



**Economic and Social
Council**

Distr.
GENERAL

E/C.12/2008/SR.12
9 May 2008

Original: ENGLISH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fortieth session

SUMMARY RECORD OF THE 12th MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 6 May 2008, at 3 p.m.

Chairperson: Mr. TEXIER

CONTENTS

CONSIDERATION OF REPORTS

- (a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH
ARTICLES 16 AND 17 OF THE COVENANT (continued)

Second periodic report of Bolivia (continued)

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The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Second periodic report of Bolivia (continued) (E/C.12/BOL/2, E/C.12/BOL/Q/2; written replies by the Government of Bolivia (document circulated in the meeting room in Spanish only))

1. At the invitation of the Chairperson, the members of the delegation of Bolivia resumed their places at the Committee table.
2. The CHAIRPERSON invited Committee members to put their questions to the delegation of Bolivia.

Articles 6 to 9 of the Covenant

3. Ms. BRAS GOMES noted that the loss of jobs in the formal employment sector had meant that many workers, mainly women, had been forced to take emergency or short-term employment, often in the informal sector. Furthermore, one third of the working population was underemployed. She asked what the Government was doing to ensure better regulation of the informal sector and provide social security benefits to the working poor. She wondered whether the current minimum wage of 440 bolivianos was sufficient to ensure a decent standard of living and what the poverty threshold was. She also asked why salaries had been increased in 2004 in the health and education sectors only.
4. She urged the State party to adopt targeted measures to assist women, who had higher redundancy and unemployment rates and suffered a 20 per cent wage gap with men. She asked whether Act No. 2,450, regulating domestic labour, had been implemented. She urged the State party to adopt measures to improve the working conditions in mines.
5. The Committee had information that even in the public sector, the law notwithstanding, women employees who became pregnant were frequently dismissed; the State party should ensure that workers' rights, in particular those of women workers, were protected and that workers benefited from full social security protection. In that context she requested more information on the draft decree to incorporate such groups as trade unions, microentrepreneurs and chauffeurs in the short-term social security regime. She would also like more information on the current status and results of pension reform, including improvement of pension benefits. She expressed concern that women's pensions in particular were lower than those of the population as a whole because women often contributed for shorter periods due to pregnancy and family obligations or because they worked in the informal sector.
6. Mr. ZHAN Daode asked whether the national minimum wage was sufficient to meet the needs of a family. He would like information on measures adopted by the State party to tackle malnutrition.

7. Ms. WILSON underscored the importance of adopting measures to eliminate forced labour, even in the face of opposition from powerful economic interests. It was also essential for the State party to ensure that women received equal pay for equal work. She asked whether women who did not receive equal pay for equal work could appeal to the courts or the Ombudsman and whether they would be victimized in the workplace if they complained.
8. Mr. ABDEL-MONEIM said that he found the tables on rural and urban employment provided in the report (E/C.12/BOL/2, para. 33) somewhat confusing. He did not understand the distinction between the unemployed and those seeking work while the figures for those seeking work and those made redundant together equalled the figure for the unemployed. The number of unemployed in both urban and rural areas had increased between 1999 and 2002, yet there seemed to be fewer persons unemployed in rural areas than in urban areas. He wondered if the delegation could clarify those figures.
9. Ms. BARAHONA RIERA requested more information on community-based justice and expressed concern that traditional or community-based justice was not always in conformity with international human rights standards. She asked how the State party ensured that traditional justice reflected domestic legislation and human rights norms, particularly in matters involving the family, women and domestic violence.
10. She requested more information on the land reform and ownership plan, including whether it would apply to land previously not considered traditional indigenous territory and would guarantee women's right to own land. Turning to the issue of gender mainstreaming, she stressed that the National Human Rights Strategy must ensure that adequate financial and human resources were allocated to promoting programmes and legislation to guarantee women's rights; the National Development Plan should likewise contain guarantees relating to areas such as housing and health, as provided in the Constitution.
11. Mr. TIRADO MEJÍA requested information on measures the State party had adopted to assist the many Bolivian citizens working outside the country and ensure their human rights were protected in their host countries.
12. Ms. BRAS GOMES asked whether the State party had taken any steps to promote the right to form trade unions and engage in collective bargaining, notably with regard to public service.
13. Mr. MARTYNOV requested more information on the State party's system for professional and vocational training, particularly any expansion of the system since the State party's previous report and the number of individuals trained and the types of skills obtained. He asked whether Act No. 2,450 on domestic labour, had entered into force and whether implementing regulations had been adopted. He asked who was responsible for enforcing the law: how many labour inspectors were there and what legal authority did they have?
14. The CHAIRPERSON recalled the State party's obligations under International Labour Organization (ILO) Convention No. 98 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively and article 8 of the Covenant. He requested information on any progress made in promoting collective bargaining rights, including within the public service.

