

BOLIVIA

CEDAW A/50/38 (1995)

Consideration of reports

1. Initial reports*

42. The Committee considered the initial report of Bolivia (CEDAW/C/BOL/1 and Add.1) at its 262nd, 263rd and 267th meetings, on 17 and 20 January 1995 (see CEDAW/C/SR.262, 263 and 267).

43. In introducing the report, the representative of Bolivia said that the time that had elapsed between the submission of the initial report in 1991 and its presentation in 1995 had created a difficulty for the country because during that time the Government had changed and, consequently, major changes had occurred with regard to the policy of equality. After many years of dictatorship, the country was completing its first decade of democracy. At the same time, there was a general economic crisis and structural adjustments had taken place. As a result, many social issues had had to be postponed owing to the priority given to macroeconomic stabilization. The representative said that her country had an extensive history of active women's movements. Those organizations had played an important role in returning the country to democracy and had laid the groundwork for governmental action for the advancement of women and for developing social policies aimed at achieving equality and alleviating poverty.

44. The three major changes were the reform of the Executive Branch with a decentralization in decision-making, the establishment of the Office of the Under-Secretary for Gender Affairs within the Ministry of Human Development and reforms of the Constitution and the legal framework in keeping with market economy, which refer to Bolivia as a multiethnic, multicultural country. The representative said that while the initial report had given the impression that de jure equality was fully implemented and that obstacles resided only in the practical implementation, there were still laws and practices that violated the principle of equality. Whereas formerly social policy had been dealt with sectorally in various administrative units, the programme for women created in 1992 under the National Institute for Minors, Women and the Family and, later, the National Secretariat for Ethnic, Gender and Generational Affairs created in 1993, had proposed sectoral policies for the female population to ensure an across-the-board gender perspective.

45. The most important policy measure was the Law on Popular Participation, which had decentralized the State and its financial resources, recognized the legal status of grass-roots organizations, provided government funding for those organizations, respected people's traditions and customs, integrated gender-equality and laid down the principle of equal opportunity and empowered administrations at all levels to establish programmes for women. Another important step

*/ Including subsequent reports, if submitted, in those cases where the initial report of the State party had not yet been considered by the Committee.

was the enactment of the Law on Education Reform, which laid down the principle of free, universal and mandatory education without cost, based on the principle of equal opportunity and gender equality. Unlike the past attempt of enforced "Hispanization", bilingual and multicultural education was presently foreseen, from which, in particular, girls and women would profit. A further important step was the adoption of the National Plan for the Prevention and Eradication of Violence. It demonstrated the Government's understanding that lack of respect for human rights was also an obstacle to development and showed its particular concern for domestic violence. It was being carried out through an interministerial task force and provided free legal and health care services to female victims of violence.

46. The representative said that although women continued to carry the major burden of poverty, changes would be introduced through the implementation of participatory planning. She highlighted the most important recent changes, as described in the addendum to the initial report, and underlined that the most important message she wanted to bring was that Bolivia had institutionalized its public policies with a gender approach.

General observations

47. The Committee commended the well-structured and frank report, which adhered to the general guidelines, and its sincere and objective presentation. It demonstrated the political will of the country and was well placed within the national realities by showing that the Government was aware of the obstacles that had to be overcome. The new legislative and administrative reforms demonstrated very positively the integrated approach taken regarding women's issues. They commended the fact that Bolivia had ratified the Convention without entering reservations and congratulated the Government on its future plans to implement further the Convention, and in particular to redress the situation of indigenous and rural women. Members were favourably impressed by the reform of the Executive Branch and the creation of the National Secretariat for Ethnic, Gender and Generational Affairs. They commended the establishment of an inter-ministerial task force and the measures undertaken and commissions created to eradicate violence against women, and in particular domestic violence between the spouses as well as between the first and second degree of consanguinity. They also considered commendable the steps taken to elaborate a health code. They welcomed the efforts made to present Bolivia as a multicultural and multiethnic society.

48. In reply to observations made by the members that the Government should take measures to incorporate the Convention into national legislation and to questions as to whether the Convention could presently be invoked in the courts and whether any initiatives existed to incorporate the provisions of the Convention into the Constitution, the representative stated that the Convention had become part of Bolivian legislation on 15 September 1989 and could be invoked before the courts. While at the time of preparing the initial report the Convention had been very little known by judges and other public authorities, more and more lawyers were now taking recourse to the Convention.

