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COMMITTEE ON ECONOMIC, SOCIAL  
AND CULTURAL RIGHTS  
Pre-sessional working group  
21-24 May 2002

**IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC,  
SOCIAL AND CULTURAL RIGHTS**

**List of issues to be taken up in connection with the consideration of the initial  
report of BRAZIL concerning the rights referred to in articles 1-15 of the  
International Covenant on Economic, Social and Cultural Rights  
(E/1990/5/Add.53)**

## I. GENERAL INFORMATION

### Land and people

1. A document submitted to the Committee by Brazil's civil society and Congress entitled "The Civil Society Report on Brazil's Observance of the International Covenant on Economic, Social and Cultural Rights" (henceforth referred to as CSR) indicates that aside from the Indians, the State party does not distinguish other minorities among its populations, such as the Gypsies and the *quilombos*. Please confirm the information and provide demographic details about them.
2. What are the current statistics on the indicators provided in paragraph 7 of the State party's core document? Taking into account that the State party is blessed with rich natural resources and has a per capita GDP of about US\$ 3,400, please explain why relatively large percentages of the population are illiterate, have no access to drinking water systems or to safe water sources, and are not served by rainwater drainage systems.
3. Please provide updated statistics on the populations in Brazil who live below the poverty line, disaggregated according to ethnic group, sex and age. In addition, please provide information on whether the State party has a national anti-poverty strategy and the success and difficulties in implementing such strategy.
4. The CSR highlights the marked imbalance in the resource distribution in Brazil where more than 64 per cent of total income is controlled by the wealthiest 20 per cent of the population, while 20 per cent of the poorest survive on 2.5 per cent. If the report is accurate, please discuss how the State party is addressing this serious disparity.
5. How does the Government protect in practice the right of indigenous peoples to benefit from the profits gained from the mining concessions within their ancestral lands?

### General legal framework within which human rights are protected

6. Please cite specific cases within the past five years where the provisions of the Covenant have been invoked before the courts and where victims of violations of economic, social and cultural rights have successfully obtained legal redress.
7. Please discuss the extent to which the State party's compliance with its obligations under the Covenant is ensured in practice on both the federal and state levels.
8. Which of the State agencies mentioned in the report (paras. 8 and 26) has the capability to take on the role of an independent national human rights institution in keeping with the Paris Principles?
9. What is the position of the State party in relation to the draft optional protocol to the ICESCR?

### **Information and publicity**

10. Please describe the extent to which human rights education is integrated into formal education at all levels. In addition, please indicate what training programmes are in place for awareness raising and capacity-building towards the promotion and protection of human rights, in particular among judges, the police, prison officials and other public authorities.

## **II. ISSUES RELATING TO THE GENERAL PROVISIONS OF THE COVENANT (arts. 1 to 5)**

### **Articles 1 to 5**

11. Please describe the policies of the State party regarding the sustainable handling of the resources of the Amazon. What is the impact of such policies on the traditional populations and communities who derive their means of livelihood from these natural resources? What measures are being undertaken to effectively stop the increasing deforestation and destruction of the vegetation, which has led to the diminishing of water resources in the country, as reported in the CSR?

12. Reliable information indicates that women, Afro-Brazilians, the indigenous populations, persons with disabilities and homosexuals suffer discrimination. The State party's report discusses legal provisions and policies relating to some aspects of discrimination but does not provide information on the implementation of such provisions, including the effectiveness or problems and difficulties encountered. In this regard, please discuss concrete steps undertaken beyond legislation to address the following issues:

- (a) The underrepresentation of women in positions of authority and decision-making;
- (b) The protection of indigenous populations from outsiders who encroach on their lands;
- (c) The discrimination against Afro-Brazilians in employment, education, health and access to basic services, and their underrepresentation in positions of authority and decision-making;
- (d) The lack of access to birth or death registries by Gypsies who live a nomadic life, and the absence of educational alternatives for their children;
- (e) The lack of equal opportunities and access to employment, education, health services and other services for persons with disabilities.

13. Bearing in mind that article 3 of the Covenant on equality of men and women in the enjoyment of economic, social and cultural rights is an obligation of immediate effect and is not subject to progressive realization, how does the State party intend to implement this provision so that Brazilian women in general, and Afro-Brazilians and rural women in particular, can fully enjoy their right to equal pay for work of equal value without further delay?