15. Mr. CHÁVEZ (Bolivia) said that his Government was committed to eliminating workplace abuses such as bonded or indentured labour, in particular in such areas as the Bolivian Chaco. He said that authorities based in the capital or big towns did not always realize that forced labour continued to exist. Furthermore, efforts at reform often met with opposition, and even violent opposition, from vested interests. His Government was nevertheless committed to eliminating abusive practices, notably through land reform and land redistribution, in order to ensure that the indigenous peoples in particular regained ownership of their traditional lands. In the past indigenous lands had been expropriated by the State to exploit their natural resources, such as oil, and in many cases transferred to private interests. His Government was trying to promote awareness of the need to ensure that the indigenous peoples played their rightful role in managing their traditional lands and benefited from their resources.

16. Turning to the issue of community or traditional systems of justice, he said that the new Constitution recognized the traditional justice system as a parallel jurisdiction. He stressed however that the Constitutional Court was the final arbiter in any cases of conflict between the formal judicial system and the community-based justice system. The only difference between the two systems lay in the approach used and in some cases the type of penalties imposed. The community-based system might be more flexible in sentencing and offer more alternatives to imprisonment depending on the seriousness of the crime. He warned against the tendency to assume that European-style judicial systems were inherently superior to traditional or indigenous justice systems.

17. As for whether the traditional courts would protect women's rights, he agreed that there was a long-standing tradition of machismo but the key to overcoming that problem was awareness-raising among not only the indigenous population but also the general population. His Government agreed that the rights of women should be protected but did not believe that sending a husband to jail for domestic violence, thereby depriving a family of its main breadwinner, was necessarily the ideal solution and he reiterated that, in the long term, education and awareness were the best solutions.

18. The minimum wage, which had not changed for a number of years, had recently been increased to 577 bolivianos. That amount was still not wholly satisfactory but his Government was trying to increase the minimum wage in order to keep pace with economic development. It was also increasing social benefits such as child benefit and income supplements for families and the elderly. With universal health insurance available for mothers and children, maternal mortality rates had been greatly reduced even in rural areas. Assistance had also been provided to traditional health-care workers. Overall, the social situation in Bolivia had improved greatly during his Government's term in office.

19. Most of the Bolivians working abroad were in Argentina, Brazil, Italy, Spain and the United States. Many were illegal or undocumented workers and the Government was endeavouring to help them regularize their situation, in part through a system of mobile consulates to provide them with consular services. The Government had also given Bolivians working abroad the right to vote in elections in Bolivia.

20. Mr. KOLOSOV requested more information on the very interesting concept of mobile consulates. He wondered what their status would be with regard to the Vienna Convention on Consular Relations of 1963. Had the Government of Bolivia made any special consular agreements with countries hosting large numbers of Bolivian workers?

21. Mr. TIRADO MEJÍA observed that other Latin American countries had also established special courts for indigenous populations, but there had been some problems because some traditional punishments in indigenous communities, such as whipping and confinement in stocks, were cruel and inhumane and thus violated international human rights law. His comment was not meant as a criticism of the State party's approach to the administration of justice in indigenous communities; he simply wished to sound a note of caution.

22. Ms. BARAHONA RIERA asked how the social security and health-care reforms currently under way would help to achieve universal coverage.

