

CHILE

CESCR E/1988/14

184. The Committee considered the second periodic report by Chile concerning the rights covered by articles 10 to 12 of the Covenant (E/1986/4/Add.18) and the initial report concerning the rights covered by articles 13 to 15 of the Covenant (E/1982/3/Add.40) at its 12th, 13th and 16th meetings, held on 16 and 18 February 1988 (E/C.12/1988/SR.12, 13 and 16).

185. In introducing these reports, the representative of the State party emphasized the importance the Chilean Government attached to the Covenant. He wished to place the exercise of economic, social and cultural rights in an overall context and, to that end, described the general economic situation in his country. After pointing out that Chile's economy faced the same problems as did the developing countries as a whole, the representative non the less said that, since the recession in the years 1982-1983, the annual average rate of growth had been 5 per cent. This improvement has led to a reduction in unemployment to an average rate of slightly less than 8 per cent, stabilization of inflation, which has remained at approximately 20 per cent, per annum for the past five years, a decline in the deficit in the non-financial public sector and a continued high rate of public investment.

186. As to the problem of the external debt, the representative said that his Government was striving to bring about equilibrium in the balance of payments and to develop exports other than copper. He none the less pointed out that there was an urgent need to find ways and means to lighten the debt burden, which placed strains on the efforts of the developing countries.

187. Pointing out that there might be a gap between the situation as revealed in the reports and the current situation in Chile, because the reports had been drawn up some time ago, the representative supplied the members of the Committee with statistical annexes to the reports.

Article 10: Protection of the family, mothers and children

188. Members of the Committee wished to know what protection was provided to children and young persons and, in particular, they requested additional information on abandoned children, on the selling of children abroad and on child prostitution. Referring to allegations of frequent arrest and torture of young children, some members asked what the present situation in Chile was in that respect.

189. In addition, members of the Committee wished to know what the concept of the family unit was in Chile, what the birth rate was, what the requirements for marriage were and, for example, whether marriage between people of the same sex was allowed, whether a pre-marital medical examination was compulsory, whether divorce was legal and on what grounds, whether a woman was prevented from remarrying for a particular period after the death of her husband, whether assistance was granted to large families and whether there were any family planning centres. Referring to the protection of women against harmful types of work, it was asked whether this

protection was extended after childbirth. The position of Chile was also requested with regard to some ILO conventions regarding maternity protection. In connection with the equality of the sexes, it was also asked whether the woman alone was prevented from contracting marriage with a guilty partner in the offence of adultery, on what grounds married women were prevented from carrying out certain commercial operations and what the rate of unemployment was among women. Clarification was also requested on some aspects of maternity leave mentioned in the report (E/1986/4/Add.18, para. 22).

190. With reference to protection of the family, some members of the Committee observed that efforts should first be made to ensure that families were not separated and they inquired about the fate of Chileans who had been compelled to leave their country and were unable to return. It was also asked whether assistance was provided to the families of dead or disappeared persons.

191. In reply to these questions, the representative of the State party explained that the basic family unit in Chile was made up of the parents, or, failing parents, the ascendants, and of the children. Marriage between persons of the same sex was prohibited, divorce existed only in the legal form of separation, and the provisions concerning adultery, whereby the penalties were less severe for the husband, were very rarely applied in practice. The representative also said that, in his country, there was no discrimination based on sex. With respect to the protection of children, he explained that persons under 21 years of age required parental authorization to travel abroad or to acquire immovable property. The selling of children and child prostitution were serious offences and severely penalized by the courts.

192. In connection with separated families, the representative said that the problem was being solved and that cases still outstanding should be settled in 1988.

Article 11: Rights to an adequate standard of living

193. Members of the Committee referred to the overall economic situation as described by the representative and recognized that the world recession made notable progress in economic, social and cultural rights very difficult. Nevertheless, it was observed that, according to World Bank statistics, defence spending had risen considerably between 1972 and 1985, whereas expenditure on education, health and economic services had been substantially reduced. Other statistics showed that the income disparity in Chile was among the most extreme in the world. Some members expressed doubts about the information communicated in the Government's report and spoke more particularly of their concern about the amount of unemployment and underemployment and about the deterioration in the standard of living.