14. Please provide information on the reported persecution and discrimination of homosexuals and the extent of the violence they suffer in particular in the hands of police authorities.

### **III. ISSUES RELATING TO SPECIFIC PROVISIONS OF THE COVENANT (arts. 6 to 15)**

#### **Article 6 - The right to work**

15. Aside from legislation, surveys and studies, what measures has the State party taken to combat forced labour in Brazil? What are the difficulties encountered in implementing such measures?

16. Paragraph 53 of the report refers to a number of factors, including Brazil's foreign exchange crisis in early 1999, that have caused an increase in the unemployment rate. Please provide detailed information about the "severe" measures undertaken by the State party to mitigate the negative effects of this crisis. What were the effects of these severe measures and which sectors of the population were the most negatively affected?

17. Please provide statistics, disaggregated by ethnic group, sex and age, on unemployment rates in the past five years.

#### **Article 7 - The right to just and favourable conditions of work**

18. To what extent does the minimum wage provide a decent standard of living for workers and their families?

19. Please provide statistical information, disaggregated by ethnic, group, sex and age, on workers who do not receive at least the minimum wage.

20. Please describe the existing mechanisms of legal redress for women who are victims of sexual harassment in the workplace.

#### **Article 8 - Trade union rights**

21. The State party's report refers to initiatives designed to modernize labour relations (paras. 96-102) on the one hand, while the CSR claims that such initiatives have instead contributed to fragmented work relations, and cite as an example that there is no longer any protection from arbitrary dismissal. Please comment on the expressions of dissenting opinion under the heading "Work Relations" in the CSR.

22. When does the State party intend to fulfil its commitment to repeal the law on the "*unicidade* system" for trade unions, which is causing unrest and violence in the labour sector? What measures are being taken by the State party to put an end to the violence, particularly against unionized rural workers who are constantly harassed by employers and the police?

23. Reliable information states that trade union rights in the public sector are grossly violated, as evidenced by unfair dismissals and transfers, harassment, obstacles to organizing unions, and refusal by authorities to recognize unions and the right to strike. A ruling by the Supreme Court in November 1996 declared all strikes by civil servants illegal. Please clarify these allegations and confirm whether the 1996 decision still applies today.

#### **Article 9 - The right to social security**

24. Please describe in detail the main features of the reform of the social security system referred to in paragraph 244 of the report, and please provide a time frame for its adoption and implementation.

#### **Article 10 - Protection of family, mothers and children**

25. According to reliable information, the most serious violations of women's rights in Brazil are sexual and domestic violence, which are widespread and underreported. Please provide detailed information on the extent of these phenomena. What measures undertaken by the State party have proven to be the most effective in this regard?

26. What is the extent of trafficking of women and children for purposes of prostitution within and outside the country? Please provide detailed information on sex tourism and child prostitution, and how the State party is addressing these problems.

27. Please clarify information contained in the CSR that sterilization is a population policy of the State party and that often, poor women are sterilized even without their knowledge or consent.

28. The State party's report discusses in great detail the serious problem of child labour and the measures it has undertaken to address it. To what extent have measures by the State party improved the situation? Please describe how the State party has made good use of international assistance in this regard.

29. Please provide information about the penalties incurred by employers using child labour? How many such employers have been penalized in 2000? What happens to the children involved in such cases?

30. UNICEF reports that in Brazil, over 20 million children and adolescents (almost 35 per cent of the total population of children) live in poverty. About 2.9 million children under the age of 15, including over 375,000 between 5 and 9 years old, continue to work. Have these figures been reduced through measures taken by the State party?

31. Please discuss in detail the various dimensions of the problem of street children, how the State party protects them and how the State party intends to solve the problem.

32. To what factors does the State party attribute the high level of juvenile delinquency? Please discuss how juvenile offenders are treated in courts, the penalties imposed on them and the manner of their detention or incarceration. In addition, please confirm reports that homicide is the leading cause of death for children aged 10 to 14.

**Article 11 - The right to an adequate standard of living**

33. Please provide information on the problem of the illegal use of indigenous lands by non-indigenous populations and the measures taken by the Government to effectively implement the laws that protect the indigenous populations and their lands.

