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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**

BOLIVIA

1. The Committee on Economic, Social and Cultural Rights considered the second periodic report of Bolivia on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/BOL/2) at its 11th, 12th and 13th meetings, held on 6 and 7 May 2008 (E/C.12/2008/SR.11-13), and adopted, at its 25th meeting, held on 16 May 2008, the following concluding observations.

A. Introduction

2. The Committee welcomes with satisfaction the second periodic report of the State party and the written replies to its list of issues. The Committee notes with satisfaction the format of the report, which reflects previous concluding observations of the Committee. It also commends the quality of the sincere and constructive dialogue which it maintained with the high-level delegation from the State party and the oral replies given to its many questions.

B. Positive aspects

3. The Committee notes with satisfaction the political will demonstrated by the State party since 2006 to undertake changes aimed at ensuring that the rights enshrined in the Covenant are enjoyed by all inhabitants of Bolivia without discrimination.

4. The Committee notes with satisfaction that the draft new Political Constitution of Bolivia incorporates all the rights recognized in the Covenant.
5. The Committee takes note with satisfaction of the National Development Plan, promulgated under the slogan “A Decent Sovereign, Productive and Democratic Bolivia in order to Live Well”, which seeks to streamline economic, social and cultural rights in all activities and policies of the State and whose main objectives are the eradication of poverty, social inequality and exclusion.
6. The Committee welcomes the fact that maternal mortality in Bolivia has been significantly reduced. It welcomes the adoption of Act No. 2426 of 21 November 2002, which established the Universal Maternal and Infant Insurance scheme (SUMI), and Act No. 3250 of 6 December 2005, concerning sexual and reproductive health and uterine cervical cancer.
7. The Committee welcomes the universal old age pension (or “dignity” pension), established by Act No. 3791 of 28 November 2007, and the Juancito Pinto grant to encourage school attendance, which was established by Supreme Decree No. 28899 of 26 October 2006.
8. The Committee welcomes the fact that Bolivia has elevated the United Nations Declaration on the Rights of Indigenous Peoples to the status of law by means of Act No. 3760 of 5 November 2007.
9. The Committee notes with satisfaction the efforts made by the State party to protect the environment and the fact that the State party has more certified forests than any country in the region.
10. The Committee notes with satisfaction that in 2005 the State party ratified the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (the Protocol of San Salvador).

C. Factors and difficulties impeding implementation of the Covenant

11. The Committee notes the absence of any significant factors or difficulties preventing the effective implementation of the Covenant in Bolivia.

D. Principal areas of concern

12. The Committee is concerned that the population’s enjoyment of the rights recognized in the Covenant is contingent on the adoption of the new Constitution and that although this process is under way, adequate and necessary measures to ensure the population’s enjoyment of such rights have not been taken.
13. The Committee notes with concern the absence of updated statistics that would allow it to assess the progressive realization in Bolivia of the rights recognized in the Covenant.
14. The Committee is concerned that the majority of its recommendations from 2001 in connection with Bolivia’s initial report were not followed up and that the State party has not addressed more effectively the following areas of concern, which remain valid:

(a) The high percentage of the population living in extreme poverty and the persistence of marked disparities in the exercise of economic, social and cultural rights in Bolivian society. The Committee once again regrets the extremely unequal distribution of wealth in the State party;

(b) While it notes with satisfaction that the enactment of Supreme Decree No. 29473 of 5 March 2008 has resulted in a 10 per cent increase in the minimum wage, the Committee is concerned by the fact that the minimum wage continues to be insufficient to provide workers and their families with a decent standard of living;

(c) The high incidence of children in the State party subjected to physical and mental abuse;

(d) The persistence of the exploitation of children in employment, especially indigenous children, particularly through the use of “*criaditos*”;

(e) The Committee is further concerned at the discrimination against and working conditions of workers in Bolivia, particularly in the areas of mining, chestnut production, flower production and poultry slaughtering. The Committee notes that these practices occur primarily in the Alto Parapeto region of the Bolivian Chaco, the provinces of Gran Chaco, Cordillera, Burnet O’Connor and Luis Calvo, and the departments of Tarija, Santa Cruz and Chuquisaca, and it regrets the problems the State party is experiencing in carrying out labour inspections in these areas. The Committee is also concerned at the discrimination against and abuse of female domestic workers;

(f) The high rate of abortions, particularly among 14- and 15-year-old girls, which persists in the State party. The Committee is concerned to learn that article 266 of the Criminal Code, which stipulates that rape may constitute legal grounds for abortion, may be subject to derogation;

(g) The limited access of vulnerable and marginalized groups, particularly indigenous peoples, to education and the high rate of illiteracy among the adult population. The Committee notes with concern that this situation mainly affects girls and women;

(h) The widespread housing shortage, the incidence of forced evictions of farmers and indigenous populations to make way for mining and timber concessions, especially in the Chaco region, and the lack of effective measures to provide social housing for low-income, vulnerable and marginalized groups.

