



# Economic and Social Council

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## Committee on Economic, Social and Cultural Rights

### Forty-fourth session

#### Summary record of the 16th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 12 May 2010, at 3 p.m.

*Chairperson:* Mr. Marchán Romero

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*The meeting was called to order at 3.15 p.m.*

### **Consideration of reports**

#### **(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant** *(continued)*

*Second to fourth periodic reports of Afghanistan* (continued) (E/C.12/AFG/2-4; E/C.12/AFG/Q/2-4 and Add.1; HRI/CORE/AFG/2007)

1. *At the invitation of the Chairperson, the delegation of Afghanistan took places at the Committee table.*

#### *Articles 1–6 of the Covenant*

2. **Mr. Hashimzai** (Afghanistan) said that the Anti-Corruption Act adopted by Parliament had been partially implemented and with varied results. In accordance with that Act and the United Nations Convention against Corruption, a body had been set up to combat corruption. The public authorities could no longer make appointments to posts at will, and recruitment was now carried out on the basis of a competitive examination. An increase in civil servants' pay was under consideration. Members of the Government were required to declare their assets. A unit that would deal exclusively with corruption had been created in the Office of the Attorney General. The fight against corruption was a priority for the public authorities since it was a scourge that cost the country dearly.

3. With regard to the possibility of drafting a comprehensive law to combat discrimination, such a law had not been envisaged but might be considered at a later date. Issues such as domestic violence were dealt with by the courts but were rarely publicized. The planned publication system would keep the public informed and therefore contribute to preventing corruption among the judiciary.

4. All relevant sectors of society had been involved in the drafting of the report, under consideration from the very beginning of the process, through a working group formed for that purpose. The public authorities ensured that the Covenant was implemented throughout the territory, including in the provinces, through the competent ministries — in particular, the Ministry of Labour and Social Affairs — and their local teams.

#### *Articles 6–9 of the Covenant*

5. **Mr. Texier** said that he had been unable to grasp the precise unemployment rate in the State party, which did not seem to have the necessary tools to carry out statistical studies that would differentiate, for instance, between employment in the formal and informal sectors and between unemployment rates for men and women. He wondered whether Afghanistan received assistance from the International Labour Organization (ILO) in that connection. He would also like more information concerning the concrete measures taken to combat unemployment, particularly in the agricultural sector.

6. With respect to forced labour, he wished to know whether the State party had taken into account the observations of the ILO Committee of Experts on the abolition of forced labour, since certain criminal law provisions stated that labour could be used as a punishment to repress the expression of political opinions or ideological opposition. He requested the Government of Afghanistan, in accordance with the ILO Convention concerning Discrimination in Respect of Employment and Occupation (No. 111), to include a definition of discrimination in the legislation in order to facilitate the implementation of anti-discrimination provisions in the Labour Code.