23. Ms. BRAS GOMES asked whether she had understood correctly that the social security and health-care systems now had a strong public component. She wondered how they were funded. Was the State party aware that people whose births had never been registered had trouble accessing the social security benefits to which they were entitled? Had it given any thought to how to solve the problem?

24. Mr. CHÁVEZ (Bolivia) said that, although the Constitutional Court had recognized the jurisdiction of indigenous authorities in their communities, it would not allow the imposition of cruel or inhumane punishments. Violations of human rights could not be permitted in the name of culture.

25. The social security and health insurance reforms currently under way were aimed at correcting the problems created by the previous Government's irresponsible privatization of the systems. Pension reform legislation currently under consideration would lower the retirement age and mandate a State contribution to pension funds. Union representatives and other stakeholders were being consulted about the proposed pension reforms. The current Government was strongly committed to social security reform, but such reforms were sensitive and took time. It was necessary to proceed with caution because a great deal of money was at stake.

26. The Government was aware of the problems associated with lack of identity documents and was conducting mass campaigns aimed at ensuring that all Bolivians had such documents. Good progress had been made in reducing the number of "invisible" people.

27. Ms. NAVARRO (Bolivia) said that the mobile consulates were not new institutions requiring the negotiation of bilateral agreements. They were an extension of existing consulates. The idea was to make consular services available to Bolivians abroad in the places where they actually lived and worked.

28. With regard to the questions concerning contemporary forms of slavery, she said that the Government was endeavouring to carry out the Committee's recommendations on agrarian reform and land ownership (E/C.12/1/Add.60, para. 40), but its attempts to implement plans and

programmes had met with strong resistance from elite landowners, including ambushes and violent attacks. The Government needed support and guidance from the Committee in dealing with such resistance.

Articles 10 to 12 of the Covenant

29. Mr. MEJÍA TIRADO said that, although progress had been made in reducing maternal mortality in Bolivia, the rates were still alarmingly high. The number of deaths due to abortion was especially worrying. He wondered what the State party was doing to address that problem. He understood that social factors, particularly the influence of the Catholic church, made it difficult to deal with abortion, but that did not justify inaction. In particular, he wished to know what steps had been taken to implement article 266 of the Criminal Code, which legalized abortion in some cases, and what the Government's policy was on the treatment of women who had had abortions.

30. He had been struck by a statement in the Government's written replies (E/C.12/BOL/Q/2/Add.1) which associated AIDS with homosexuality. AIDS was not just a problem of homosexuals, and efforts to address it would not be effective if they focused narrowly on the homosexual community.

31. Lastly, he was gravely concerned by the conditions in Bolivian prisons. He understood that poor countries were reluctant to spend scarce resources on prisoners, but it was an obligation of States parties to maintain minimum human rights standards in prisons.

32. Mr. KOLOSOV enquired what action had been taken since the State party's initial report (E/1990/5/Add.44) to enhance protection for children in accordance with article 10 of the Covenant and combat problems such as child labour and child abuse. Had the situation of children in Bolivia improved during the reporting period?

33. Mr. PILLAY said that the State party's second periodic report failed to address the issue of housing, notwithstanding the Committee's grave concerns about housing shortages, forced evictions of peasants and indigenous populations, and the absence of effective measures to provide social housing for low-income, vulnerable and marginalized groups (E/C.12/1/Add.60, para. 21). Could the delegation provide some information on the current housing situation in Bolivia?

34. The report indicated that poverty and hunger were worsening among some population groups, as were social and economic inequalities. He wondered what action was being taken to reverse that disturbing trend.

35. Mr. ATANGANA noted that the State party had not provided the statistics requested by the Committee on violence against women (E/C.12/1/Add.60, para. 37). He would like more detailed information on the provisions of the Family and Domestic Violence Act (Act No. 1,674) mentioned in the State party's report (E/C.12/BOL/2, para. 68). He would also like information on the impact of Act No. 3,325 of 18 January 2006, mentioned in the Government's written replies (E/C.12/BOL/Q/2/Add.1, para. 112). He wondered what measures were envisaged to tackle the problem of non-registration of births.

