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Chair: Ms. Liebenberg (Vice-Chair)

Contents

Substantive issues arising from the implementation of the International Covenant on Economic, Social and Cultural Rights (*continued*)

General discussion on land and the International Covenant on Economic, Social and Cultural Rights

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In the absence of Mr. Zerbini Ribeiro Leão, Ms. Liebenberg, Vice-Chair, took the Chair.

The meeting was called to order at 10.15 a.m.

Substantive issues arising from the implementation of the International Covenant on Economic, Social and Cultural Rights (*continued*)

General discussion on land and the International Covenant on Economic, Social and Cultural Rights

1. **The Chair** said that the day of general discussion was part of a consultative process for drafting a general comment on land and the Covenant. In recent years, there had been increased competition for land and other resources in rural and urban areas alike and pressures resulting from large-scale development projects, tourism and environmental conservation, all of which affected the enjoyment of a range of economic, social and cultural rights. She wished to draw attention to an issues paper circulated in the room, entitled “State obligations under the International Covenant on Economic, Social and Cultural Rights and governance of land tenure”, which had been drawn up by the Committee’s three rapporteurs for the general comment under discussion.

Panel 2: Pressures on land and speculation

2. **Mr. De Schutter** (Moderator for panel 2) said that he and his colleagues Rodrigo Uprimny and Michael Windfuhr were the rapporteurs for the general comment on land and the Covenant. The Committee trusted that the day of general discussion would be useful for the preparation and adoption of a general comment that would clarify the implications of the Covenant for access to land and the governance of land tenure. It was envisaged that such a document would be ready for a first reading at the Committee’s sixty-seventh session and for adoption at its sixty-eighth session.

3. The general comment was being drafted at a time when issues about governance of land arose with increasing frequency in the work of the Committee. There had been extensive discussion about the problem of land-grabbing in the period 2008–2010 in the wake of the global food crisis. However, the problem was not entirely new: in 2004, the Committee on World Food Security of the Food and Agriculture Organization (FAO) had adopted Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security, which contained a number of provisions on access to resources. More recently, in 2012, the same Committee had adopted the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security and, in 2014, the Principles for Responsible Investment in Agriculture and Food Systems. Most recently, the General Assembly of the United Nations had adopted resolution 73/165 on the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas, with 121 States in favour, 8 States against and 54 States abstaining.

4. **Mr. Cotula** (Panellist, International Institute for Environment and Development), introducing the discussion, said that land was central to the lives of millions of people but pressure on land was growing. In recent years, much attention had been focused on a surge of agribusiness and extractive industry projects, particularly in developing countries. However, other pressures were also at play, from land acquisition by national elites to the creation of protected areas and a new push for special economic zones. Corruption often cleared the way for such transactions, while the decreasing opportunities for citizens to influence political processes exposed land rights defenders to repression. People with weaker land rights or with a limited voice in land governance were particularly vulnerable to dispossession, including women, young people, migrants and indigenous communities.

5. Many laws granted the authorities extensive powers to expropriate resources and reallocate them to commercial operators. Skewed or ill-defined notions of public purpose or productive use and ineffective channels for public participation and accountability made local land rights insecure. A global network of international investment treaties afforded protections for foreign investment, which businesses had used to challenge wide-ranging land governance measures, yet international standards to ensure the accountability of business for land-related human rights violations had not been established. A general

comment could provide strategic guidelines for efforts to secure land rights, both in law and in practice.

6. The issues paper outlined a few important questions for discussion, including titling and recognition of customary land rights. After long-standing attempts to eradicate or co-opt customary systems, there was now strong support for the notion that national governance should recognize rights that people considered socially legitimate, including customary rights.

7. There had been positive experience with strengthening women's voices in both customary and land governance institutions. A broad agenda was needed that took into account, for example, the extent to which the law recognized and protected legitimate tenure rights, redistributive reform where relevant, dispute settlement and access to justice. The issues paper also addressed the question of land-based investments. The nature and extent of land disputes associated with large-scale investments suggested that existing due diligence did not ensure that land rights issues were properly identified and handled. There was a need for reform, including in the light of the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security and human rights standards. It was also important to make arrangements for public participation and scrutiny so that rights holders could advance their own vision of development. The general comment could also add value by tackling issues surrounding the repression of land rights defenders, the responsibility of business to respect human rights and access to redress by persons negatively affected by investment processes.