7. As for child labour, given the very large number of children who worked, or who were put to forced labour, he wished to know what measures had been taken to put an end to that type of work; a specific plan of action on the subject would be advisable.
8. He wished to know whether there was a minimum wage and, if so, whether it would allow a family to enjoy a decent standard of living. He would like a percentage estimate of the difference between men's and women's pay. What measures had been taken in order to reduce the gap? Did women have access to all occupations and at all levels, including in the public administration, and, in particular, in the judiciary and police?
9. He had been unable to glean from the periodic report whether the right to strike existed or not and whether and how it was regulated. How was collective bargaining conducted? In the event of dispute, were there labour tribunals and what was their composition? If negotiations failed, how could workers join trade unions and, if necessary, take strike action? Noting that the report did not mention accidents at work, he wished to receive information concerning the number and seriousness of such accidents and whether there was a labour inspectorate.
10. **Ms. Bras Gomes** asked what measures the State party might take to prevent the exploitation of workers in the day-labour sector, which accounted for 34 per cent of men working in towns and 58 per cent in the countryside. Basic social protection for agricultural sectors in terms of pensions and health insurance was vital if the State party wished to base its development on a dynamic agricultural sector. She wished to know whether the State party had envisaged the possibility of seeking international assistance for setting up a national social security system.
11. **Mr. Abashidze** enquired what measures had been taken to put an end to certain practices in the recruitment of civil servants which, according to information received, involved preference being given to candidates who shared the views of the main political party, despite the fact that the constitutional and legislative provisions on access to jobs in the public sector stipulated that the selection should be based on qualifications, professional experience and recruitment by competitive examination.
12. **Mr. Schrijver** said that he would like more precise figures concerning the unemployment rate among the active population, especially among young people. He would also like additional information about the informal sector, in which day labour and child labour seemed to be widespread, and on the measures taken to develop formal employment.
13. **Mr. Zhan Daode** called attention to the State party's efforts to promote economic, social and cultural rights in a still unstable political environment. With reference to paragraph 25 of the periodic report, which indicated that the unemployment rate in Afghanistan was 33 per cent and that the Government continued to make efforts to pursue economic development by reducing poverty and unemployment, he asked what the current figure was and what measures had been adopted to fight unemployment.
14. **Mr. Kedzia** asked what efforts the State party had made to build sufficient capacity to guarantee that labour legislation would actually be enforced. He also wished to know the extent to which working children — a widespread phenomenon in the country — were protected from discrimination, exploitation and the adverse impact that their work had on their health. Referring to the information contained in paragraphs 49 and 50 of the report, he asked whether the technical assistance provided by the ILO office in Kabul was limited to the capital or whether it was provided throughout the country, and whether new programmes were envisaged for facilitating the creation of a trade union movement, an important partner in social development. He would like details on the collective bargaining process set up by the Ministry of Labour and Social Affairs.

15. **Ms. Bonoan-Dandan** expressed concern that insufficient attention was given to agriculture and livestock raising in the Afghan National Development Strategy (ANDS), the effects of the drought on farm production and income and the assistance the Government was giving to farmers. She sought additional information on the national employment strategy. In addition, technical and occupational training, which had been provided for about 800,000 people, seemed derisory in the light of the number of unemployed in need of assistance in the country.

16. Noting the situation of Afghans who were put to forced labour by their employers in neighbouring countries, she recalled the statement by the Deputy Minister of Labour and Social Affairs, that the Ministry was not responsible for Afghans who had emigrated illegally and reminded the State party that it was responsible for the protection of its citizens both within and outside its borders. In that connection, she asked whether the State party intended to exert diplomatic pressure on its neighbour, the Islamic Republic of Iran, to enable many Afghan workers — a large number of them women — who were undocumented and exposed to abuse to return to their country with dignity.

*The meeting was suspended at 3.55 p.m. and resumed at 4.15 p.m.*

17. **Mr. Muhmand** (Afghanistan) said that 3.5 million young people were unemployed in the country. The State party, which had ratified a further four ILO Conventions in 2009, cooperated closely with the ILO Office in Kabul and rolled out its activities to the 34 Afghan provinces. Both forced labour and child labour were prohibited under domestic law. Working children were one of the priority groups of children targeted by the National Strategy for Children at Risk, and the Afghan Government received assistance from ILO, the United Nations Children's Fund (UNICEF) and NGOs for its activities in that area.

18. On questions relating to wages, the minimum wage of \$65 would not be sufficient for a decent standard of living and it was therefore planned to amend the wage ladder and increase it to \$125. Any discrepancy between men's and women's pay was forbidden under Afghan law. Collective bargaining and work-related disputes were settled by a meeting of the three parties concerned — Government, employers and employees — and if the dispute could not be resolved, the parties could refer the case to the courts.

19. **Mr. Hashimzai** (Afghanistan) said that, in cases of violation of labour legislation, such as those concerning sexual harassment, children in forced labour situations, work-related accidents and ill-treated workers, the procedure would involve notifying the Ministry of Labour and Social Affairs, which would try to resolve the matter and, if it could not, would refer it to an ordinary court. There were plans to set up labour tribunals and a mechanism for monitoring working conditions in the country.