34. Please explain the system of demarcation of indigenous land and why there are still large tracts of land that have to be identified and demarcated, particularly in the north-east and south-east of the country.

35. Please discuss the problems encountered in agrarian reform, which, according to reports, is not treated as a priority by the Government in spite of the fact that of the 38 million rural dwellers in Brazil, 73 per cent have an income below the poverty line and that 51 per cent of the millions of hungry people in Brazil live in the rural areas. What is the State party's policy in dealing with the MST (Movimento dos Trabalhadores Rurais Sem Terra)?

36. Please provide a comprehensive description of the following aspects of the agrarian problem in the State party:

- (a) The total area of agricultural land in Brazil;
- (b) The number of persons who depend on agriculture for family subsistence and the average land area at their disposal;
- (c) The number of landless peasants; and
- (d) The public land available for distribution to landless peasants.

37. The State party's report refers to the definition of "precarious homes as those inhabited by illiterate children aged 11-14 and/or headed by women with a monthly income of up to the minimum salary and which lack any waste disposal system" (para. 503). Please provide more details about the situation of these children and women, and on the assistance provided to them by the Government.

38. The CSR describes the problem of homelessness especially in the big cities of Brazil where more than 1 million people live on sidewalks, public squares or under viaducts. Other information cites even higher figures of homelessness in Brazil. In light of such varying figures, please clarify and provide official statistics on the homeless, disaggregated by ethnic group, age and sex. In addition, please clarify reports that an increasing number of homeless persons become victims of homicide.

39. Please explain why 7 per cent of Brazilian children suffer from undernourishment, in spite of the fact that the national production of grains would be sufficient to feed one and a half times the total population of Brazil, as shown by studies conducted by the Interdisciplinary Inequality Study Nucleus at the Rio de Janeiro Federal University (quoted in the CSR).

40. Please provide information on measures taken and progress achieved to reduce the infant mortality caused by malnutrition and undernourishment.

### **Article 12 - The right to physical and mental health**

41. What incentives are offered for mothers to breastfeed their infants so as to ensure the best possible nutrition?

42. What forms of contraception are available, in particular for women? Please explain the extent to which abortion is a problem and how women are protected from unscrupulous practitioners of clandestine abortions.

43. What measures are being taken to address the problem of HIV/AIDS among children and adults?

44. The Chamber of Deputies Human Rights Commission reported that mental hospitals and asylums are severely overcrowded and that many patients suffer unclean facilities and substandard living conditions. What is the State party's response to this report?

45. According to a study done by the Tropical Medicine Institute of Manaus, the average life expectancy of the Brazilian Indians is 42.6 years, while that of non-Indian Brazilians is 64 years for men and 72 years for women. To what factors does the State party attribute this disparity and what is the State party doing to alleviate the poor health of the Brazilian Indians?

46. Reliable information describes the problem of overcrowding and violence in prisons, as well as the poor health conditions of prison inmates. The Ministry of Justice estimates that 10-20 per cent of the national prison population is HIV-positive, that scabies and tuberculosis are widespread in prisons, and that denial of first aid and other medical care sometimes is used as a form of punishment. Please clarify the accuracy of these reports and provide information on the actual situation.

### **Articles 13 and 14 - The right to education**

47. Please provide disaggregated statistics on the levels of education attained by the various populations in Brazil.

48. Please explain in more specific terms how the State party intends to achieve its goal of eradicating illiteracy over the next 10 years. In particular, how will the State party address the 32 per cent illiteracy rate among Afro-Brazilians? Please describe the role of international assistance and cooperation in this regard.

49. Please provide detailed information on teacher training in the various parts of the country, the percentage of teachers coming from indigenous Afro-Brazilian and minority communities and teaching conditions, including compensation and other benefits, as compared to those of other public employees.

50. What programmes are in place to ensure that all children can benefit from the State party's free and compulsory education until the age of 14, in all parts of the country?

**Article 15 - The right to take part in cultural life, enjoy the benefits of scientific progress and the protection of intellectual property**

51. Please describe how sports and games are encouraged as an expression of Brazilian culture, and as an essential factor in the holistic development of the person.

52. What programmes exist to provide access and opportunities for older persons and persons with disabilities to enjoy and participate in cultural activities?

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