8. **Mr. Golay** (Panellist, Geneva Academy of International Humanitarian Law and Human Rights) said that he wished to discuss the results of a six-year research project carried out by the Geneva Academy with colleagues in South-East Asia on the human rights impact of large-scale land acquisitions. Four common threads could be traced from the typology of human rights violations associated with land-grabbing that had been applied during the project. The first related to the implications of internal displacement. When people were displaced or forcibly evicted, they lost the rights to food, water, health, housing, education and employment and cultural rights, among others. In many cases there was no compensation for such evictions. The second involved the impact of large-scale land acquisitions on the procedural rights of indigenous peoples, including the right to free, prior and informed consent. The third concerned the disproportionately negative effect that such acquisitions had on vulnerable groups, including women, children and rural communities. The fourth had to do with extraterritorial obligations. For example, in the case of Germany, attention had been drawn to the fact that its development cooperation programme in Cambodia had had a focus on individual land titling rather than collective titling, which had affected the right to land in the country.

9. The United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas could be helpful in drafting the general comment. In particular, article 5, on the right to natural resources, provided that any exploitation affecting the resources should be based on a duly conducted social and environmental impact assessment, consultations in good faith and modalities for the fair and equitable sharing of the benefits of such exploitation. Article 17 was also relevant, as it recognized the right of peasants and other people living in rural areas to land, water bodies, coastal seas, fisheries, pastures and forests to achieve an adequate standard of living, to have a place to live in security, peace and dignity and to develop their cultures.

10. During the negotiations on the Declaration, some States had expressed the wish not to create so-called new rights. The Voluntary Guidelines were therefore invoked to show that such rights were not new. Originally, paragraph 1 of article 17 had referred to the right to land and territory. The word "territory" had subsequently been deleted. The phrase "free, prior and informed consent" had been replaced with the words "consultations in good faith" in article 5 (2) (b) to bring the article into line with the Voluntary Guidelines. Originally, all the rights contained in the Declaration had been considered both collective and individual. As some States had taken issue with that, peasants and people working in rural areas were described as enjoying rights "individually and/or collectively" in a number of articles, including article 17. In conclusion, it was important for the general comment to clearly

recognize that indigenous peoples had the right to land and territory and that peasants and other persons working in rural areas had the right to land and other natural resources.

11. **Ms. Gómez Terra** (Panellist, National Institute of Colonization of Uruguay) said that the State should invest in purchasing land in order to provide opportunities to the most vulnerable segments of the population such as rural workers. Uruguay had experienced a concentration of user rights to land and an increase in the price of land. There had been a decline in the size of the rural population and in small-scale farmers. Uruguay also had had different legal frameworks governing landownership; the National Institute of Colonization, which she headed, had much work to do in that area. Calls had been made for institutional change following the political shift in the country that had occurred in 2005, including not only policies on access to land but also rural development, the participation of citizens and the protection of the rights of workers. Current public policy was aimed at curbing land concentration and maintaining family farmers.

12. The Government had prepared a register of family farmers in collaboration with the countries of the Southern Common Market. The Institute bought land and redistributed it among rural workers. Property was subject to legal limitations: it could not be sold, mortgaged or sublet without the authorization of the Institute. Property leased to rural workers and families was transferable from one generation to the next. Land was viewed as a social good. Without a land policy to protect vulnerable rural populations, farmers would be at risk of expropriation.

13. Traditionally, men had made up most landowners. Therefore, since 2014, joint title by men and women was introduced to promote landownership on an equal footing for both partners in a marriage or civil union. That development was a recognition of the historical role that women had played in rural development and farming.

14. The land policy required the participation of civil society. Uruguay had therefore developed mechanisms such as rural development round tables where public policies were discussed by representatives from both the public and private sectors. Every effort was made to ensure that all citizens, especially in rural areas, had equal access to land – a very limited resource – and that men and women and younger and older generations enjoyed equal opportunities. The Institute was run in a transparent, corruption-free manner, thus enabling it to ensure that the wealth redistribution policy fulfilled its ends.