20. Similarly, the Afghan Government was determined to set up a social security system, but required international financial assistance in order to do so. However, in the assistance it gave to Afghanistan, the international community adhered to its own strategy, to which the Afghan authorities were obliged to conform. The social security system was so vast that the international community still showed reluctance.

21. A special fund had been established in order to subsidize the payment of increased salaries for the police and prison staff. In addition, article 50 of the Constitution guaranteed equal pay for men and women and, in future, in recruitment procedures, appointments would no longer be made by the employer, but by a fully independent administrative commission.

22. He acknowledged that most of the country's resources had been devoted to the war, but the Afghan Government was determined, at present, to take action on other fronts, including social protection, law enforcement and the proper functioning of the judicial system. Furthermore, it was possible for any person harmed by a law to file a complaint,

thus validating the law and the State that had adopted it. Children were prohibited from performing work of any kind and putting children to forced labour was a crime. Providing assistance for street children and for vulnerable children in general was the responsibility of a specialized Government unit but also that of the Red Crescent and other NGOs.

23. The right to strike and demonstrate existed in Afghanistan: but there were certain rules attached to that right, including the obligation to inform the authorities 24 hours in advance. He knew of no case in which the police had reacted against protesters or strikers. Lastly, he pointed out that the Afghan National Development Strategy covered all aspects of social life and consisted of three broad pillars: security; the rule of law; and economic and social development and that, in regard to the latter, most of the programmes related to agriculture.

24. **Mr. Muhmand** (Afghanistan) confirmed that the Afghan Government intended to amend its labour legislation shortly in order to make good its deficiencies. The country had 22 professional training centres spread across the territory, which were currently training 7,000 young people. In 2009, 200,000 young people had graduated thanks to Ministry of Labour and Social Affairs' skills-development programmes; 116,000 of them had found employment and some had themselves become trainers. During the previous 30 years, qualified professionals had left Afghanistan, resulting in a shortage of qualified personnel; but at present, thanks to those programmes, there were good technicians in various areas. In order to meet its reconstruction needs, the country could still call on skilled foreign manpower, to whom it issued work permits as long as there were no Afghan nationals with the qualifications required. The Afghan Government did not wish young people to emigrate illegally; nevertheless, where Afghans found themselves in an illegal and difficult situation abroad, in particular in countries such as Saudi Arabia, it assisted them through its embassies.

25. **Mr. Texier** noted that, although the law prohibited unequal pay for men and women in accordance with article 7 of the Covenant, women continued to receive less pay than men. Therefore, he wished to know exactly how much the pay gap was, why it existed and what measures had been taken to eliminate it. Furthermore, while it was interesting to learn the unemployment rate, the Committee needed to know what the authorities had done to improve employment, in particular in the agricultural sector, and whether programmes had been set up for that purpose. As far as the minimum wage was concerned, he was surprised that the rate had doubled (from \$65 to \$125); what the Committee expected in addition to those figures was to know whether it was possible to feed, clothe and house oneself for \$125 in Afghanistan. Therefore, in its future periodic reports the State party should provide not only statistics, but also a concrete analysis of the situation.

26. **Ms. Bras Gomes** wondered why, despite the Afghan delegation's efforts, there continued to be gaps in the replies to the Committee's questions. While sexual harassment was a crime, it was not expressly prohibited under a law that was meant to support women who brought complaints; therefore, the country should put in place targeted measures, for example on sexual harassment in the workplace. She had understood from the delegation's remarks that the international community was less interested in establishing a human rights approach than it was in financing development programmes. She would like to know why, when the Afghan Government was currently developing an employment strategy in partnership with the ILO, it did not do the same with social security, based for instance on the Committee's general comment No. 19 on the right to social security.