36. Ms. BRAS GOMES enquired what services were available for people with mental health problems. She wondered what was being done to address the deficiencies in health care for women in rural areas, specifically with regard to cultural sensitivity training for health-care personnel and dissemination of information to make rural women aware of the availability of services. Similarly, she would like to know what action was being taken to counter harmful cultural perceptions and practices with regard to childcare and child health.

37. Bolivia's basic health-care scheme for children under 5 and their mothers was commendable, but it did not provide coverage for all children and their mothers, and some populations, especially indigenous groups, might have particular difficulty in accessing health care.

38. Ms. WILSON asked why the State party had not enacted legislation criminalizing corporal punishment. She also wished to know what action was being taken to prevent physical and psychological abuse of children and to stop the phenomenon of criaditos (indentured indigenous child domestic workers).

39. She commended the State party on its Zero Malnutrition Programme but wondered whether it was effectively addressing chronic malnutrition. She also requested information on the impact of the initiative to promote investment in small-scale agriculture. She wondered why the issue of food security had not been considered important enough to incorporate in the General Economic and Social Development Plan. She also wished to know what progress had been made in drafting the framework law on food and nutrition security (E/C.12/BOL/2, para. 98).

40. Mr. SADI requested information on the prevalence of abortion among young girls and enquired what was being done to ensure that child labour laws were enforced. He wondered what impact the current global food crisis was having on Bolivia and what measures the Government was taking to cope with it. He also wished to know what priority the Government attached to the issue of deforestation in the Amazon basin.

41. Mr. ZHAN Daode requested information on measures to combat poverty, which appeared to be the root cause of many of the State party's human rights problems.

42. Mr. ABDEL-MONEIM said that the Ministry of Health and Sports school programme for 2005 and the school lunch programme (ibid., paras. 107-108) were particularly impressive initiatives. He wondered whether the Government had contemplated introducing food subsidies in its economic and social policy and, if not, why not. He noted that the section of the report entitled "Protection from hunger" (ibid., paras. 79-108) really dealt with malnutrition, which was not the same as hunger. He observed that the title of the World Bank study mentioned in the report (ibid., para. 99) - The limits of growth in Bolivia: how nutrition programmes can contribute to poverty reduction - was illogical, since surely it was poverty reduction that had an influence on nutrition.

43. Ms. BARAHONA RIERA requested further information on the scope of the recent law on sexual and reproductive health and the obstacles to its implementation, such as pressure from religious groups. Referring to the reform of the Criminal Code, she asked whether the Government intended to amend the article on abortion. She welcomed the adoption of the

national health plan, particularly the revalorization of traditional medicine, but wondered what protection was available for vulnerable groups independently of the plan. She asked whether dental care was covered under the plan.

44. She asked whether domestic violence and trafficking in persons were defined as crimes in the proposed draft criminal code, and, if so, what penalties applied. She wished to know what measures were in place to protect women and children from prostitution and commercial sexual exploitation.

45. Lastly, she said that she would be interested to hear about the State party's environmental policy in general.

46. Mr. MARTYNOV wondered why the statistics contained in the report covered only the period up to 2003. If more recent data were available, he would welcome figures on infant mortality and child malnutrition in particular. The statement acknowledging the need for a framework law implementing the food and nutrition security strategy was laudable: had the Government already started working on such a law and, if so, what was its status?

47. He noted that, although the number of doctors in the public health system had increased significantly in recent years, there remained disparities between urban and rural areas, and he asked whether any efforts were being made to remedy that situation.

The meeting was suspended at 5.15 p.m. and resumed at 5.25 p.m.

48. Mr. CHÁVEZ (Bolivia) said that the Government's written replies described a low-cost housing programme adopted in 2006 to provide housing to the most vulnerable sectors of society. It had been allocated substantial financial resources and the Government had set a construction target of 10,000 housing units that year.

49. A series of measures had been adopted on health care in prisons, including campaigns to combat tuberculosis and HIV/AIDS and vaccinate against yellow fever. A Cuban medical delegation was providing support in ophthalmology and surgery, and dental equipment had been distributed in various prisons. Workshops were organized for prisoners living with their children in prison. A model rehabilitation centre for young offenders, which was a civil society initiative, would become operational at the end of 2008.