49. Members recommended as one of the priority tasks that an inventory be made of the laws that were still discriminatory to women in an effort to amend them. They asked how motivated the Government was to bringing national laws into line with the requirements of the Convention and whether it was done systematically or on an ad hoc basis. In reply, the representative said that the

national Secretariat had an Office of Legal Reform, which had the task of bringing Bolivian legislation into line with the requirements of the Convention. The representative mentioned the amendments that were being made to several laws, such as the Law on Domestic Workers regarding their working hours, the General Labour Law regarding excessive protectionism of women, the Law on Domestic Violence that should repeal article 276 of the Penal Code and the Family Code regarding age of marriage, free choice of occupation and reasons for divorce. Further amendments concerned the articles concerning sexual violence with the aim of treating domestic violence as an ex officio offence, the Health Code and Property Law that should give women access to property, as well as the Law on Political Parties. Furthermore, changes in favour of women were being made to various municipal decrees.

50. Members recommended that the low number of women in decision-making positions should be considered as a critical area of concern. Asked about the outlook for women to be better represented in political parties and in decision-making positions and any mechanisms for increasing women's participation, the representative said that although the Law on Popular Participation gave women equal opportunities, no quotas were foreseen. The Under-Secretariat for Gender Affairs was, however, considering temporary measures to remedy the situation.

51. Members expressed the hope that measures would be taken to correct the de facto discrimination often practised by employers. Considering that Bolivia's development index was at a rather alarming level, on the one hand, and that the Government's level of commitment seemed to be very high, on the other, it would be important for the country to submit its subsequent report on time and to place therein a greater focus on the programmes undertaken.

52. Bearing in mind that Bolivia was considered to have one of the fastest growing economies in Latin America, members inquired whether the recent economic growth had had a positive impact on the status of women. The representative explained that income distribution measures were being taken and that while local demands were being taken into account, the demands of women were being given particular attention. The Government was currently also elaborating gender statistics. A gender investigation and information mechanism had been put into action to study the impact of poverty on the female population.

53. As a reaction to the observation made by members that women should be encouraged to be aware of their legal rights and that lack of access to legal aid was often one of the obstacles to the advancement of women, the representative said that the major obstacles to the implementation of the Convention were resistance, prejudices and ignorance on the part of the judges about the contents of the Convention as well as the crisis in the actual legal system. All comments by members would be the basis for consideration for future national policies on women by Bolivia. In order to overcome those difficulties, the National Secretariat had started an awareness-raising and training programme for law officials.

54. Members commended the Government representative for her frank replies and expressed their hope that the next report would give an account of all the obstacles and failures encountered by the National Secretariat in carrying out its policies and would be supplemented by ample statistics. In thanking the members for the questions raised, the representative of the Government said that they would form the basis for future policies and serve as a guide in the elaboration of periodic reports.

Questions related to specific articles

Article 2

55. Members raised questions about the type of mechanisms through which the National Secretariat introduced sectoral policies, about its decision-making powers, its resources and the channels of cooperation with other government agencies. The representative replied that the mechanisms were focal points for rural development, education and popular participation, a few committees dealing with specific issues, various other connections at the societal and international levels and that the National Secretariat was represented in seven out of the nine provinces of the country. The National Secretariat could adopt mandatory resolutions and issue mandatory decrees and was working in coordination with the Parliamentary Women's Commission and all the political parties that were represented in the Parliament. It had sufficient resources, 25 per cent of which came from the national Government and 75 per cent from international assistance. Various other programmes had been carried out by other sources in the area of health and education, but it was difficult to quantify their impact on women.

56. In the light of the fact that Bolivia was still characterized by male domination, members inquired in what way the National Secretariat was ensuring that the Law on Popular Participation guaranteed equal opportunities at the grass-roots level. The representative mentioned in that context a plan designed by the National Secretariat, in collaboration with the National Secretariat for Popular Participation, which should strengthen non-governmental organizations at the local level and maintain a dialogue with the local political institutions in order to introduce the gender perspective at the municipal level. A transfer of financial resources on the basis of demographic criteria would support local programmes and women's programmes.

