



Economic and Social Council

Distr.: General
11 November 2009

Original: English

Committee on Economic, Social and Cultural Rights Forty-third session

Summary record of the 35th meeting

Held at the Palais Wilson, Geneva, on Thursday, 5 November 2009, at 10 a.m.

Chairperson: Mr. Marchán Romero
later: Ms. Brás Gomes (Vice-Chairperson)
later: Mr. Marchán Romero

Contents

Consideration of reports:

- (a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Combined initial and second and third periodic reports of Chad

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Editing Unit, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

The meeting was called to order at 10.10 a.m.

Consideration of reports:

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant *(continued)*

Combined initial and second and third periodic reports of Chad (E/C.12/TCD/3; E/C.12/TCD/Q/3/Rev.1; E/C.12/TCD/Q/3/Add.1; HRI/CORE/1/Add.88)

1. **The Chairperson** announced that the Committee had been informed that the delegation of Chad would be unable to attend the meeting to consider the State party's combined initial, second and third periodic reports (E/C.12/TCD/3), contrary to the desirable procedure. He took it that the Committee would agree to consider the report in the absence of a delegation, pursuant to rule 62 of its rules of procedure, and taking into account information submitted by the State party in response to the Committee's list of issues (E/C.12/TCD/Q/3/Add.1), as well as information from other sources, including NGOs.
2. **Mr. Atangana** (Country Rapporteur) agreed that the Committee could use the information before it to consider the situation of Chad in the absence of a delegation.
3. **The Chairperson** invited the Committee to address issues under articles 1–5 of the Covenant.
4. **Mr. Zhan Daode** said that while the combined report of Chad was concise and gave an honest account of the problems faced and the positive efforts that were being made, the statistical data included were well out of date and therefore of little use to the Committee in considering the current situation in Chad. The submission of updated statistics would assist the Committee in its task.
5. **Mr. Tirado Mejía** expressed regret that the State party had been unable to send a delegation to attend the present meeting, particularly since it had made efforts to comply with the reporting procedure by submitting written replies to the Committee's list of issues. While information before the Committee indicated that Chad did not systematically violate human rights, there were fundamental human rights problems in respect of development and the lack of de facto democracy. Chad faced many difficulties owing to internal conflict, and conflicts with neighbouring countries, which had resulted in the displacement of a large proportion of the population. In circumstances that could result in violations of human rights, increased efforts should be made to protect those rights, including the rights enshrined in the Covenant.
6. He welcomed the establishment of the national human rights institution, and wished to know what its mandate was. He would also like to know whether NGOs had participated in the drafting of the State party report. Positive measures had been taken to revise existing legislation and adopt new laws on gender equality, forced marriages and female genital mutilation. The Committee should welcome those actions and request further information from the State party on how that legislation was being applied, and with what results. One of the most serious manifestations of discrimination against women in Chad was in respect of inheritance rights. The Committee should submit a recommendation to the State party on the need to rectify the lack of such rights for women. Measures should also be taken to increase literacy levels among women, a large proportion of whom were currently illiterate. The State party's reply to question 10 on the list of issues, which indicated that women fuelled discrimination by continuing to promulgate gender stereotypes among their children, was inadequate. The Committee should ask for further information on measures being taken to eliminate gender-based discrimination, in particular whether and how

legislation on discrimination was being implemented and whether it was in line with the provisions of the Covenant.

7. **Mr. Kerdoun** said that the State party report contained a number of positive features, in particular the information provided on environmental protection. Being situated in the Sahel, Chad was particularly affected by desertification, as well as suffering from poverty, conflict and political instability. He wished to know whether Chad was party to the United Nations Convention to Combat Desertification and, if so, whether it benefited from programmes developed at the international and regional levels under that Convention, to overcome, prevent and mitigate the effects of desertification.