15. **Ms. Krebber** (Panellist, Department for International Development, United Kingdom), speaking via video link, said that she wished to address the issue of land from the perspective of the Department for International Development as a development agency that was trying to drive inclusive economic development. The Department sought to promote agricultural transformation, help eradicate hunger by 2030 and use private sector investment as far as possible to complement public sector investment in order to reach those goals. In the early 2010s, following the food price crisis, there had been an increased appetite for land for investment purposes. As land was scarce, a perfect storm had been created involving the combination of the demand for land, imbalance of power and lack of a level playing field. There had also been relatively low awareness, shifting political will and land under insecure tenure.

16. The Department had been instrumental in developing the 2012 Guidelines and the Principles for Responsible Agricultural Investments. Such soft law had played a great part in recent years in raising awareness, generating the necessary political will and helping all stakeholders to start a conversation. She was pleased to see that there was significant debate and a considerable number of forums on land governance. However, there was yet to be any robust, tangible action. A general comment on land and the Covenant therefore came at the right time, especially as many of the Sustainable Development Goals could be achieved only if the issue of land was resolved. The Goals had an important focus on harnessing private sector investment. Much of that investment was well intentioned but some of it was oblivious to the issues surrounding land governance. While there was currently a great deal of guidance there was also considerable confusion. A general comment would help guide the way for investors that lacked expertise on land issues. The better the international community could combine a human rights approach to land and the broader human rights business agenda, the clearer the road would be towards better land governance. The current

climate of bilateralism also carried new risks, including land taking and extraterritorial behaviour that might or might not be known or sanctioned by national law in home countries. There was thus a plethora of risks and opportunities that made the general comment timely.

17. As had been mentioned, one critical area that needed to be addressed was expropriation for public purposes. It would be useful if the general comment could clarify how the public interest should be defined, how transparent and inclusive processes should be designed and codified in law, under which circumstances expropriation could happen and what compensation should be provided when it did occur. There were still a number of questions that the Voluntary Guidelines had not answered. There was a need to move the debate step by step from soft law to harder international law. Some progress had been made on the issue in both the private and public sector, but not sufficiently so.

18. **Mr. Barroeta Guillén** (Bolivarian Republic of Venezuela) said that, for the past 40 years, neoliberal governments had done nothing to change the state of affairs: elites had held on to land and the quality of life of the people had not improved. Since the time of Hugo Chávez's presidency, the Government had supported agricultural workers. The Constitution enshrined peasants' right to land and stipulated that the State must promote agriculture to foster sustainable development, ensure food security, create jobs and guarantee a decent standard of living. Wealth had been distributed in an equitable way. The Government had introduced democratic, participatory planning for all agricultural activities. It sought to end unfair land practices and employ measures for the protection of the environment. A rural cadastre was used to strengthen the policies for fair access to agricultural resources. He wished to emphasize his Government's support for the rights of all persons living and working in rural areas and the democratization of land governance.

19. **Ms. Rodríguez Mancía** (Guatemala) said that there was not enough land for people worldwide. In a country such as hers, access to land was particularly important, as agriculture made up a significant part of the economy. Guatemala had a National Land Fund that had been set up in 1985. In 2013, a strategic programme for the period up to 2025 had been introduced with a focus on access to land for sustainable development, procedures for the adjudication of lands, the development of rural communities and support for enterprises registered with the Fund. The Fund had branches in every region of the country. The sharp increase in the population of Guatemala since the beginning of the twenty-first century had put pressure on land resources nationally and led to speculation in State resources. The Government had tried to identify available land and facilitate access to it. It attached particular importance to women's access to land, including for indigenous women.

20. **Mr. Khawaldeh** (Jordan) said that he wished to thank the Committee for holding a meeting on a subject that was very important to his Government. In Jordan, land rights were regulated by legislation, including a law adopted in 2019 on recognition of the right to land.

21. **Ms. Comacho** (Comité Ambiental en Defensa de la Vida) said that the problem of land pressures and speculation was widespread in Latin America as a whole. Colombia had a large mining industry and vast amounts of land. Foreign companies were attempting to seize fertile land while vulnerable rural populations were losing land. After recent public consultations in the town of Cajamarca, Colombia, a multinational company, which ran its operations on 5,000 ha of land, had had to suspend its mining project known as La Colosa. Pressure had been put on the Government and the courts to disregard the local community's wishes for the project to be terminated. The majority of the local inhabitants were engaged in family farming; there were some 150 water sources in the area.

