

PANAMA

CEDAW A/40/45 (1985)

127. The Committee considered the initial report of Panama (CEDAW/C/5/Add.9), at its 50th and 55th meetings, on 23 and 28 January 1985 (CEDAW/C/SR.50, 55 and 62).

128. The report was introduced by the representative of the State party who stated that in Panama the principle of equality of women had been incorporated in all spheres of law and women's rights had been promoted by the Government.

129. Women had full political rights, equal to men. Women over 18 years of age had the right to vote and to be elected to any office.

130. In regard to education, although illiteracy still existed, it was slightly less for women than for men (11.6 per cent to 12.9 per cent). Over 50 per cent of the students were female, and women were studying such traditionally male subjects as engineering and geology. That achievement in education had led to the employment of many women in highly qualified jobs in, for example, governmental institutions, banks, industry, trade and management.

131. With regard to the employment of women, equal pay for equal work was obligatory; in practice, however, women's work had often been classified lower than men's work. About one third of working women were employed in the domestic sector.

132. The process of migration of women from rural areas to cities in search of work had continued. Therefore, the number of unemployed women in capitals was double that of unemployed men; there were 7 per cent more women in the capital than men, whereas in rural areas there were only 89 women for every 100 men.

133. The social security system applied to all working people and their families, including children. The representative stated that women were in a privileged position as they could retire at 55; the retirement age for men is 60. There was no sex discrimination in pensions or in compensation to victims of labour accidents.

134. The representative of Panama stated that the new Penal Code was favourable to women because it provided for punitive sanctions, including imprisonment, for failure to fulfil family duties, which had been rather frequent in Panama where many men were leaving their families.

135. The civil code provided legal protection for married women and women in "common law marriage". The code also protected and specified rights of women in cases of divorce, questions of domicile and protection of parental rights and rights of minors, and guaranteed equal status to all children, including children born out of wedlock. The new Code of the Family and Minor, which had been presented to the legislative assembly in October 1984, provided even broader protection of women's rights in regard to the family.

136. The representative of Panama was thanked for the frank and informative presentation of the situation of women in Panama in the Government's report and in his introductory statement. One expert asked for a brief description of the economic, social and political situation of the country, and the traditional participation of women in political organizations and movements as well as information on the membership of women in political parties and their posts in Governments and other decision-making bodies. An expert asked why the number of women voting and elected had decreased and whether there were any measures aimed at increasing the participation of women in political life.

137. Many experts welcomed the creation of the office for women and requested more detailed information. One expert asked whether there was any co-operation between that office and non-governmental organizations.

138. Because the report stated that Panamanians of more than 18 years of age were citizens of the Republic, clarification of the status of persons under the age of 18 was requested.

139. Several experts inquired whether prostitution related only to the prostitute or also to clients and procurer. Clarification of the term "women known to be of ill-repute" was requested. One expert asked why there were so many regulations on prostitution since it was not a criminal offence. Another expert inquired why rather severe measures and sanctions against female prostitution had been accompanied by liberal treatment of pervers and corruptors of the young. The view was expressed that women prostitutes had been subject to police control, restrictions and sanctions but no attention was given to appropriate social programmes for rehabilitation. One expert asked whether and to what extent prostitution was linked to alcoholism and drug abuse.

140. Some experts pointed out that in spite of government efforts discrimination prevailed. Questions were asked as to what had been done to implement and respect existing legal regulations guaranteeing equality, especially in the fields of employment and education. There was also a request for comparative data reflecting changes in literacy, education and employment of women over a certain period of time (e.g. one year, five years).

141. One expert said that although there was less illiteracy among women and in certain liberal disciplines there were more female students, women did not enjoy equitable opportunities: they were more subject to unemployment, received lower wages and had great difficulties in reaching decision making levels. She did not fully agree with the statement that the easiest way of establishing wage equality would be to improve the vocational and institutional training of women. While vocational training was important, the real obstacle arose basically from traditional prejudice.

142. More information was requested on female university students and their career development. Some experts asked for more information on literacy, especially indigenous women, literacy programmes for women and why, despite free education, many children had not attended schools. Many experts requested detailed statistical data on female and male enrolment and drop-outs, school performance at different levels of education and the percentage of girls in technical training.