8. In response to question 5 of the list of issues, on whether Chad had evaluated the effects of its investment policies on the environment, the State party had provided encouraging information on environmental protection efforts. Information had been provided on the Ministry of the Environment and Water and the National High Committee on the Environment, and he wondered what measures were taken to avoid overlapping in the mandates and responsibilities of those two bodies. He welcomed the steps taken to protect national sovereignty over the country's natural resources, for the benefit of the people of Chad, which was testament to the State party's commitment to the right to self-determination and the right of the people freely to dispose of their natural wealth without prejudice to any obligations arising out of international economic cooperation. He wondered whether the Government took measures to ensure that foreign companies engaging in petroleum production and mining activities on its territory took adequate measures to protect the environment. He also wondered whether Chad had been party to, or affected by, the import of toxic wastes from developed countries, which had caused problems in a number of African countries.

9. **Mr. Riedel** expressed regret that the State party had decided not to attend the meeting, thus forgoing its opportunity to engage in a constructive dialogue and a balanced exchange of views. He said that he had three comments to make. The first concerned the fact that the State party's new National Human Rights Commission was not yet fully in conformity with the Paris Principles; he requested further details on the specific steps taken by the Government of Chad to ensure such conformity and on the outcome of its efforts. He also wished to know whether the promotion and protection of economic, social and cultural rights fell within the Commission's mandate and whether it enjoyed the independence required by the Paris Principles.

10. Second, he said that the State party had not responded adequately to the Committee's request for statistical data (question 4 of the list of issues). The Committee was aware of the difficult economic and social challenges faced by Chad and did not expect detailed statistical information, but the State party should at least provide the data it had available and give an indication of its plans to obtain more information.

11. Concerning Chad's reply to question 5 of the list of issues, although the State party had made a serious effort to address environmental aspects, it had not answered the essence of the question, namely the impact of its investment policies on the enjoyment of economic, social and cultural rights, which was the focus of the Covenant.

12. **Mr. Sadi** also expressed regret at the absence of a delegation from Chad. Chad was still going through a painful nation-building process, made more complex by the many ethnic and religious groups and different languages existing in the country. It was therefore understandable that implementation of the Covenant was taking time, but he urged the State party to ensure that its Constitutional Council concerned itself with the Covenant. His main preoccupation, however, was the state of the judiciary in Chad, which was overburdened and ineffective, and he stressed the need for the State party to give priority to improving its judicial system, as the main pillar for implementation of the Covenant. He also expressed

concern that discrimination was widespread and called for the urgent promulgation of enabling acts to translate the principles enshrined in the Constitution into effective legislation against all forms of discrimination.

13. **Ms. Bonoan-Dandan** said she regretted the fact that Chad's replies to the list of issues simply repeated the sparse information given in its report. It was clear from the information available to the Committee that foreign oil companies benefited most from the country's natural resources; it was incumbent on the State party to ensure that profits from the exploitation of its own natural resources benefited its own people. Referring to issue 3, she expressed regret that the State party had failed to reply to the question posed. Although the Chadian Constitution provided for protection against practices harmful to reproductive health, at least 45 per cent of women and girls in Chad had suffered from some form of female genital mutilation. She disagreed with Ms. Pinto, independent expert of the Commission on Human Rights, that discrimination in Chad, as elsewhere, was a "cultural matter" (E/CN.4/2005/121, para. 32). Rather, it was directly related to the issue of the existence of a traditional conflict resolution system in Chad. The Constitution provided for that system to operate where there was no State justice system present in remote areas. According to Amnesty International, the practice had led to human rights violations, specifically the rape of women and girls. She said that where a parallel judicial system existed, as in the case of Chad, the State needed to make sure that it did not result in human rights violations.

14. **Ms. Brás Gomes** echoed the disappointment of other Committee members that Chad had not sent a delegation to the meeting, as dialogue with the State party was a fundamental part of the reporting cycle. She would have particularly welcomed the opportunity to ask questions on the State party's Ministry for Human Rights and the Promotion of Freedoms, mentioned in paragraph 12 of its replies to the list of issues.