22. The Government was not observing peace agreements. Its disregard for consultative processes only exacerbated the land problem. Some local workers had been threatened and killed. A report had found that, as of May 2019, there had been 837 homicides since 2016, including 55 human rights defenders who were working for land rights. That made Colombia the second most dangerous country in the world for environmentalists after the Philippines. She would like to see better mechanisms for access to information and guarantees of the right to prior and informed consent for all rural and urban communities and for compensation to be paid when damage had been done to local communities. Lastly,

support should be given to the peace agreements that had been reached to guarantee the political participation of various political forces and redistribution of land that had been promised.

23. **Mr. Schechla** (Housing and Land Rights Network, Habitat International Coalition) said that the right to land must be addressed as a human right. That called for an authoritative general comment that drew a clear distinction for States and other actors between the human right to land and a mere right to land as such, which instinctively was construed as a form of the right to property. The Covenant, which guaranteed no human right to property, was the appropriate instrument for framing the recognition and understanding of the human right to land. Its silence on property rights made it necessary to focus on the close relationship between the land and its people, primarily as a matter of equity, not only a subject of tenure or exchange value. There was an inextricable link between the human right to land and the human right to health, as land was a physical need for human beings and a requisite for everyone's survival. What remained to be done was to clarify State obligations to ensure equity in the administration of that common good. As with the human right to water, recognition of the human right to land should be the logical outcome of the current day of discussion and the Committee's general comment.

24. **Ms. Lazzaro** (Argentinian trade union) said that she represented a set of trade unions' women's organizations in Argentina. Recently there had been problems in the country's Salta Province that had been aggravated by the dereliction of the land by the State. More than 100,000 ha had been hoarded by that province's most powerful families, thereby depriving people who lived there of the right to land. Previously, they had been small-scale farmers; currently they were working on land that was not theirs and lived in absolute poverty. In recent years, the Government had allowed for the concentration of wealth to increase. It was women who saw the greatest violations of their rights: they lived on land that would never be theirs; they worked up to 14 hours a day in order to meet quotas to claim their wages and were often paid in vouchers that they could use only in the landowners' shops; and the water that they drank came from polluted neighbouring rivers, where lead, arsenic, chrome and mercury had been found. There had also been instances of various types of cancer and damage to the nervous system from drinking that water. While women worked the fields, alongside their children, it was often the men who received payment for such work. Decent work existed elsewhere, but it had not yet reached rural people. From an early age, girls were land workers, without access to the right to health. Women and girls were, moreover, subjected to ongoing abuse and harassment. She was calling for guarantees of access to education, decent work, food security and the right to land and housing in such rural areas. The right to land could not be achieved without gender equality.

25. **Ms. Soreng** (Indigenous Fellowship Programme) said that decisions on whether or not to invest in projects on indigenous peoples' land should necessarily take into account the potential sustainable benefits for indigenous peoples. If there were no such benefits, the investments should not be made. Even where compensation for such investments was promised, the people concerned did not always receive it in full. Compensation must involve the free, prior and informed consent of those concerned. Account must also be taken of the tribal world view of indigenous peoples. Land titling programmes had frequently turned out to be land distribution schemes that did not recognize the value that indigenous peoples placed on the land. There was a discrepancy between what were considered by the indigenous communities as customary areas and what was registered in government records. Customary tenure was important for the existence and identity of indigenous peoples. At the same time, recognition of customary forms of tenure also deprived indigenous communities of their traditional customary areas owing to the discrepancy in the records. It was thus important to involve entire communities in the demarcation of customary boundaries. She wished to draw attention to the Forest Rights Act, 2006, which covered joint titling for men and women, but whose implementation unfortunately remained a challenge. She recommended that the general comment should have a focus on strengthening decentralization and democratization of land rights processes, increasing participation and enhancing the capacity of the people, protecting their human rights by recognizing their right to land and, most important, understanding the

tribal world view of indigenous peoples rather than imposing a development perspective based on other world views.