143. Questions were asked about the status of women civil servants and about the number of women in professional, including judicial, occupations. One expert asked what was meant by "mixed

working” and requested further details on the resources available to female public servants to appeal decisions.

144. An expert asked whether the rate of unemployment among women had risen. Another expert asked whether private employees, specifically in domestic service, had access to social security and could join trade unions.

145. Some questions were asked about the increasing number of women who joined the work-force and whether it had resulted from economic necessity or from women’s aspirations to participate equality in economic, political and social life.

146. Some experts found discriminatory the fact that women were forbidden to work in a number of jobs owing to the “physical nature of women”, and stated that that should be decided by women themselves. They asked why night work was considered to be more suitable for men than for women.

147. In relation to the lower retirement age for women, an expert found that the report reflected over-protection and even discrimination. Furthermore, it was asked why reference was made to average life expectancy, especially since women, in general, lived longer and should be assisted and retrained to continue their work.

148. The question was asked as to what measures would be undertaken by the Government to put an end to the discrimination of women in employment, to eliminate stereotyping, to change professional orientation and to implement the principle of equal pay for equal work. One expert asked whether that principle had been incorporated into the legal system or was only in the Constitution.

149. Experts asked whether women could bring cases to the court and whether there were any cases under consideration, especially those related to discrimination in employment such as expulsion from work. It was further asked whether the decisions of employers could be reversed on the basis of court decisions.

150. Many experts sought further clarification in regard to maternity leave. One expert asked whether the total 14 weeks of maternity leave could be split differently than stated in Labour Code (6 weeks before and 8 weeks after childbirth) and whether it was usual for women to resume work after maternity leave. The question was raised as to whether women who worked during maternity leave prior to childbirth were subject to sanctions. It was also asked why pregnant women were forbidden to work overtime or at night if they were willing to do so. Questions were asked on how pregnant women were protected against dismissal in practice, about the term “justified cause” for dismissal and how maternity leave was financed.

151. An expert asked whether current regulations on maternity leave and maternity benefits were not counter-productive, as managers might be afraid to employ women, and whether employers complied with those provisions. One expert noted the provision for a nursing break.

152. It was asked whether the birth rate was decreasing owing to specific policies and family

planning and whether there would be any policies aimed at increasing births. Clarification was sought as to the conditions under which a woman could have an abortion.

153. An expert asked whether there had been any progress in the realization of the project for the Province of Colon and whether there were any other projects oriented towards assistance to rural women and opportunities for their employment in rural areas.

154. In regard to family law, questions were asked about equal rights in marriage, divorce and separation. Some experts sought further clarification as to the grounds for divorce and asked about adultery and concubinage.

155. Experts asked about sanctions against the wife who did not want to follow her husband, and whether women were aware of the fact that according to article 83 of the Civil Code both spouses should reach a common agreement as to the domicile, and only in its absence would it be understood that the wife adopted that of the husband.

156. Some experts asked whether the penalties for failure to fulfil family maintenance duties were the same for wives and husbands. One expert questioned whether imprisonment in case of total negligence of duties could be of any assistance to women and families in need.

157. An expert asked why widows could not remarry for 300 days following the death of the husband and whether any measures were undertaken to persuade young people legally entitled to marry to postpone marriage and to continue their education.

158. In regard to protection of a family, further clarification was sought as to the legal and material situation of children born out of wedlock. One expert asked whether unmarried women could adopt children.

159. It was asked whether the new code would modify the present regulation of paternal rights, which in its current formulation discriminated against women, and the hope was expressed that the new family code would soon come into force and would end the inequality of rights within a family. It would also contribute to changing stereotyped prejudicial attitudes towards women. Many experts mentioned the importance of rules regarding parental authority and violence in the family.