15. Turning to royalties from petroleum revenues, she observed that Chad had earmarked a certain amount for priority sectors, including public health and social affairs; she asked for clarification on what was included under social affairs. She would also have liked to exchange views with the State party on observations made in 2005 by Ms. Pinto, independent expert of the Commission on Human Rights, in particular on the many forms of discrimination rife in Chad, and be informed of the current situation with regard to legislation on women's rights and the draft personal and family code. When was such legislation likely to be adopted? Noting the statement in paragraph 50 of the report that women shared in the perpetuation of the stereotypes that marginalized them, mostly through learned behaviour at school, she said that it was the State party's obligation to raise awareness and take action to change the mindset on gender discrimination in schools.

16. **Mr. Kedzia** joined other Committee members in expressing regret that the Committee had been deprived of the opportunity to enter into a direct public dialogue with the State party. Although Chad had made significant efforts to ensure consistency between domestic law and international human rights standards, legislation was often not implemented, which highlighted shortcomings in the judiciary. Since strengthening national systems of human rights protection was a fundamental goal of the United Nations, he stressed the importance of implementing a focused United Nations inter-agency technical cooperation programme to address the various aspects of an effective national system of human rights protection in Chad. The new Chadian National Human Rights Commission had been given A(R) status by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, meaning that its conformity with the Paris Principles was subject to reservations. A clear message should be conveyed to the State party that A(R) status was unsatisfactory and that it needed to bring the Commission fully into line with the Paris Principles to enable its status to be upgraded to A. As for combating discrimination, he associated himself with the comments of Ms. Bonoan-

Dandan. He recalled that the independent expert of the Commission on Human Rights had also emphasized that the gap between the different ethnic and religious groups was not unbridgeable, but would require the Government and social forces to adopt a deliberate and multifaceted programme of action to overcome the difficulties. The Committee should recommend the adoption of such a programme by the State party.

17. **Ms. Barahona Riera** said that she, like other members of the Committee, was disappointed at the State party's decision not to attend the meeting. She also agreed that the failure to implement key legislation ran counter to ensuring respect of the economic, social and cultural rights of the country and its people and preventing violations of human rights. She urged the State party to intensify its efforts to implement legislation despite all the obstacles, particularly the existence of a vast array of ethnic and religious groups and the hold that traditional customs and practices had over the population. She added that lack of water was a serious problem in Chad, with 48 per cent of the rural population and 70 per cent of the urban population unable to access clean drinking water. Furthermore, only 1 per cent of the population had access to electricity, and she called for a recommendation by the Committee that the State party take urgent action to provide adequate water and electricity supplies to its population.

18. **Mr. Pillay** said that he too regretted the absence of a delegation from Chad. However, the State party report and the replies to the list of issues revealed frankly the difficulties facing the State party. He observed that although the Covenant had been ratified and had the force of law it had not been applied in Chad.

19. The culture of impunity that prevailed in Chad exacerbated the problems facing the judiciary, as court rulings were routinely flouted in practice. The situation had frustrated magistrates to the extent that they had threatened strike action. He wished to know why the contracts that allowed the international consortium exploiting Chadian oil to take the bulk of the profit had not been revised when 52 per cent of the population lived in poverty, and why the Government was demolishing the houses of poor people when 90 per cent of the population had no roof over their heads. In addition to those important issues, he noted the Government's failure to address basic problems such as housing, poverty, food security and water.

20. **Mr. Atangana** (Country Rapporteur) thanked Committee members for their comprehensive and pertinent questions. The issue of impunity and corruption had been addressed in the list of issues but the State party had not provided any reply on that issue, which should be included in the concluding observations with the other points that had been raised.

21. **The Chairperson** invited the Committee to consider the situation of Chad with reference to articles 6–9 of the Covenant.

22. **Mr. Zhan Daode** said that the issue of poverty had been raised on a number of occasions. Although the State party report had indicated that 52 per cent of people in Chad lived below the poverty line in 2004, it would be helpful to know what the current situation was.

23. **Ms. Brás Gomes** said that the data relevant to article 6 of the Covenant in the State party's report were inadequate, and the fact that they were based on the 1993 census prevented any action-oriented assessment. However, the report did indicate that unemployment had risen steadily in recent years, and it would be helpful to know what steps the State party was taking to combat that phenomenon. It would also be useful to know whether the modern sector mentioned in table 2 of the report was in fact the civil service and, also, in what respect that sector was considered modern.