Article 3

57. When members inquired about the positive effects of the educational reform on girls in rural areas, the representative said that a striking example was the bilingual education in the Guaraní area. It had had a positive impact on the inherent problems of school desertion, the repeating of classes and the functional illiteracy.

58. Members welcomed the institutionalization of policies of equality in the country, particularly at times of frequent changes in political leadership, and pointed to the importance of mainstreaming the gender aspect within the development process.

Article 4

59. Members asked for concrete examples of temporary special measures, and whether any such measures were foreseen to correct the high illiteracy rate, the low employment rate of women and the low rate of participation of women in political decision-making or to protect indigenous and rural women. The representative said although presently no temporary special measures existed, the adoption of such measures was under discussion in order to promote higher school attendance of girls.

Article 5

60. Asked about any efforts to overcome sex-stereotyping in education, in the family and in the media and the existence of any study on the matter, the representative said that within its educational reform the Government was modifying school curricula and textbooks and concurrently training teachers.

61. Regarding the role played by non-governmental organizations in connection with the Plan for the Prevention and Eradication of Violence against Women, the representative said that their contributions had been taken into account in its elaboration and also in drafting the Law on Domestic Violence.

62. As to measures taken to change the attitude of court officials dealing with complaints regarding violence against women, the representative stated that within the National Secretariat there was a department that dealt with the training of various sectors of the judiciary.

63. Regarding the alleged contradiction between the statements made in paragraphs 84 and 85 of the report concerning discrimination regarding women holding certain positions, the representative explained that studies had made clear the legal, social and cultural discrimination of women in the workplace and the lack of efficient mechanisms to deal with it as the law did not foresee any sanctions. The practice had shown that women in similar professions and holding the same academic degrees as men earned between 30 and 50 per cent less than their male counterparts.

Article 6

64. As prostitution existed in practically every country in the world, members felt that Bolivia should not have any misgivings about its "indirect approval" referred to in paragraph 86 of the report and considered the practice of periodic medical examinations of prostitutes a laudable measure. Further information was requested about the number of women prostitutes, their social strata, the conditions under which they worked and the measures taken for their social reintegration.

65. Regarding any possible protection of prostitutes against the human immunodeficiency virus (HIV)/acquired immune deficiency syndrome (AIDS), the representative said that although the National AIDS Programme foresaw measures of prevention for prostitutes, no corresponding laws had as yet been adopted.

66. Members recommended that the Government look into the various aspects of prostitution as it was regarded as a severe violation of human rights and one of the most severe forms of slavery. The representative explained that there was a contradiction in Bolivia between the Penal Code and police regulations in that there was abolitionist legislation against pimping, but whereas women prostitutes were penalized, men remained unpunished.

67. Regarding a question about the meaning of "offences against sexual morality", the representative said such offences ought to be eliminated from the Penal Code as they were discriminatory against women.

68. As the report indicated that trafficking in women did not exist, members asked whether specific measures prevented women from migrating for the purpose of prostitution. Members found the contents of paragraphs 88 and 99 of the report contradictory in that studies had proved that there was a close connection between trafficking in women and prostitution.

Article 7

69. Asked about the initiatives taken by the Government or the National Secretariat for Ethnic, Gender and Generational Affairs to provide support to women's non-governmental organizations, the representative stated that the Government recognized the role of such organizations as agents of development. Their autonomy was entirely respected and they received no financial support from the Government. Among others, they had participated in elaborating the Plan for the Prevention and Eradication of Violence against Women; however, it was important that they took a different approach vis-à-vis the State and recognized its role and their roles, respectively.

70. Members inquired which incentives were being provided to increase women's participation in political life and their representation in political parties and whether women in political parties obtained financial support for their campaigns. The representative explained that the National Secretariat was currently working on a reform of the Law on Political Parties, which should increase the participation of women. No government support was given to political parties nor to women for their participation.

71. Members asked whether the Law on Popular Participation was being implemented, whether it respected the various forms of legal organizations among indigenous women and whether indigenous women and men received legal training. The representative explained that under that Law municipalities were obliged to incorporate requests by local women's organizations in their plans and that legal training as well as the setting up of local information and communication networks at municipal and local levels were foreseen. She pointed to the goal that at least 10 per cent of the municipal structures should include women within the next three years.