160. The representative of Panama responded by giving an overview of the most important historical, economic, social and geographical characteristics of the country, which had influenced the situation of its population. He stressed that the transit character of the country was due to the construction of an inter-ocean railway and the Panama canal at the beginning of the twentieth century, which put the country in a dependence type economy as a tertiary export country, while the population was reduced to subsistence agriculture. He also mentioned the vogue of migration of male workers and its impact on the social situation of the country, which had to face deplorable conditions of underemployment. The Constitution of 1946, which established legal equality between women and men, also started the modernization process of the government institutions.

161. The representative of Panama stated that in his country there were no tribunals that could deal with cases of discrimination. Currently, women's rights were respected to about 50 per cent. He

explained that the setting up of the office for the promotion of women constituted the first effort at the governmental level to create a special body for the training and promotion of women. As regards the question of why discriminatory provisions were still in force, the representative believed that the government intended to correct that situation, but he was also of the opinion that the pressure had to come from the non-governmental organizations and from the office for the promotion of women.

162. The representative explained that prostitution and trafficking in white female slaves were linked to the transit position of the country. In spite of the legal provisions and sanctions, those blights could not be eliminated. Prostitution, exploitation and procuring were punished; they were not considered criminal offences but offences that were dealt with by the police. It was hoped that the Penal Code of 1983 would remedy the situation.

163. As regards the political participation of women, he explained that in spite of the full recognition of women's rights their electoral participation was still low. That was probably due to insufficient awareness of women of those rights. Although 54 per cent of women were in the personal services area, women started moving into the technical and political fields towards 1975. The representative gave a statistical breakdown of Panamanian women in political positions.

164. Citizenship with all its connected civil and political rights was acquired at the age of 18. Children had to be maintained up to the age of 18 and, if they were studying, until the age of 25.

165. In the field of education, women had equal rights with men and equal access to all fields of study. Since the first Constitution in 1903, primary education had been compulsory and free of charge. In the 1970s, efforts were made to extend education to rural areas. In 1980, 84.1 per cent of all girls received some type of education. For pre-school education private or public child-care facilities existed in Panama. The public institutions were subsidized by the State. The representative of Panama also furnished statistical data on the education situation at various levels. Although he had no specific information on girls, he said that recently the overall drop-out rate had increased. At the primary and secondary levels, the percentage of males was higher, and girl students still went in for the traditional types of studies. The illiteracy rate of women was higher than for men, but recently female adult education had increased.

166. As regards employment, the representative of Panama said that his country practised salary discrimination to the detriment of women without giving them any means of recourse. He gave some statistical data on the economically active population, on the percentages of employed and unemployed and said that 26.6 per cent of women were employed as compared with 73.4 per cent of men. While the working conditions were the same for both sexes, the possibilities for promotion were not equal. The largest percentage of women were domestic employees, i.e. 54 per cent, and they were neither unionized nor protected by social security norms. Panamanian women took part in the labour market for various reasons, either to become economically independent, to increase the family budget or out of economic necessity if they had to maintain their families alone.

167. Maternity leave was one of the most important rights of women in Panama. It consisted of paid leave of six weeks before and eight weeks after confinement and was compulsory. If a woman on maternity leave was found to be working, she had to pay back her allowance. A dismissal of

pregnant woman was permitted only in certain very serious circumstances, such as dishonesty or unjustified absence. Maternity protection covered all salaried women in the public and the private sector and also domestic employees. In the case of domestic employees maternity leave was financed by the employer; in all other cases by the social security service.

168. "Mixed working" meant a working pattern consisting of subsequent day time and night time working hours.

169. In declaring some work unsuitable for women, Panamanian law followed the pertinent ILO conventions.

170. As far as holidays were concerned, every worker irrespective of sex was entitled to one day of leave for 11 days worked and at the end of the year to 30 days of leave.

171. As regards the provisions for a nursing break and for creches, the representative of Panama said that currently no enterprise had the necessary facilities for complying with those provisions.

172. The representative stated that except for therapeutical reasons and for victims of rape abortion was prohibited. He explained that during the last 20 years the fertility rate had been decreasing in the country and life expectancy had been increasing.

173. With regard to the use and abuse of women as sexual objects in the mass media, the representative said that some progress could be hoped for in the near future.