194. Members also wanted details about the breakdown of the budget in terms of the various items, particularly health, education the army and the police. It was asked whether the gap between the rich and the poor was narrower or wider, what the minimum legal wage was, in what way the national income was distributed and what the position was in Chile regarding extreme poverty and the thresholds which had been determined in that field.

195. In reply to the various questions raised, the representative of Chile explained that his Government set store on achieving the common good. In that regard, he emphasized the amount of

expenditure on social development and supplied various statistics. In particular, he pointed out that extreme poverty had declined markedly since 1970, despite the economic crisis. All indicators pointed to the steady improvement in the population's standard of living. With reference to the distribution of incomes, the representative emphasized that in Santiago, in 1979, 20 per cent of the population accounted for 3.94 per cent of incomes, whereas 10 per cent accounted for 42.09 per cent. Although negative, those figures bore witness to the similarities between the situation in Chile and most developing countries. Lastly, the rate of unemployment had not been more than 8.4 per cent in 1987.

196. After mentioning that there was very lively trade union activity in his country, the representative recalled that Chile had ratified more than 40 ILO labor conventions. In addition, he drew the Committee's attention to the fact that the competent bodies of ILO had recently reported progress in the labor situation in Chile.

197. Referring to questions about housing, the representative said that major efforts were being undertaken by his Government to ensure access to housing for the whole of the population. In that connection, the percentage of owner-occupied housing had risen from 54.1 per cent in 1970 to 63.2 per cent in 1982. The problem of housing the most disadvantaged fringes of the population arose in all large cities. In Chile, it had been caused by the migration from the countryside to the capital after the agrarian reform in 1970. Nevertheless, measures were being taken to help them, such as the granting of title deeds together with mortgage loans.

Article 12: Right to physical and mental health

198. Members of the Committee asked to what extent health care was accessible to the population as whole, what efforts the Government was making in regard to health and hygiene at work, what the situation was in regard to stillbirths and infant mortality, what criteria the Government had used to establish that in health matters Chile was in a transitional phase between underdevelopment and development (E/1986/4/Add.18, para. 112), and what had been the findings of a WHO survey conducted in Chile. Noting that the Government had taken certain measures to improve health services, some members observed that the trend towards privatization in this sector seemed to have made health services too costly for a part of the population.

199. In reply to these questions, the representative furnished various statistics and said, for example, that the rate of infant undernourishment had fallen from 15.5 per cent in 1975 to 9.1 per cent in 1986. These encouraging results had been obtained thanks to a government programme for children under six years of age and for pregnant women. Regular health check-ups were carried out and dairy products were distributed free of charge. The programme as a whole covered 1.2 million minors, and one of the most positive results had been the substantial decline in the infant mortality rate.

200. Lastly, the representative explained that the Government's essential aim in regard to health services was to enable the most impoverished persons to benefit from them.

Articles 13 and 14: Right to education

201. Members of the Committee wished to know what the literacy rates were, whether the general population had access to the three levels of education, why the Government was subsidizing private schools rather than encouraging State schools, to what extent education was provided free of charge in both the public and private sectors, whether everyone had access to university and what assistance was provided for this purpose. It was also asked whether it was true, as stated in the written statement submitted to the Commission on Human Rights at its forty-fourth session by the Defense for Children International Movement, 3/ that 800,000 children between the ages of 6 and 18 were not enrolled in any school. Referring to the initial report on articles 13 to 15 of the Covenant, which stated that one of the objectives of primary education was the teaching of Christian values (E/1982/3/Add.40, para.6), some members requested clarification on the separation of Church and State. They also wished to have information on technical, vocational and fundamental education, and on the social rehabilitation of prisoners.

202. Information was requested on the alleged recent appointment by the President of the Republic of military officers as rectors of universities, on the demonstrations that had followed in this regard and on the dismissal of the high number of teachers following their participation in public demonstrations.

203. Replying to the various questions raised, the representative said that the Chilean school system was divided into three stages. The initial pre-elementary stage was for children under six years of age, and special attention given to the poorest. The second stage, for children from 6 to 14 years of age, was compulsory and in 1986 had effectively covered 94.4 per cent of all children. The third stage, for secondary education, lasted four to five years and covered 680,000 young people who were, for the most part, enrolled in establishments in receipt of Government subsidies. University education was available in 23 universities, of which only nine were private. To foster such education, a development plan had been announced by the President of the Republic on 9 February 1988.