72. Considering the absence of a quota system, they asked whether there was an ongoing programme to utilize grass-roots organizations for working out programmes for civic education to raise the civic awareness of women, to inform them of the necessity to vote and to take part in political life and, therefore, to have identification cards in order to register to take part in the polls. The representative stated that presently 46 per cent of the population above 10 years did not have identification cards. The Government was, with foreign aid, working on a national registration programme and it was hoped that by 1997 all citizens would have identification cards. The age to vote was 18 years.

73. Members inquired about the current number of women ministers and about the status of women in the police force. They asked whether women had equal possibilities as men of being promoted.

74. Members asked whether the training for military careers had resumed for women and what possibilities women had to pursue military careers. The representative stated that it was currently not an issue for national debate. It was presently more urgent to invest in activities such as education and health.

Article 8

75. Members asked what the requirements were for working in the foreign service and whether they were different for women and for men. They also wanted to know whether husbands opposed their wives working abroad or whether they were not allowed to join their wives working in the foreign service.

Article 9

76. Regarding questions about transmission of nationality the representative stated that a Bolivian woman married to a foreigner could transmit her nationality to her husband and her children.

Article 10

77. Members asked about the reasons for the large gap in the rate of illiteracy between women and men and whether the Government was undertaking measures to encourage female adult education. Questions were also asked about the percentage of pupils that were enrolled in private and in public schools and whether plans existed to privatize the education system.

78. As bilingual education stopped at the fifth grade level, it was asked how the non-hispanic groups could fully participate in the whole educational system. Members felt that there could be a contradiction between the educational policies, that sought to respect the various cultures and those that aimed at avoiding gender stereotyping. Members asked whether there were gender or women's studies at the tertiary level of education. The government representative was asked to comment on the issue. Members also asked whether health education included information on family planning and prevention of HIV/AIDS.

Article 11

79. Members assumed that the employment plan provided for measures to close the gender gap. However, as regards salaries, indigenous women were the most disadvantaged group. Members asked whether concrete initiatives existed to introduce a gender approach in vocational training and whether there was a legally guaranteed minimum wage and, if so, whether it was different for women and for men.

80. Regarding the high rate of growth of street trading, mostly carried out by women, it was asked whether that sector of tertiary urban economic activity was included in the formal statistics of the country. Members inquired whether there was a law on sexual harassment at the work place, whether measures existed for the welfare and protection of women domestic workers and which programmes responded to the economic needs of migrant women. The representative replied that a law regulating working conditions for domestic workers was now under consideration in Parliament.

81. Because of the absence of child-care centres it was asked whether the burden of caring for their brothers and sisters in addition to helping with housework resided on the shoulders of the young girls and, consequently, prevented them from attending school.

Article 12

82. Asked about abortion, the representative explained that it was legal only in cases of rape and danger to the mother's life. She did not give the actual rate of abortion, but said that it was widespread and carried out in unsafe conditions. It accounted for 30 per cent of maternal mortality. The Government did not intend to legalize abortion. Asked about consciousness-raising programmes for family-planning schemes, she said that the Government fully endorsed the declaration adopted at the World Conference on Population and Development held at Cairo in 1994 concerning reproductive rights and sexual education for teenagers in view of the health of the family.

83. It was asked whether there was a constitutional or legal basis for the high fertility rate of women or whether the reasons lay within societal or cultural aspects. Comments were made on the chronic malnutrition affecting women and it was asked what percentage of women, in general, had access to safe motherhood, what the situation was in rural areas and which measures the Government had initiated to reduce teenage pregnancies and the high level of maternal mortality.

84. Members asked whether victims of rape could report the incidents to the public prosecutors, and if so, whether measures were being taken to lift any legal bias against rape victims. Members asked further whether crisis centres took care of victims of rape or other sexual abuse and how the police and the courts were handling cases of violence against women and whether they received any training on these matters.

Article 14

85. Since rural women seemed to be the most disadvantaged, members felt that they should be the subject of major concern and asked that they and their plight be given more visibility in the next report.

86. It was asked to which part of the population indigenous people belonged, whether indigenous people were equivalent to people in rural areas and whether non-indigenous people had better living conditions than they. Members asked further how much of the resources of municipalities were dedicated to indigenous women, how they participated in general programmes and whether special programmes were dedicated to them. Members inquired further what type of national and international investment was made in rural development and how it had benefitted rural women. They asked whether it had increased their productivity, whether they could use technology and to what extent it was environment-friendly. Members sought information on whether initiatives were being taken to create pre-school facilities in rural areas and whether non-governmental women's organizations or women working at the grass-roots level had provided programmes to improve the conditions of the girl child in rural areas.