27. **The Chairperson**, speaking as a member of the Committee, requested further information on the situation of women in Afghanistan, including the number of women in senior posts, especially those at the top echelon of Government. He also regretted that the delegation had not been more precise in its replies on the informal sector, the employees of which, by definition, were not protected by international conventions.

28. **Ms. Bonoan-Dandan** recalled that she had requested information concerning the sections of the national development strategy dealing with economic, cultural and social rights and the sections dealing with agriculture and livestock raising. She would like to make it clear that she had not said that forced labour existed in Afghanistan but that Afghans abroad were its victims.

29. **Mr. Hashimzai** (Afghanistan) explained that the second and third pillars of the national development strategy dealt with the matters outlined by Ms. Bonoan-Dandan. The third pillar, which dealt with economic and social development, contained two chapters on agriculture, specified the targets for aid and set out precise deadlines by which they should be achieved. One of the targets to be achieved by 2013 was the provision of land to all peasants who owned none. Within the framework of the national development strategy, the Ministry of Agriculture was currently charting the course for implementation of those provisions. The development strategy also established precise criteria for the justice system. For example, it provided for a number of prisons to be built by 2013, with separate establishments for women and minors; unfortunately, the target would not be achieved since only six prisons had been built nationwide. Nevertheless, progress had been made, particularly thanks to the foreign assistance the country received.

30. **Ms. Burhani** (Afghanistan) said that the State's dedication to the protection and promotion of human rights, including the rights of women, was demonstrated not only by article 22 of the Constitution which stated that men and women were equal, but also by the adoption of the National Action Plan for Women which included a gender perspective in all State bodies and focused on the following key areas for improving the status of women in the country: security; legal protection and human rights; the exercise of authority and political participation; finance, labour, and poverty reduction; and health and education. Women currently accounted for 28 per cent of Parliament, and also held posts of minister, deputy minister, governor and ambassador and in the country's numerous sectors of activity, including political parties. The Afghan Independent Human Rights Commission was also headed by a woman. The percentage of women graduating from higher education had increased from 16.7 per cent in the period 2007–2008 to 19.4 per cent in 2008–2009 and the number of teachers had increased from 6.9 per cent to 8 per cent. That represented considerable progress given that, in 2001, women could not exercise their basic human rights as independent human beings.

31. **Mr. Hashimzai** (Afghanistan) said that certain provisions of the Elimination of Violence against Women Act dealt with sexual harassment and associated penalties. Concerning work and social security, Afghanistan received assistance from ILO in the form of advice and support but no financial assistance. Certain categories of employees, such as civil servants or workers in the manufacturing sector, had already joined the social security system. The Government's aim was to make the system available to the population as a whole, including to the unemployed, in order to combat poverty, and all new sources of revenue would be allocated to that project. Millions of people formed part of the informal sector and were primarily engaged in agriculture.

*Articles 10–12 of the Covenant*

32. **Mr. Atangana** asked whether widows in Afghanistan were dispossessed of their property and made to marry the brother of the deceased husband, or where there was no brother, a relative by consanguinity. If so, what was the State party doing to improve those women's unenviable fate?

33. He would appreciate information from the Afghan delegation concerning street children, the measures taken to protect them from economic and social exploitation and whether corporal punishment was forbidden within the family.

34. Lastly, referring to the written reply of the Afghan Government to question 26 in the list of issues, he wished to know what decision had been taken by the court that had first heard a domestic violence case referred to it by the new unit set up in the Attorney General's Office to address violence against women.

35. **Ms. Barahona Riera** asked whether the 30 per cent of the national budget which the Government had said it would devote to women's issues would be used solely to fund the national programme for women — which would be a very large budget — or whether it would cover all the State's social expenditure on health and education, from which women would also benefit.

36. Noting that many personal status laws contravened the principle of equality enshrined in the Constitution as well as discriminating against women, she wished to know whether the State party planned to amend those laws in order to align them with the supreme law of the land so that women could seriously report domestic violence that they experienced. If it did, married women who were victims of rape would perhaps dare to complain without fearing that they would be accused of adultery and punished under sharia law. It would also be necessary to combat corruption in the judiciary and the police — and to break with the law of silence, and discrimination against women — so that women and child victims of trafficking could at last be heard.