174. Rural women had only limited access to the productive labour sectors, and because of the predominant service industry in the country efforts made to diversify the economy had not met with success. As regards the role of rural women, efforts were made to recognize the importance of their economic contributions as integrated members of the family.

175. As regards the legal treatment of persons guilty of using, processing or trafficking in drugs, the representative of Panama said that traffickers were placed under stricter sanctions than users of drugs, who were considered victims of an addiction.

176. The representative explained that the provision prohibiting divorced women from remarrying for 300 days after the day of divorce served to protect divorced wife in case of pregnancy at the time of separation. However, no such control was exercised in practice. It was expected that the new Code of Family and Minor would do away with all discriminatory vestiges in marital relationships. In cases of disagreement between the spouses as to the location of the domicile the wife was normally asked to follow her husband. In divorce proceedings women and men had to obtain a lawyer's advice.

177. Adoption was possible for single persons of either sex, provided that the adopted child had the same sex as the foster parent. If one spouse wanted to adopt a child, the consent of the other was necessary.

178. Whereas under the old law only the husband was obliged to pay alimony, the new law provided

for a reciprocal obligation of both partners. The new family code stipulated a minimum age of marriage of 15 for girls and 16 for boys.

179. The representative concluded by saying that the efforts of many women's organizations in the country had promoted the Government to undertake measures to improve the status of women. Any unanswered questions would be dealt with in the next report.

CEDAW A/53/38/Rev.1 (1998)

175. The Committee considered the second and third periodic reports of Panama (CEDAW/C/PAN/2-3) at its 392nd and 393rd meetings, on 30 June 1998 (see CEDAW/C/SR.392 and 393).

Introduction by the State party

176. In introducing the report, the representative of Panama stated that Panama had recently gone to great efforts to advance the status of women. Those efforts had included the establishment of institutional mechanisms, the formulation of national action plans and programmes for the advancement of women and measures to promote the political participation of women and to combat violence against women.

177. The representative noted that, in 1995, the Government of Panama had established the National Women's Council and the National Women's Office, both of which were attached to the Ministry of Labour and Social Welfare. She indicated that the Ministry of Youth, Women, Children and the Family had been created in 1997 and that one of its main functions was the promotion of gender equality. The Ministry of Youth, Women and Children would shortly submit a draft law on equality for the consideration of Parliament. In addition, most Government institutions had established special offices and programmes for the advancement of women.

178. The representative indicated that Panama had introduced various plans and programmes to raise the status of women. Non-governmental organizations had also been active and had formulated the Women and Development Action Plan. During 1993, all presidential candidates had committed themselves to implement the Plan. In 1997, a series of projects had also been launched under the Equal Opportunities Programme, a five-year programme supported by the European Union that seeks to mainstream gender in all public policies and programmes.

179. The representative informed the Committee of measures to increase the participation of women in political decision-making, including the Electoral Code, which now provided that at least 30 per cent of candidates in public elections should be women.

180. The representative indicated that the Government of Panama had prioritized the issue of violence against women and that the submission of a report to the Special Rapporteur on violence against women, its causes and consequences had initiated the formulation of a national policy to address the underlying causes of violence against women.

181. The representative emphasized that, although much had been achieved, women in Panama still faced gender discrimination and negative cultural attitudes continued to reinforce the subordination of women. Women in Panama earned less than men and were not equally represented in positions of decision-making, while institutional mechanisms for gender equality lacked financial resources. She concluded by stressing the importance of sustained dialogue between the Government and civil society.

Concluding comments of the Committee

Introduction

182. The Committee welcomes the presence of the Minister of Youth, Women, Children and the Family and the fact that the delegation was at such a high level; it also thanks the Republic of Panama for submitting its combined second and third reports, noting that the report follows the Committee's guidelines and a format, which offered a better overview of the general situation of women and the implementation of the Convention than the previous report submitted to the Committee.

183. The Committee appreciates the Minister's efforts to reply to questions in her oral report, but notes that it would have been more useful to the experts if the questions asked by the group prior to the session had been answered in writing, thereby providing a reference tool for dialogue with the representative of the Republic of Panama.

Positive aspects

184. The Committee commends the establishment of the Ministry of Youth, Women, Children and the Family as the Government body in charge of implementing the Convention at the national level.