Article 16

87. Members commended the Government for adopting a new Family Code, although a number of provisions, such as marriage, divorce and family assistance, still needed to be adopted. As to the question of whether there was any legal provision giving the husband the right to prohibit his wife

from engaging in certain occupations if they impinged upon her domestic tasks, the representative replied that the restriction had been reviewed. Information was sought on the existence of a draft law to change the legal provision that prevented women from accusing a violent spouse and whether measures had been taken to sensitize judges with regard to women and minors.

88. Members commented that the regulations regarding guardianship were in blatant contradiction to the provisions of the Convention. Regarding single mothers' status in relation to adoption it was stated that a single mother could adopt a child and could transfer her nationality to the adopted child.

89. Members asked about the percentage of abandoned children and inquired whether measures were envisaged to prevent the abandonment of children. They also requested information on surrogate mothers and on adoption of Bolivian children by women outside Bolivia. Information was sought on measures to protect foreign women in their status as wives of Bolivian men and it was asked whether a Bolivian husband could prevent his foreign-born wife and her children from leaving the country.

90. Members asked whether the legal equality and joint responsibilities as described in paragraph 376 of the report were leading to social inequalities.

91. Members urged the Government to reconsider the provision described in paragraph 326 of the report, according to which a woman had to observe a time-limit of 300 days before marrying again. They sought clarification of the provisions governing the name of a person, as described in paragraphs 309 and 310 of the report and asked whether it was true that in spite of the rights of mothers to transmit their name to their children it was still the husbands who decided what was happening in the family.

Concluding comments of the Committee

Introduction

92. The Committee commends the Government of Bolivia for submitting the report within the required time and for following the guidelines. The Committee noted that the oral presentation complemented the original report submitted in 1991 and concentrated on the time between 1992-1995, during which the country undertook major efforts to promote gender policies that were beneficial to the advancement of women, thereby overcoming a neutral policy which did not differentiate between men and women, and which maintained stereotyped role models. The Government applauded the efforts of the non-governmental organizations as well as the efforts of the present Government.

Positive aspects

93. The Committee noted that Bolivia had made great strides in introducing and institutionalizing public policies with a focus on the gender perspective. This has been reflected in the establishment of a government agency for gender issues, the National Secretariat for Ethnic, Gender and Generational Affairs. The Committee noted also that the Secretariat was in charge of policies and programmes which had taken an inter-sectoral and regional approach.

94. The Committee considered that the recently promulgated Law on Popular Participation was of great importance, as it decentralized power and resources to the municipal level, giving grass-roots organizations, including women's organizations, a legal recognition and access to resources. Thus, the law aimed at providing equal opportunities to grass-roots organizations by mandating municipalities to pursue a gender perspective in their policies.

95. The Committee commended the educational reforms, which were aimed at providing bilingual education, favouring thereby the education of girls, and the development of a multicultural society crossing gender barriers.

Principal subjects of concern

96. The Committee noted with concern that the budget of the Bolivian national machinery for women was only partially financed from the national budget and was largely dependent on international subsidies.

97. The Committee expressed concerns about the impact of structural adjustment programmes on women and the feminization of poverty.

98. The Committee noted with concern the specific disadvantages of rural women.

Suggestions and recommendations

99. The Committee recommends to the Government of Bolivia to give particular attention to amending article 276 of the Penal Code to abolish the provision which inhibits a just solution to the problems of domestic violence.

100. The Committee recommends that for the effective political participation of women the Government establishes quotas for women's high-level representation in the public administration and calls the attention of political parties to that effect.

101. The Committee would like to see in the subsequent report statistics which show the results of programmes such as the Popular Participation Plan, the National Plan for the Prevention and for Eradication of Violence and the educational reform.

102. The Committee suggests to the Government to look into the various aspects of prostitution which is regarded as a severe case of human rights violations and one of the most heinous forms of slavery.

103. The Committee requests that the plight of rural women be given more visibility in the next report, including measures to mitigate it.

104. The Committee recommends that an inventory should be made of the laws that are discriminating to women, with a view to having them amended.