26. **Ms. Mejía Molina** (Colombia) said that landownership in Colombia was an important issue. It was regrettable, therefore, that meetings of the Committee on Economic, Social and Cultural Rights, such as the current one, were becoming an empty ritual for presenting baseless politicized statements.

27. In Colombia, the principle of prior consent and the outcome of consultative processes were respected. The Government also placed value on investment projects, and supported those that respected human rights and the environment.

28. In its resolution 2487 (2019), the Security Council had extended the mandate of the United Nations Verification Mission in Colombia for one year at the request of President Iván Duque Márquez. The President was implementing a peace policy, as per the Colombian people's wishes, in implementation of the Final Agreement for Ending the Conflict and Building a Stable and Lasting Peace. As reflected in recent reports of the United Nations Verification Mission, progress had been achieved in the peace process, in part through the establishment of a number of temporary territorial areas for training and reintegration. Although the legal status of those areas had expired on 15 August 2019, there would be a two-year transition period during which basic services would be extended.

29. The Government had invested \$7.8 million in land tenure measures and had extended the monthly subsidy for former combatants in the process of reintegration. Such measures, which went beyond the scope of the Final Agreement, sought to ensure the stabilization of territories affected by violence by generating genuine opportunities for the sustainable economic and social reintegration of former combatants.

30. With regard to future challenges, the Government had taken steps to reduce all forms of threats, killings and other crimes. The Special Investigation Unit of the Office of the Prosecutor had strengthened security measures, adopted decisions to counter electoral violence and developed a plan to protect social leaders and defenders. The President had specifically called for the adoption of a number of measures to strengthen the security of former combatants and members of the political party, Fuerza Alternativa Revolucionaria del Común.

Panel 3: Protection of security of tenure, including gender dimensions

31. **Mr. Windfuhr** (Moderator for panel 3) said that the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security stated that land registration, land administration and land transfer must be consistent with human rights; that not just existing legal titles, but all legitimate titles based on land use, should be legally recognized; that rural development and spatial planning should also be regulated; and that States should consider introducing dispute resolution mechanisms for those whose tenure rights were violated. The Voluntary Guidelines thus provided a good starting point for the discussion on protection of security of tenure. In preparing its draft general comment on land, the Committee wished to consider both urban and rural land titling processes.

32. **Mr. Kothari** (Panellist) (Panellist, independent expert on human rights and social policy), introducing the discussion, said that he wished to highlight two issues that should be reflected in the Committee's general comment. First, with regard to the right to security of tenure, it was important to recall the guiding principles on security of tenure for the urban poor, which asserted that the concept of legitimate tenure rights extended beyond mainstream notions of private ownership and included multiple forms of tenure derived from a variety of tenure systems, including possession rights, use rights, rental tenure, freehold tenure and collective arrangements. The guiding principles, which urged the harmonization of tenure rights within a State's integrated system of laws, institutions, policies and practices stressed making in situ solutions a priority, promoting the social function of property, combating discrimination on the basis of tenure, promoting women's security of tenure, empowering the urban poor and holding States accountable, and ensuring access to justice. Another important principle, set out in the basic principles and guidelines on development-based evictions and displacement, was that in order to secure a

maximum degree of effective legal protection against the practice of forced evictions for all persons under their jurisdiction, States should take immediate measures aimed at conferring legal security of tenure upon those persons, households and communities currently lacking such protection, including all those who did not have formal titles to home and land.

33. A best practice had been exemplified by the Indian state of Odisha in its adoption of the Odisha Land Rights to Slum Dwellers Act in 2017, in order to empower slum dwellers with security of land tenure and access to a liveable habitat and to assign land rights to eligible slum dwellers for redevelopment, rehabilitation and upgrading. Under the Act, which took a human rights-based approach, certificates of land rights must be issued in the names of both spouses in cases of married couples and in the name of the head of household in cases of households headed by one person.

34. The second issue that should be considered in the preparation of a draft general comment on land was the inextricable link between the right to land and the right to housing. Landlessness had a direct bearing on people's ability to access adequate and secure housing and, without the legal recognition of individual and collective land rights, many other rights could not be effectively realized.

35. Another good practice in India was the Right to Homestead Act, which provided for land for housing and subsistence to be given to the landless. The Act was part of a national land reform policy that sought to recognize women's rights and redistribute land for the benefit of the landless.