37. She would appreciate learning whether the public health system covered all basic services provided for the population and whether the State party ensured that more nurses specializing in sexual and reproductive health were trained in order to lower the maternal and child mortality rate, which was particularly high in Afghanistan.

38. **Mr. Dasgupta** asked what measures the State party had taken to combat child trafficking for purposes of sexual and commercial exploitation, and in particular to prosecute the traffickers, offer the victims protection and help them to reintegrate.

39. **Mr. Abashidze** said that it was regrettable that the delegation had not provided specific answers that gave the Committee an accurate picture of the situation in the State party. He would therefore like to know what specific measures the State party had taken to ensure protection of the family.

40. **Mr. Pillay** asked what measures the State party had put in place to reduce poverty which, standing at some 36 per cent of the population in 2008, was particularly alarming. Could the Afghan delegation indicate the current poverty level? Credible sources seemed to indicate that some 40 per cent more people could sink into poverty after a natural disaster or illness, and he was disappointed that the State party's poverty reduction strategies did not seek to better identify the reasons why people found themselves in conditions of such deprivation and that they did not include a human rights component. In particular, he wished to know whether the strategies in question specifically targeted the most deprived, such as women, children, persons with disabilities or displaced persons. In addition, he wished to know whether 44 per cent of the population was food-insecure and why the "Food Security for All" programme had still not been implemented.

41. Regarding the right to adequate housing, he appreciated the honesty with which the State party had depicted the particularly difficult conditions in rural and urban areas, but regretted that it had not taken into account the recommendations contained in the report (E/CN.4/2004/48/Add.2) of Mr. Khotari, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, which advocated particular attention to the needs and rights of women and vulnerable groups, such as displaced persons, nomads and the poor. With regard to displaced persons, he noted with concern that 60–70 per cent of the city of Kabul was composed of makeshift shelters and that the population did not have access to basic health or social services. He wished to know how the State party intended to remedy the problem.

42. With reference to paragraph 95 of the periodic report, which mentioned forced expulsions and impunity, he would appreciate learning whether the State party intended to implement Mr. Khotari's recommendation to declare a moratorium on those evictions pending a new policy on the issue; to establish appropriate mechanisms in order to monitor implementation of the right to decent housing by, for instance, strengthening the mandate of the Afghan Independent Human Rights Commission, and whether the Government intended to adopt a related framework law, drawing, for the purpose, on general comment No. 7 on the right to adequate housing: forced evictions.

43. Lastly, referring to question 30 of the list of issues, to which the Afghan delegation had not replied, he wished to learn what had been the concrete effects of the new Land Management Act and whether it had led to the settlement of land disputes.

44. **Mr. Riedel** asked whether the targets set in the context of the Afghanistan Compact and the Afghan National Development Strategy — for instance, to ensure that 90 per cent of the Afghan population had access to primary health care by 2010, that all children under 5 were vaccinated and that the child mortality rate was reduced by 20 per cent — had been achieved. In addition, he wished to know what action the State party intended to take to ensure that all expectant mothers had access to specialized services when giving birth, and to combat the practice of child marriage and the resulting early pregnancies that endangered the lives of both mother and child.

45. Lastly, he wished to know what had been the practical effect of the increase in mobile health services, and what amount of health costs, in general, was not covered by the public health system.

46. **Mr. Tirado Mejía** asked whether the State party intended to increase the number of women on specialized health teams so that women could have wider access to local health services.

47. He noted that the figures for access to safe drinking water in paragraphs 114 and 115 of the periodic report were contradictory and pointed out that, according to credible sources, people living in makeshift settlements, who accounted for over 80 per cent of the population, did not have access to water, as there was no modern distribution system in rural areas, and that natural springs were often polluted by cattle.

*The meeting rose at 6 p.m.*