50. The National Food and Nutrition Council had been established in 2003 and restructured in 2006 to implement the new food security and nutrition policy and coordinate the work of public institutions and civil society organizations. Efforts to eradicate malnutrition had yielded some positive results in respect of the feeding and care of children under the age of 5, as described in detail in the written replies. Although child mortality had declined by 41 per cent in 10 years, the Government was aware that the situation remained worrying.

51. He acknowledged that there were high levels of abortion in the State party and that in certain areas the average age of girls seeking abortions was very young. Education in the family environment was very important in that context. The national debate on abortion was complex and the question of the provisions on abortion in the draft new criminal code was very sensitive; there were a number of conservative influences, such as the Catholic church, to be taken into

account. Under the current Criminal Code abortion was allowed in certain circumstances, but there had been cases in which the court decision had come only after the child had been born. Before the draft new criminal code was completed at the end of the year, consultations would be undertaken with all relevant stakeholders.

52. Bolivia was indeed a very poor country. Civil society and all other stakeholders could help tackle the problem. The Government was aware that it must make up for lost time in addressing the problem and it was now taking action. The cancellation of external debt in 2000 had been insufficient and had not benefited the Bolivian people. Poverty was not a simple problem to resolve and the current Government had been in power for only two years. The written replies described a number of initiatives in that area.

53. The Government was committed to combating deforestation and timber smuggling. Bolivia had the region's greatest area of certified forests. The issue of deforestation was closely related to the right to water, and the Government had established a Ministry of Water. Where water became polluted, it was necessary to coordinate with industry. The Government was concerned about cross-border development projects that could affect the Bolivian ecosystem, specifically the proposed Rio Madera dam between Brazil and Bolivia. The Government believed in the traditional indigenous philosophy of protecting the environment.

54. The area of mental health had long been neglected, but initiatives were now in place to improve services. There was one major psychiatric hospital in Sucre, and some small centres in departmental capitals.

55. Health was a priority area for the Government, and its plans to establish a universal health service, were awaiting Congressional consideration. Since the chamber of the Senate that reviewed laws was not controlled by the governing party, social initiatives were often blocked. The resources for the implementation would come from a hydrocarbons tax and international cooperation.

56. Concerning protection of children from ill-treatment, he said that the figures cited seemed very high and would have to be investigated. Although corporal punishment did occur, it was not legal and it must be punished.

57. The Ombudsman had organized campaigns against child labour and a series of measures had been taken in favour of children, including a subsidy to encourage children to complete primary school, as described in the written replies (para. 52).

58. Regarding the food crisis, he said that the maintenance of subsidies for low-income families, while not a good idea in the long-term, was a necessary transitional measure.

59. It was true that some statistics in the report dated from 2003, but they were supplemented by more recent figures in the written replies.

60. There were municipal initiatives to reduce and control prostitution, which was not punishable by law. The previous abusive, discriminatory system of police control had been abolished, and the focus had shifted to health checks.

61. Ms. URENA (Bolivia) drew the Committee's attention to the report of the Special Rapporteur on the right to food on his 2006 visit to Bolivia, which contained interesting recommendations on the right to food and recognized the Government's efforts in that area (A/HRC/4/30/Add.2). Bolivia was currently co-sponsoring a resolution in the Human Rights Council proposing an extraordinary session of the Council on the food crisis. The Government had begun to work on combating malnutrition when the global food crisis had struck. No one country had the solution; Bolivia itself had adopted a clear position against the use of biofuels, considering that the right to food should take precedence.

62. Ms. NAVARRO (Bolivia) said that in 1952, after the first revolution, Bolivia had required emergency food aid and now, more than 60 years later, it was still reliant on the same aid from the same country. The situation of food security in Bolivia was the consequence of international economic policies. The countries that received most subsidies were in the developed world, and that liberalization policies encouraged export only.

63. Lastly, in order to clarify Bolivia's position on the environment, she read out part of a statement made by President Morales at the seventh session of the United Nations Permanent Forum on Indigenous Issues, giving "10 commandments to save the planet, humanity and life".

The meeting rose at 6.05 p.m.