36. In accordance with the basic principles and guidelines on development-based evictions and displacement, she wished to recall that evictions should be carried out only under exceptional circumstances and should provide for appropriate notice to be given to all potentially affected persons that eviction was being considered and that there would be public hearings on the proposed plans; effective dissemination by the authorities of relevant information in advance; a reasonable time period for public review of the proposed plan; opportunities for legal and other forms of redress; and free, prior and informed consent. The Committee's recognition of the right to land as a distinct human right in its general comment was a natural evolution of the substantive work undertaken on human rights.

37. **Ms. Osorio Pérez** (Panellist, International Network for Economic, Social and Cultural Rights (ESCR-Net)) said that the members of ESCR-Net were working together to promote the principle of non-discrimination, as well as substantive equality and intersectionality, in the attainment of women's right to land and landownership. Obstacles to access and to the use and control of land had a disproportionate impact on women. Women's access to land often depended on their civil status and single women often did not have access to land. Similarly, some land-related benefits were linked to land titles, which were usually in the name of the head of household, who was usually a man. Furthermore, women were especially vulnerable to displacement in situations of armed conflict and as a result of the hoarding of land.

38. A general comment by the Committee that developed the principle of non-discrimination in the context of the right to land, in particular women's right to land, would be welcome. States should be asked to contribute submissions that related to the principles of non-discrimination and substantive equality; such contributions in turn would imply the need for States to redress the historical and current disadvantageous power structures that determined women's ability and opportunity to enjoy their right to land. The response of States should seek to counter stigmas, stereotypes, prejudice and violence, to transform institutional practices and structures and to facilitate social and political inclusion and participation. The resulting security of tenure for all, including women, would require systematic and focused implementation of relevant measures and adequate planning and resources. It would be necessary for States to ensure equal rights within families and in legislation and property inheritance practices in accordance with human rights and women's rights. In addition, when making a claim to land, women must have effective access to justice as well as to loans and lines of credit, including through the introduction of special measures. States must raise awareness about women's right to land and landownership in traditional communities and in the administration of justice. Furthermore,

States should recognize customary and collective tenure and ensure that women's rights were protected throughout all the systems currently in place.

39. Institutions in charge of land tenure must ensure fair and equitable land management and distribution. That required building the capacity of land governance institutions to protect women's rights and ensuring that their budgets included a gender perspective and met gender-equality goals; women must also be able to participate in those institutions. Procedures should be set up to expedite women's access to land as part of land reform programmes. The collection of disaggregated data must be made a priority to reflect the fact that women were not a homogenous group and to give impetus to the development of policies that reflected their diversity.

40. The right to equal political participation and representation should be realized at all levels of land management, including with regard to the right to the prior and informed consent of indigenous communities and the meaningful participation of larger groups that depended on land. Merely counting women was not enough; measures must be implemented to ensure that women were informed and able to effectively participate. Lastly, businesses and private investors must be held accountable for the impact of their activities on gender issues through due diligence and preventive activities, as well as by providing proper reparations in consultation with the community, including women, when damage had been done.

41. The Committee's comment should also address the situation of human rights defenders who worked to protect the environment.

42. **Mr. Durand** (Panellist, Food and Agriculture Organization of the United Nations) said that the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security had been negotiated by a diverse array of stakeholders, based on multilateral consensus, which added to their legitimacy and strength.

43. Ensuring land security for the most vulnerable required States' recognition and respect of all legitimate land rights and landholders. Holding a land title did not always ensure land security, nor did not holding a title necessarily mean insecurity; that was especially true in customary law systems. Even in systems of formally recognized law, if the State was weak or unstable, land tenure was also likely to be unstable. Moreover, sometimes the formalization of land titles increased the risk of land commodification. Establishing a system of collective land rights could be helpful in order to secure the involvement of social actors and to facilitate customary management.

44. Procedures for the titling and registering of land should be tailored to local contexts. The Food and Agriculture Organization of the United Nations (FAO) had undertaken a number of land tenure projects in which a multi-actor approach had been adopted in order to maximize transparency and to ensure the participation of the communities concerned. That same approach had been adopted in the drawing up of the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security. Multi-actor dialogues on land tenure were important in order to reduce the risk of unlawful transactions. The issue of land tenure should be linked to that of land-use planning as policies on the latter were sometimes used to restrict land rights. FAO was developing a technical guide that set out human rights-based strategies for land tenure processes. The strategies were aimed at ensuring the availability of information to all parties, the participation of women and young persons, the accountability of all parties and access to justice in the event of disputes.