185. The Committee commends the Government for its support for non-governmental organizations.

186. The Committee commends the promulgation of Act No. 22 of 14 July 1997, which reforms the Electoral Code and provides that at least 30 per cent of the candidates for public election must be women.

187. The Committee also commends the promulgation of Act No.27 of 16 June 1995, which qualified domestic violence and child abuse as crimes, thereby linking them with the institutional system established to deal with such violence. It also welcomes the establishment of family courts following the adoption of the Family Code.

188. The Committee also welcomes the Government's efforts to make the mass media more aware of, and to eliminate, sexism and the projection of women as sex objects in the media.

Factors hindering and blocking the implementation of the Convention

189. The Committee considers that one factor hindering the implementation of the Convention has been the difficult and special political, economic, social and legal situation in Panama.

190. The unequal distribution of wealth, which has kept 45 per cent of the population below the poverty level, as well as the institution of coercive measures and structural adjustment programmes also hinder the implementation of the Convention.

191. The high rate of unemployment in the metropolitan and in the rural areas is also an inhibiting

factor.

Areas of concern and recommendations of the Committee

192. The Committee is concerned that neither the Constitution of the Republic of Panama nor any other legislative provision made clear of specific reference to the elimination of discrimination against women.

193. The Committee recommends that all legislation be revised to provide expressly for the elimination of discrimination against women.

194. The Committee notes with concern the failure to disseminate and publicize the Convention at various levels of Panamanian society.

195. The Committee recommends that a major campaign should be mounted to disseminate the principles of the Convention and provide education and training in them, especially among judges, lawyers, journalists, teachers and Panamanian women.

196. The Committee requests that the next report should contain gender-specific statistics so as to shed light on the various programmes proposed and awaiting realization.

197. The Committee expresses deep concern at the general situation of working women in Panama. Despite the legal provisions guaranteeing equal pay for equal work, the reality was different. Women continue to be discriminated against in the workplace. In addition, women have no effective protection with respect to maternity leave and breastfeeding breaks. Further, although often better educated than men, women accounted for only 28 per cent of the economically active population.

198. The Committee recommends the initiation of a campaign by the national machinery to guarantee equality of treatment in the workplace. It further recommends that legislation on the right to maternity leave and breastfeeding breaks be implemented vigorously to ensure adequate protection for women.

199. The Committee is concerned that 53 per cent of the female population is illiterate, the majority of these being indigenous women. It also expresses concern at the persistence of gender stereotypes, which results in a large number of adolescent girls terminating their education at an early age to marry or to undertake domestic work.

200. The Committee recommends that, as a matter of urgency, the Government of Panama should mount an aggressive educational campaign designed to ensure that all Panamanian girls and women have full education and to reduce sharply the number of adolescent girls leaving school early to work in unskilled employment or to marry.

201. The Committee expresses deep concern in connection with the reproductive health Panamanian women and an apparent setback in the treatment of the right to abortion in cases where the pregnancy is the result of rape. The Committee recommends that multi disciplinary measures should be taken to provide special care to the victims of sexual violence which should include legal and

psychological assistance for the victim. It also recommends that Panamanian women who are pregnant as a result of rape should be granted the opportunity to seek terminations of such pregnancies.

202. The Committee recommends training programmes for women political leaders and encourages the large-scale participation of women in domestic activities and decision making.

203. The Committee expresses concern at the discriminatory treatment received by women engaged in prostitution in Panama, especially the statement that a prostitute would find it difficult to seek legal redress in the case of rape since the Code still requires the victim in that situation to be chaste and virtuous in order to be able to institute legal proceedings.

204. The Committee recommends that a serious effort be made to eliminate entrenched stereotypes.

205. The Committee requests the wide dissemination in Panama of the present concluding comments in order to make the people of Panama, and particularly Government administrators and politicians aware of the steps that have been taken to ensure de facto equality for women and the further steps that are required in that regard. It also requests that the Government continue to disseminate widely, and in particular to women's and human rights organizations, the Committee's general recommendations and the Beijing Declaration and the Platform for Action.