15. While noting the efforts made by the State party since 2006, the Committee continues to be concerned at the marginalization of indigenous peoples in the country and the discrimination that they suffer, particularly with regard to the right to education, to adequate housing, to food and to health services.

16. The Committee continues to be concerned at the de facto inequality that exists between men and women in Bolivia, as reflected in women’s illiteracy, access to work and unequal pay

for equal work, and difficulty in gaining access to housing and land ownership. The Committee also notes with concern that the State's social, economic and cultural plans and programmes do not reflect a fundamental gender perspective.

17. The Committee is concerned at the persistent unemployment and underemployment and at the precariousness of the labour market as reflected in emergency employment, which is not adequately governed by labour regulations. The Committee notes with concern that the lack of employment opportunities has obliged much of the Bolivian population to emigrate.

18. The Committee notes with concern that the State party does not have a social security system with adequate mechanisms to ensure access for all workers, including those in the informal sector, to the benefits that a social security system should provide, especially in respect of retirement and maternity.

19. The Committee notes with concern the persistence of infant malnutrition and the fact that the right to food is not guaranteed to vulnerable groups in the State party. The Committee also notes with concern the large quantity of arable land devoted to the production of biofuels, a situation which affects the availability of food for human consumption and leads to price increases.

20. The Committee takes note of the Family and Domestic Violence Act (Act No. 1674); however, it is concerned at the fact that domestic violence has not been made a punishable criminal offence in the State party, despite the high incidence of such violence, and at the lack of protection available to the victims of this type of violence.

21. The Committee is concerned that despite the efforts made by the State party since 2006 in the area of health, such as the inclusion of traditional medicine in the National Health Plan, vulnerable and marginalized groups continue to have very limited access to health services.

22. The Committee notes that SUMI provides free medical care for children up to the age of 5 and their mothers; the Committee is nonetheless concerned at the lack of effective coverage given that not all children in this age group and their mothers benefit from the scheme.

23. The Committee expresses its concern that the right to land, in particular ancestral lands, is not duly guaranteed to indigenous peoples. It notes with concern that nearly 70 per cent of all land is owned by only 7 per cent of the population.

24. The Committee notes with concern that the collective rights of indigenous peoples, in particular the right to receive the profits derived from the products they create, including traditional medicine, are not duly protected in Bolivia.

E. Suggestions and recommendations

25. The Committee recommends that the State party should intensify its efforts to adopt a new Constitution and move forward in the process of institution-building with a view to the adoption of the necessary laws, policies and strategies to ensure that the Bolivian population fully and effectively enjoys the rights recognized in the Covenant. It likewise recommends that while it is involved in this process it should take the necessary concrete and effective measures to ensure that the rights recognized in the Covenant are enjoyed without discrimination.

26. The Committee recommends that the State party should adopt rights-based indicators and benchmarks to monitor the progressive realization of the rights recognized in the Covenant and that to this end it should establish a database that is updated and disaggregated, especially by region and by vulnerable group.

27. The Committee urges the State party to address the specific areas of concern that it identified in connection with its initial report (E/C.12/1/Add.60) and reiterates that the State party should implement the suggestions and recommendations made by the Committee at that time, in particular:

(a) The Committee urges the State party to take all necessary steps to reduce extreme poverty and to implement effectively its social development strategies, including evaluation measures to assess the impact of such plans and identify their weaknesses. The Committee encourages the State party to implement fiscal measures with a view to improving the distribution of wealth among the population in both rural and urban areas. In this connection, the Committee invites the State party to take into consideration its statement on Poverty and the International Covenant on Economic, Social and Cultural Rights (E/2002/22-E.12/2001/17, annex VII). The Committee requests that the State party include in its next report disaggregated and comparative data as well as indicators on the number of persons living in extreme poverty, and on the progress made in its efforts to combat poverty;

(b) The Committee requests the State party to continue its efforts to guarantee a sufficient minimum wage while ensuring that it allows families to enjoy an adequate standard of living;

(c) The Committee recommends that the State party should conduct a study to determine the number and situation of children in Bolivia who are subjected to physical and mental ill-treatment, and that, based on the findings of this study, it should take the necessary legislative and practical child protection measures;

(d) The Committee encourages the State party to redouble its efforts to eliminate child labour, especially in domestic service, taking all appropriate legislative and practical measures to compensate families that stop receiving income from child labour. The Committee also calls upon the State party to carry out inspections in workplaces and to take the necessary steps to prevent the exploitation of child workers and punish those responsible;