45. The question of customary land tenure rights was a complex one as a wide range of customary systems existed. For that reason, knowledge of the local context was essential to resolving problems involving customary tenure. In some cases, the recognition of customary rights could serve to aggravate discrimination faced by women, girls and young persons in general. Such recognition should therefore be accompanied by corrective measures aimed at protecting the rights of such persons. Gender inequality in land tenure might be addressed by mechanisms such as co-titling, which ensured that both partners in a marriage held the title to their land. In the Balkans, where notaries played a key role in the issue of land tenure, FAO had sought to ensure that members of the chamber of notaries

consulted both the parties in a marriage when questions of land tenure were at stake. Such changes, which were key to improving women's right to land, should be incorporated into political and legislative frameworks that were favourable to women. He acknowledged, however, that laws were easier to change than practices and that some States had established good legislation on land tenure but had failed to ensure its implementation on the ground.

46. **Ms. Utami** (Panellist, Ministry of the Environment and Forestry, Indonesia) said that, although the Government of Indonesia had begun to recognize the land-use practices of local communities in the 1990s, land-use policy had continued to be heavily geared towards the promotion of investment by big companies. The situation had begun to improve for communities once the Government had begun establishing regulations on the management and use of social forestry. In 1999, for example, legislation had been adopted to regulate the use of forest land, including by communities. In 2007, government regulations on the planning and use of forestry land, including social forestry for the community, had been adopted. Five different social forestry schemes had been established in order to protect and promote the rights of forest dwellers, persons living in accordance with customary law and landless individuals and communities that depended on forests for their livelihood.

47. Social forestry policies formed part of the Government's strategy for eradicating poverty, reducing income gaps and preventing forest degradation. The Government worked with multiple stakeholders to make it easier for communities to obtain forestry licences. When a community had obtained a licence, the Government provided loans and assistance with capacity-building to farmers and communities. To date, the Government had allocated over 12 million acres of State land to social forestry schemes and had formally recognized the right of communities to use and manage around 3 million acres of forest, benefiting over 750,000 households.

48. In order to ensure that the poorest members of society were protected and included in land tenure processes, formal recognition should be granted to a variety of forms of land tenure. The process of obtaining such tenure should be accessible, affordable, transparent and straightforward. Poor communities should be able to participate in all land tenure processes and be made aware of their rights and responsibilities. In order to achieve that goal, the Government of Indonesia issued regulations and guidelines on working with communities, resolving conflicts, building the capacities of local actors, creating markets for community products and facilitating access to credit, among other actions. Multi-stakeholder working groups at the national and provincial levels also contributed to ensuring the success of land tenure processes.

49. Land licensing schemes were secure because they were protected and promoted by the Government. Land located within State forests that was licensed to communities could not be sold, rented or transferred. Licences were valid for a period of 35 years, which could be extended if the community concerned was able to prove that it could manage the land sustainably. Checks were carried out to prevent any misuse of the licensing process and collaborative measures were taken by civil society organizations and landowners to ensure that all stages of the process ran smoothly. Efforts were made to ensure that land tenure processes included women and members of minority groups. Women and men had an equal right to have licences issued in their name.

50. A number of agroforestry practices helped communities to maximize the benefits that they obtained from forest land. Civil society organizations worked with communities to help them to manage their land sustainably. In some communities, planning decisions were taken on the basis of local wisdom and practices. Communities had the option of choosing the social forestry scheme that was most appropriate to their needs and the condition of the land in question.

51. **Ms. Rodríguez Mancía** (Guatemala) said that States should establish institutions responsible for ensuring the security of land tenure at the highest level of government. Such institutions should cooperate with other agencies in order to ensure that a wide range of stakeholders could participate in land management processes. Institutions should be prepared to adapt with a view to finding the most appropriate solutions to issues

surrounding land tenure. Land governance processes also required the participation of civil society organizations to ensure that the views of communities affected by land tenure processes were represented.