204. The representative also said that special efforts were being made in regard to vocational-type technical training. In addition, illiteracy had fallen in 14 years by almost 50 per cent. To promote access to university, students were given grants as well as loans.

205. With regard to university rectors, he explained that only two rectors who were military officers remained. In addition, following university disturbances, a new rector had been appointed at the University of Santiago.

Article 15: Right to take part in cultural life and to enjoy the benefits of scientific progress and the protection of the interests of the authors

3/ E/CN.4/1988/NGO/9.

206. It was observed that virtually the only information provided on the right to take part in cultural life was a statement in the report that the issue was dealt with by the Directorate of Libraries, Archives and Museums (E/1982/3/Add.40, para. 144). Members of the Committee asked how the

population could enjoy their cultural life and benefit from technical and scientific progress, give the extent express themselves in their own language and enjoy their own culture and whether the inhabitants of Easter Island were subject to any special legal regime. Information was also requested on problems that writers, actors and other persons had experienced in their activities, such as censorship, harassment and arrests.

207. In reply to the questions regarding the Mapuche Indians, the representative of the State party said that a plan had been introduced to promote integration of the indigenous minorities, while preserving their particular characteristics.

Concluding observations

208. Some of the members of the Committee expressed their thanks to the representative of the State party for his oral presentation and the additional information he had communicated to them.

209. Firstly, members wished to obtain information on the way in which the reports had been drafted. They wanted to know to what extent the population had been associated with their preparation and whether the population would be informed of the current debate. In that connection, it was regretted that the Covenant, although ratified by the Chilean Government, had not yet been published in the Official Gazette. This fact has led Chile's Supreme Court to refuse to apply the Covenant and regard it as binding, and members of the Committee therefore asked when the Government would proceed to publish the Covenant, something which could alone give it legal internal standing, and whether individuals could none the less avail themselves of the Covenant before the domestic courts.

210. Secondly, members noted that the reports did not discuss the country's difficulties and did not supply the quantified data and statistics that would have afforded a proper grasp of the real situation. Noting, however, that the representative had supplied additional quantified data, some members considered that the statistics supplied seemed partial and biased.

211. Recalling that economic, social and cultural rights were inseparable from civil and political rights, they also said that the overall human rights situation in Chile was at the present time broadly unsatisfactory. In that connection, they referred more particularly to the large number of deaths from acts of violence.

212. Reference was made to the fact that, in 1985, the Human Rights Committee had concluded its consideration of a report by Chile by observing that important questions had remained unanswered and that no explanation or justification had been provided with respect to human rights violations in that country. Nevertheless, the Chilean Government had informed the General Assembly in 1987

4/ that no objections had been raised to Chile's report. The hope was expressed that the results of the examination of Chile's reports by the Committee on Economic, Social and Cultural Rights would not be similarly distorted or misrepresented.

213. Lastly, members of the Committee had hoped that the Chilean Government would supply additional information in the shape of further reports which answered the various concerns expressed and reflected the real situation in Chile, so that it would be possible to engage in effective dialogue between the Committee and the Chilean Government.

214. In reply to the various questions raised, the representative of the State party said that Chile faithfully applied the provisions of the Covenant and scrupulously respected the obligations stemming therefrom. He explained that there was very broad freedom of expression in his country and that the Covenant had been very widely circulated. For example, courses in public international law in law faculties included examination of the Covenant; moreover, a human rights manual had been published.

215. The new Constitution of 1980 provided for a transitional period in which various human rights set forth in the Covenants were to be gradually implemented in legislation. Moreover, at the end of that period, in 1988, the Covenants were to be published, something which was a mere administrative formality, and individuals would be able to invoke them before the domestic courts.

216. As to the large number of deaths from acts of violence, the representative pointed out that it was the duty of all Governments to defend themselves against terrorism.

217. Lastly, the representative undertook to transmit to the Committee all the additional information which had been requested.

218. On completion of the consideration of the reports, the Chairman thanked the representative of Chile for his co-operation and expressed the hope that the Committee would promptly receive the requested additional information in view of the inadequacy of the report.