in rural areas.
16. The Committee is also concerned about sexual harassment of women in the workplace.
17. The Committee is concerned that only 15 per cent of the population are covered by the Guatemalan Institute of Social Security and that there is a considerable disparity in the coverage of workers in rural and urban areas. The Committee also notes that the State party has not yet ratified International Labour Organization Convention No. 102 on Social Security (Minimum Standards).
18. The Committee takes note of the legislative measures undertaken by the State party to address the needs of persons with disabilities, but regrets the lack of implementation measures and adequate financial and human resources in this area.
19. The Committee also takes note of the efforts made by the State party towards the implementation of the National Reparation Programme for victims of war. However, the Committee expresses concern at the lack of effective measures to reunite families separated by the conflict, to establish the whereabouts of children who have disappeared and to safeguard the rights of children orphaned by the war.
20. The Committee is deeply concerned about the persistent problem of child labour in the State party, especially in agricultural and domestic services.
21. The Committee is concerned about the extent of the problem of violence against women in the Guatemalan society, both within and outside the family, and its implication for both the physical and mental health of women and children. The Committee is also concerned that the Penal Code does not consider domestic violence as a crime.
22. The Committee is concerned about the high level of poverty which affects, according to official statistics, 73.8 per cent of the indigenous population and 40.6 per cent of non-indigenous populations.
23. The Committee is concerned about the negative effects of the coffee crisis on rural employment and standard of living.
24. The Committee continues to be deeply concerned that the uneven distribution of wealth and land and the high level of social exclusion, in particular among indigenous and rural populations, hinder the full enjoyment of economic, social and cultural rights.

25. The Committee is concerned about the current state of sexual and reproductive health of women and that the incidence of child and maternal mortality is relatively high.
26. The Committee is alarmed about the increasing level of drug addiction in the State party, especially among young people.
27. The Committee is concerned that only 30 per cent of children living in rural communities complete primary education and, in the case of indigenous children, only 20 per cent complete the primary level of education. The Committee also expresses its concern about the limited access for indigenous peoples to enjoy education in their mother tongue and to use their mother tongue in their dealings with public authorities.

E. Suggestions and recommendations

28. The Committee recommends that the State party make every possible effort, including through international assistance, to provide adequate follow-up to various issues contained in the Peace Agreements of 1996, which, following over 30 years of civil unrest, laid the foundation for national reconciliation and for the promotion of human rights.
29. The Committee recommends that the State party increase its efforts to combat discrimination against indigenous peoples, in particular in the areas of employment, health services, land ownership, adequate nutrition, housing and education.
30. The Committee calls upon the State party to ensure equality between women and men in all spheres of life, in particular by taking effective measures to combat discrimination in the education of the girl-child, in access to employment, in equal pay for work of equal value and in access to land and credit services. The Committee urges the State party to increase the level of representation of women in public services.
31. The Committee urges the State party to increase its efforts to combat unemployment by strengthening technical and professional training programmes and by adopting policies aimed at facilitating investments that create jobs. The Committee encourages the State party to ratify International Labour Organization Convention No. 2 on Unemployment.
32. The Committee recommends that the State party ensure that the minimum wage is increased regularly in proportion to the cost of living so as to guarantee an adequate standard of living for workers and their families and to ensure that the rules regarding the minimum wage are respected in practice.
33. The Committee urges the State party to verify and ensure the fulfilment of labour legislation concerning occupational health and safety conditions, including through regular inspections.
34. The Committee urges the State party to amend all its relevant legislation in order to define sexual harassment as a crime and to take effective measures to combat the crime.

35. The Committee recommends that the State party take all necessary measures to ensure that the coverage of the national social security system is significantly extended to include rural and domestic workers and their families. The Committee also recommends that the State party ratify International Labour Organization No. 102 on Social Security (Minimum Standards).
36. The Committee urges the State party to address the condition of persons with disabilities by formulating adequate implementation measures in this area. It also recommends that the State party provide in its next periodic report detailed information on measures taken and the results obtained.
37. The Committee urges the State party to increase its efforts to reunite separated families, to continue seeking children who have disappeared and to safeguard the situation of war orphans while facilitating access to the judicial system for affected persons.
38. The Committee urges the State party to take all necessary measures, legislative or otherwise, to address the persistent problem of child labour, especially in agriculture and domestic services.
39. The Committee urges the State party to combat violence against women, including through the effective application of the law on domestic violence and awareness-raising campaigns designed to combat the negative traditional practices and prejudices and their effects and consequences. In this regard, the Committee urges the State party to amend the Penal Code by including domestic violence as a crime. The Committee requests the State party to provide, in its third periodic report, detailed information and up-to-date statistics on a comparative basis on the phenomenon of domestic violence in Guatemala, as well as the results of the measures to combat this serious problem.
40. The Committee recommends that the State party intensify its programmes and activities to combat poverty and to improve the living conditions of the population of Guatemala, in particular of the marginalized and vulnerable groups, including indigenous peoples. The Committee requests the State party to provide in its next periodic report detailed information on the progress made.
41. The Committee encourages the State party to reorient its agricultural policies and to implement its social plan to combat the coffee crisis through measures that ensure access to adequate nutrition, health care, subsidized housing and employment opportunities for those affected by the crisis.
42. The Committee reiterates its previous recommendation (E/C.12/1/Add.3, para. 24) and urges the State party to implement the measures contained in the Peace Agreements of 1996, in particular those related to the agrarian reform and the devolution of communal indigenous lands.

43. The Committee recommends that the State party take measures to reduce child and maternal mortality, and in particular intensify the implementation of its National Sexual and Reproductive Health Programme, provide further assistance and training to midwives, organize educational campaigns regarding women's sexual and reproductive health, and include such subjects in the school curricula.

44. The Committee urges the State party to undertake effective measures to combat drug addiction, such as awareness-raising campaigns and educational activities.

45. The Committee urges the State party to make efforts to increase school attendance of children, particularly of indigenous children. The Committee recommends that the State party broaden its intercultural bilingual education and allocate adequate funds and human resources to the Department of Bilingual Education, and improve the working conditions of teachers by paying them better salaries and providing them with training as well as hiring additional teachers to fully cover rural areas.

46. In the light of paragraph 71 of the Vienna Declaration and Programme of Action, the Committee encourages the State party to continue preparation, through an open and consultative process, of a comprehensive national plan of action on human rights and to seek technical cooperation from the Office of the United Nations High Commissioner for Human Rights. The Committee requests the State party to include in its third periodic report information on progress made in this regard.

47. The Committee requests the State party to provide information, in its third periodic report, on specific measures adopted by the National Human Rights Institution "Procuraduría de los Derechos Humanos" to promote and protect economic, social and cultural rights.

48. The Committee requests the State party to disseminate the present concluding observations widely at all levels of the society and, in particular, among State officials, the judiciary and the legislature and to inform the Committee, in its next periodic report, of all steps undertaken to implement them.

49. The Committee 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 third periodic report.

50. The Committee requests the State party to submit its third periodic report by 30 June 2008.