52. In Guatemala, the Secretariat for Agrarian Affairs of the Office of the President of the Republic was responsible for coordinating all agrarian policy in collaboration with a large number of institutions, including civil society organizations. The Government of Guatemala had established a policy on the land rights of peasant, indigenous and mestiza women and a protocol on evictions that required them to be conducted in accordance with international human rights principles. It had also drafted a new law on the regularization of land tenure, which was currently before the Congress, and established an office responsible for investigating disputes over land tenure.

53. **Ms. Mejía Molina** (Colombia) said that, pursuant to Decree No. 23/69 of 2015, the Government of Colombia had established the Directorate for Rural Women, which was responsible for coordinating, drafting and assessing policies on rural property that affected rural women's social and economic welfare. The establishment of the Directorate was based on the recommendations of associations of peasant women, whose views had been taken into account by the Government. The 2018–2022 National Development Plan provided for the establishment of a cross-cutting pact for gender equity aimed at promoting gender equality in Colombia. The views of rural women had been taken into account during the drafting of the Regional Development Programme, which addressed the role played by local communities in the peacebuilding process, and in the comprehensive community and municipal plans on the replacement of crops and alternative development, which were aimed at promoting associations and economic progress for all. Rural women were granted priority access to land in both the post-conflict context and in the awarding of untitled land. Decisions on access to land and the formalization of property took account of any caregiving or income-generating activities undertaken by the persons concerned. To date, the tenure of over 30,000 ha of land had been formalized, benefiting over 4,000 rural women.

54. **Ms. Gómez Terra** (Panellist, National Institute of Colonization of Uruguay) said that, as was pointed out in the issues paper, the commodification of property rights could result in greater exclusion and increased insecurity of land tenure. The presence of assets, such as housing, added value to land but could also undermine the security of land tenure. For that reason, it was important to ensure that land tenure could not be transferred unless it was to groups identified as the intended beneficiaries of public policy, such as peasants and indigenous peoples. Mechanisms to prevent the commodification of land made it possible to establish long-term policies on the promotion of access to tenure, housing and decent working and living conditions. Inter-institutional cooperation was necessary to ensure gender equality in land tenure processes. Solutions should be designed at the grass-roots level in order to protect and promote the rights of individuals and families in local communities. Efforts should be made to combat the discrimination faced by women who, on separating from their partners, were denied access to land because their name did not appear on the corresponding title or leasehold contract. To protect women's right to land, steps should be taken to promote their access to training and participation in decision-making processes. States should establish policies on land tenure and differentiated access to land for women and members of vulnerable groups. Civil society organizations also played a key role in defending women's access to land and enabling them to live a life free from violence.

55. **Ms. Roberts** (Landesa and the Global Initiative for Economic, Social and Cultural Rights) said that the Committee's planned general comment might include language urging States to combine legal and policy reforms with strategies to promote social and behavioural change. Such an approach would facilitate States' fulfilment of their obligations under articles 2 and 3 of the Covenant and article 5 (a) of the Convention on the Elimination of All Forms of Discrimination against Women. It would also be in line with the concluding observations previously issued by the Committee and other treaty bodies.

56. Achieving gender equality and social inclusion required a fundamental shift in the balance of power over resources. That shift would require changes in traditional beliefs and attitudes that associated land with male status and were reinforced by male-dominated

parliaments, land administration agencies, judicial bodies and village councils. In view of the importance of social norms, strategies for changing such norms should become an explicit and systematic part of efforts to achieve strong, equitable land tenure and governance. Such strategies could complement other approaches frequently encouraged by the Committee, including those relating to media campaigns and quotas for women in public sector positions. The strategies adopted should be tailored to achieve equal representation of women in land governance at all levels, including legislative bodies, by ensuring that Covenant rights were upheld in land governance forums.

57. The perspectives of women belonging to marginalized groups should be heard in order to achieve sustainable outcomes on issues including food security, climate change, disaster risk reduction, migration and peacebuilding. The Committee's general comment should encourage States to apply intersectional analysis to both land-specific and land-related laws as part of their efforts to bring about legislative reform. Where such reforms were concerned, particular attention should be paid to inheritance and family law regimes, which frequently prioritized men's rights over women's.

The meeting ended at 1 p.m.