24. With regard to investment in employment, the report referred to privileged regimes including regime D, which was reserved for enterprises of great importance to the country's economic and social development with high levels of investment. It would be helpful to know what regime D actually involved and how it contributed to the realization of labour rights in the State party.

25. The report did not mention any employment policies for the economically active population under 25 years of age in urban areas. However, it did refer to the provision of financial and technical support for rural women's associations. She wished to know more about the impact of those associations and the support that they had received, as well as how their impact was measured, given that illiteracy rates among women remained extremely high.

26. The fact that some foreign workers were given privileged treatment in relation to national workers with the same skills profile was a clear breach of article 7 of the Covenant, as was the fact that women held only lesser, lower-paid jobs. The report also indicated that the minimum wage system was monitored through periodic physical censuses but did not specify what that process actually entailed. Further information on how the minimum wage was monitored and updated and, also, how it guaranteed an adequate standard of living for workers and their families, would be useful.

27. In relation to article 9, she wished to know why Chad had not ratified the International Labour Organization (ILO) Social Security (Minimum Standards) Convention (No. 102). She also sought clarification with regard to statutory benefits, which appeared not to be provided, and asked about the obligations of employers and the remedies available to workers should employers not comply. Moreover, she wished to know how benefits were indexed in relation to the legal minimum wage and the actual value of the assistance provided.

28. **Mr. Kedzia** said that, although the State party had indicated that the Labour Code and other relevant regulations protected health and safety standards at work and that the competent inspectors monitored and enforced such standards, according to other reports those standards were broadly ignored, both in the private sector and in the civil service. He drew attention to the urgent need to enforce labour standards and to ensure that all workers attempting to claim for any kind of violation should be protected, including formal and informal employees as well as foreign and illegal workers.

29. **Mr. Riedel** said the fact that members of the armed forces, defence forces, police officers and gendarmes, diplomatic staff and magistrates did not enjoy the right to strike was a violation of article 8 of the Covenant. As to ILO conventions relevant to the right to work, labour conditions and trade union rights, he wished to know why Chad had not yet ratified ILO Convention No. 102, or signed or ratified other relevant ILO instruments, including the Social Policy (Basic Aims and Standards) Convention (No. 117), the Equality of Treatment (Social Security) Convention (No. 118), the Employment Policy Convention (No. 122), the Labour Statistics Convention (No. 160) and the Prevention of Major Industrial Accidents Convention (No. 174). The African Charter on the Rights and Welfare of the Child had also not been ratified. Although the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights and the Protocol on the Rights of Women in Africa had been signed in 2004, they had not yet been ratified. The Committee should draft a recommendation in that respect.

30. *Ms. Brás Gomes (Vice-Chairperson) took the Chair.*

31. **Mr. Atangana** (Country Rapporteur) said that the various issues raised by members of the Committee had been noted. A number of points could be reflected in the concluding observations with regard to articles 6 and 7. The Committee might also ask whether the bill

on quotas to redress inequality in the representation of women in salaried employment had passed into law. In respect of article 8, the Committee should also request further information on the prior authorization required to establish a trade union.

32. **The Chairperson** invited the Committee to raise issues in relation to articles 10–12 of the Covenant.

33. **Mr. Tirado Mejía** said the Committee should call upon the State party to make every effort to ensure that the draft personal and family code was adopted. With regard to Government measures to remedy inequalities between men and women, he requested further clarification as to whether free schooling was currently available for girls.

34. The State party had indicated in its replies that if the draft criminal code and personal and family code were adopted, the issues of marriage, divorce, inheritance, property and nationality would be resolved. Although it had used the conditional tense, the State party was required to adopt standards and pursue an active policy on those issues, in accordance with the Covenant. The replies also appeared to indicate that domestic violence and conjugal rape were not criminal offences under Chadian law. Moreover, the State party's reply to the Committee's question as to whether the killing or injuring of women as a result of acts of family violence were offences and its request for information on such cases reflected a surprising degree of impotence and cynicism. In view of the magnitude of such crimes, it was not enough to say that there were insufficient resources to investigate them. The Committee should make a strong recommendation in that regard, in order to remind the State party of its obligations. Moreover, it was not enough to state that the recruitment of children in armed conflicts was prohibited when that practice was more widespread than had initially appeared. It was also not sufficient simply to prohibit female genital mutilation; it should be punished as a crime, as it was not only an affront to the dignity of women but a physical assault against them. The Committee should issue a recommendation in that regard.