(e) The Committee encourages the State party to step up its efforts to protect the rights of workers in Bolivia, in particular for those working in such areas as the mining industry, chestnut production, flower production and poultry slaughtering, as well as of female domestic workers. It requests the State party to find solutions that will enable it to carry out labour inspections in places where it is believed that workers are being exploited and contemporary forms of slavery are being practised, and, if this is found to be true, that it take the necessary measures to prevent worker exploitation and abuse, and punish those responsible. The State party should take adequate measures to ensure that the Unpaid Domestic Worker Protection Act enters into force as soon as possible;

(f) The Committee encourages the State party to take the necessary measures, including legislative measures, to confront the problem of female mortality caused by illegal abortions. It recommends that school curricula should openly address the subjects of sex education and family planning in order to help prevent early pregnancies and the spread of sexually-transmitted diseases. The State party should also continue its efforts to reduce maternal mortality. To this end, the Committee recommends that the State party should consider enacting Framework Law No. 810 on sexual and reproductive rights in the near future and making article 266 of the Criminal Code non-derogable;

(g) The Committee recommends that the State party should continue its efforts to eradicate illiteracy, including by expanding the coverage of the “Yo, sí puedo” (Yes I can) programme, and that it should adopt the draft New Bolivian Education Act as soon as possible;

(h) The Committee urges the State party to take the necessary measures, including legislative measures, to: (i) prevent the forced eviction of rural families who are occupying land peacefully; (ii) ensure that the judicial authorities take the provisions of the Covenant into account when handing down their decisions; (iii) investigate and punish those responsible for forced evictions and violations related to the rights recognized in the Covenant; and (iv) implement and expand the Social Housing and Solidarity Programme, allocating sufficient budgetary resources to ensure the implementation of comprehensive housing policies, especially for low-income groups and marginalized individuals and groups.

28. The Committee recommends that the State party should continue its efforts to guarantee respect for and the equality of all the rights recognized in the Covenant in respect of indigenous people, especially the right to education, to adequate housing, to food and to health services.

29. 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 and providing funds to combat discrimination in the education of girls and young women, in access to employment and equal working conditions for men and women, including equal wages, and in access to housing and land ownership. The Committee recommends that the State party should incorporate a fundamental gender perspective in all its public policies.

30. The Committee recommends that the fruits of the State party’s current macroeconomic growth should be used also to create decent new jobs for men and women, as a means of confronting the precarious nature of the labour market in a firm and sustained manner, thereby ensuring that workers in the informal sector are able to exercise their labour rights and creating job opportunities so as to reduce the problem of emigration.

31. The Committee recommends that the State party should conduct an evaluation of the social security system with a view to establishing the mechanisms required to guarantee broad social security coverage that ensures adequate benefits, especially retirement and maternity benefits, for all workers, including those in the informal sector.

32. The Committee encourages the State party to continue to adopt measures that will enable it to guarantee the availability of foodstuffs needed by the population. It urges the State party, in addition to the Zero Malnutrition programme, to take steps to facilitate access to productive resources that will allow the population to be sustainably self-sufficient. It also urges the State party to provide greater education on nutrition-related topics.

33. The Committee calls upon the State party to intensify its efforts to combat domestic violence by enacting specific legislation criminalizing it and providing training for law enforcement personnel and judges regarding the serious and criminal nature of domestic violence. Moreover, the Committee urges the State party to ensure the availability and accessibility of “crisis centres” where victims of domestic violence can find safe lodging and counselling.

34. The Committee recommends that the State party should step up its efforts in the area of health and requests it to adopt a global health policy that includes prevention programmes which will ensure that the poorest sectors of the population have access to free, high-quality and universal primary health care, including dental care. The Committee requests the State party to provide detailed and updated information in its next report, including disaggregated statistical data and indicators, that will allow it to assess the level of progress achieved in that area.

35. The Committee recommends that the medical care provided free of charge under SUMI should be extended to cover all children up to the age of 5 and their mothers, in particular those from indigenous families.

36. The Committee encourages the State party to increase its efforts to speed up the demarcation of ancestral lands and territories and their return to the indigenous peoples. The Community Renewal Act, the National Plan for the Distribution of Government Lands and the National Human Settlements Plan should be made operational as soon as possible to ensure continued progress in the titling of indigenous lands.

37. The Committee recommends that the State party should develop a special intellectual property regime that protects the collective rights of the indigenous peoples, including their scientific products and traditional knowledge and traditional medicine. To this end the Committee recommends that a registry of intellectual property rights of indigenous peoples should be opened and that the State party should ensure that the profits derived therefrom benefit them directly.

38. The Committee invites the State party to update its core document in accordance with the compilation of guidelines on the form and content of reports to be submitted by States parties to the international human rights treaties (HRI/GEN/2/Rev.4).

39. The Committee requests the State party to submit its third and fourth periodic reports as a single document by 30 June 2010.