35. **The Chairperson** said that the points raised by Mr. Tirado Mejía illustrated how valuable it would have been to have had an exchange with a delegation from Chad.

36. **Mr. Riedel** noted that the Government's replies to the Committee's request for information on measures to ensure access to clean water and sanitation had referred almost exclusively to N'Djamena and not to rural areas. The Committee should therefore recommend strongly that that issue should be given full coverage in the next periodic report.

37. Serious efforts had been made in the report under consideration to supply disaggregated statistics on the health budget, although the figures provided did not cover the period since 2000. The Committee should, therefore, recommend that detailed, updated information should be provided in that regard.

38. The attention of the State party should be drawn to general comment No. 14 on the right to the highest attainable standard of health and general comment No. 15 on the right to water. The State party had provided only a few random examples from urban areas in its replies to the Committee's question on water and sanitation. The Committee should call upon the State party to provide more detailed information on water and sanitation, in view of their impact on public health.

39. The data provided on the health system in Chad indicated a serious shortage of doctors and other medical personnel, even in the capital N'Djamena, but offered no explanation for that situation. The information supplied on other aspects of the health system, including the strategy to combat HIV/AIDS, was also insubstantial. The only specific reference to health provision described the impact of the national health policy which, since 1998, had made it possible to ensure that medication was available in all

health centres. However, it was not possible to assess from that whether the national health system met the needs of the rural population.

40. **Mr. Kedzia** said he agreed with previous comments that dialogue with the State party would have enabled the Committee to formulate more useful concluding observations and helped the State party to follow up on them more effectively. Although it appeared from the State party's report and written replies that the legal framework was in place in some subject areas, no information had been provided on how the law was being implemented. He cited various reports — including documents E/CN.4/2005/121, S/2009/532 and S/2007/400 — that described a situation in practice that was extremely disturbing, with prevalent violence against women and infringements of children's rights. Rape and other sexual violence were taboo and were mostly dealt with at the community level through local arrangements such as financial compensation paid by the family of the perpetrator to that of the victim. Little medical or psychosocial support was offered to the victim, and the perpetrator was rarely, if ever, brought to justice. The State party itself had acknowledged that in practice women did not enjoy equality in terms of education and training, and that, while property and inheritance laws did not discriminate against women, local leaders often adjudicated in favour of men in accordance with traditional practice, meaning that women were generally unable to own or inherit land. No information had been provided by the State party on Government action to bring consistency between regulations and practice. There had been further reports that only 20 per cent of students at universities and only 15 staff members were women. The Committee must take those reports into consideration when formulating its concluding observations, especially since the written replies to the list of issues were often evasive, making it difficult for the Committee to assess the true situation. The Committee should urge the State party to enforce the rights of women as a matter of urgency and to place the issue at the centre of State policy and technical cooperation programmes.

41. The situation with regard to the rights of children was reported to have been deteriorating steadily over the last decade, particularly as a result of internal conflict. There were reports that livestock herders aged between 10 and 12 years were employed through agreement with their families and with the endorsement of community leaders, and that the boys were often exposed to serious injury and maiming through harsh physical punishment such as the burning of limbs. The children generally worked full-time, meaning that the boys' right to education was not being respected. The situation of girls was alarming too, in particular with respect to access to education and protection from harmful traditional practices such as sexual abuse, forced marriage, early marriage and early pregnancy. Once again, the law in that respect was at times consistent with international instruments, but the practice was quite different. While he welcomed the important legal regulations in place, he said that the Government must take a more active role in ensuring respect for the law and for children's rights, which must urgently be placed alongside those of women at the centre of State policy and human rights programmes.

42. *Mr. Marchán Romero resumed the Chair.*

43. **Mr. Pillay**, noting that, although the Ministry for Microfinance had been created and anti-poverty measures drawn up, 52 per cent of the population was living below the poverty line and the poverty rate appeared to be increasing, said that, had the State party sent a delegation to the current meeting, he would have asked for an assessment of the results of measures taken to address poverty. Given that food security was so precarious in the State party, he expressed surprise that expropriation had taken place for the purposes of petroleum production, which had decreased food production and therefore adversely affected access to food, and said the fact that only 31 per cent of the population had access to drinking water was alarming. While noting that the State party had acknowledged in its written reply to question 40 of the list of issues that nearly 90 per cent of vulnerable persons

did not have access to decent housing, he pointed out that Government strategy was compounding the problem since, according to a report by Amnesty International, tens of thousands of people had been made homeless through forced evictions in N'Djamena since February 2008, their houses demolished and tools and materials destroyed. The Government had clearly not observed due process and had offered compensation only to those who held the legal title to the property, ignoring entitlement through the fact of having lived in the property prior to eviction, in clear contravention of international law and the Committee's general comment No. 7 on forced evictions. The Committee must therefore call upon the State party to impose a moratorium on forced evictions until a proper law had been adopted that incorporated the provisions of general comment No. 7.

44. **Ms. Bonoan-Dandan** said that the Committee should make strong recommendations on the serious and urgent problem of female genital mutilation. It should also address in its concluding observations the fact that sexual harassment was not outlawed, the new trend of abducting children for ransom as well as the more established phenomenon of abduction for forced marriage, the practice in some Islamic schools whereby teachers forced pupils to beg for food and money, and the recruitment of children to the armed forces in order to boost their families' income.

45. **Mr. Atangana** (Country Rapporteur) noted the Committee members' diverse comments in relation to articles 10–12 and recommendations on a wide range of areas, including female genital mutilation, food security and child herders. In particular, the Committee should call upon the State party to provide further information on what measures it was taking to combat the practice of employing child herders. The different statements would be summarized in order to present a clearer picture.

46. **The Chairperson** invited comments from members regarding articles 13–15 of the Covenant.

47. **Ms. Bonoan-Dandan**, noting that the State party, in its written reply to question 48 of the list of issues on measures to combat illiteracy, had referred exclusively to measures being taken within the education system, said it should be pointed out to the State party that, since illiteracy was more prevalent among those who were outside the education system, Government efforts outside the formal system were extremely important. The Committee should recommend the State party to seek assistance from the United Nations Educational, Scientific and Cultural Organization in that respect. The Committee should further recommend that the State party should give priority to achieving universal primary education free of charge and should include human rights education at all levels of the school curriculum. Commenting that the State party seemed to hold the general attitude that discrimination was a cultural matter and that the decisions of local chieftains must be respected even if they constituted outright violations of human rights, she said that the Committee should carefully and delicately address the matter of communal justice, differentiating between culture and discrimination and making a distinction between what was culture and what was simply tradition. The State must intervene in cases where human rights were being violated, such as in the case of recruitment of boys to the armed forces, which was encouraged on the basis of the cultural belief that boys became men when circumcised and that men should protect their communities.

48. **The Chairperson** expressed regret that the State party had provided little information about cultural rights, which constituted a third of the Covenant and which were usually covered in some detail by States parties. Had the State party sent a delegation, the Committee would have recommended that in its next periodic report it should provide the information necessary to permit an objective assessment of respect for cultural rights in the State party, including information on specific measures taken by the Government under article 15 to ensure such rights as taking part in cultural life and enjoying the benefits of scientific progress and its applications.

49. On behalf of the Committee, he expressed deep disappointment at the State party's unexplained absence, which had prevented constructive dialogue. Having allocated three meetings to consideration of the State party's report, the Committee had in the event required only one meeting, not through lack of interest among members but through lack of information from the State party. The State party's presence at the consideration of future reports would be advisable and beneficial, since constructive dialogue was an integral part of the process. A delegation at the current meeting could have provided immediate answers to the questions and concerns of Committee members, and received advice on information to include in the State party's next periodic report.

The meeting rose at 12.50 p.m.