



**Convention on the Elimination
of All Forms of Discrimination
against Women**

Distr.: General
12 October 2011

Original: English

**Committee on the Elimination of Discrimination
against Women**
Forty-ninth session

Summary record of the 978th meeting

Held at Headquarters, New York, on Tuesday, 12 July 2011, at 10.20 a.m.

Chair: Ms. Pimentel

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The meeting was called to order at 10.20 a.m.

Consideration of reports submitted by States parties under article 18 of the Convention *(continued)*

Combined fifth and sixth periodic reports of Costa Rica (CEDAW/CRI/5-6; CEDAW/CRI/Q/5-6 and Add.1; HRI/CORE/CRI/2006)

1. *At the invitation of the Chair, the members of the delegation of Costa Rica took places at the Committee table.*

2. **Ms. Clarke** (Costa Rica), introducing the combined periodic report (CEDAW/CRI/5-6), said that the Committee's general recommendations and concluding observations had been incorporated into the law of the land at all levels of government, and that the Convention provided constant policy guidance in administrative procedures, court proceedings, constitutional rulings, executive decrees and legislation.

3. Also of vital importance was the national policy on gender equality and equity, which was promoted by the National Institute for Women (INAMU), and enjoyed the support of all branches of government, of women's organizations, various sectors of civil society and of academia. Three years after the national policy had gone into effect, it had been subjected to a critical analysis, with citizen participation, leading to an evaluation of progress in its 85 strategic activities. Two of the policy's objectives were facing major difficulties, namely gainful employment and income generation, and education and health on a basis of equality. On the other hand, the greatest progress had been made in advancing the goal of political participation.

4. Closing the gender gaps in the world of work was proving troublesome, finding ways to eliminate gender-based inequalities in wages and salaries being especially difficult. One tool to that end was the National Job Information, Orientation and Placement System, open to both employers and job-seekers, and another was the Gender Equity Management System for the recognition of good labour practices. Under the gender equality and equity plan for 2012-2014, a mechanism would be created to certify good practices of equality in small and very small enterprises, and focused inspections would be carried out in economic sectors in which a high proportion of women worked, to verify compliance with labour law and minimum wage regulations.

5. A major advance had been the 2009 reform of the Labour Code with particular reference to female domestic workers, aligning their working conditions with those of other categories of employment. Efforts were continuing to guarantee the rights of women workers, for example by arranging for them to be covered by social security even if they were working only part-time, by organizing inspections of their working conditions, and by providing the crucial childcare which would guarantee that mothers could exercise their right to work. Measures were also in hand to improve the lives of older women, through an integrated care and social welfare network.

6. A national policy on sexual and reproductive health had been adopted, covering the period 2011-2021, under which the Government undertook to guarantee people a safe and informed sexual life, on a basis of shared responsibility between partners. The policy was taking shape in action plans which were currently being drawn up at the national and regional levels. Under the National Development Plan 2011-2014, the Ministry of Public Education would be running a programme of sex education suitable for each school level. The national survey on sexual and reproductive health in 2010 had provided an opportunity to shift ideas about sexuality from the traditional focus on reproduction to a human rights approach, one that recognized that sexuality was an integral part of people's lives at all stages, from adolescence to old age.

7. The Survey indicated that around 82 per cent of men and women in a relationship practised some form of contraception; prenatal checkups of a standard considered adequate had increased from 81.2 per cent in 1999 to 88.4 per cent in 2010; all births in the country were attended by skilled health workers; and more than 90 per cent of the population surveyed were aware of the principal ways of preventing HIV and other sexually transmitted diseases. Incidence of HIV/AIDS in women had dropped from 4.7 to 1.6 per 100,000 in the past three years, and Costa Rica had now taken on the goal of eliminating HIV and congenital syphilis by 2015. Under the gender equality and equity plan of action for 2012-2014, work was being done to improve the performance of therapeutic abortions, provide safe contraception and prevent adolescent pregnancies. The general fertility rate was dropping, and adolescent pregnancies had gone down from 96.2 per 1,000 in 1990 to 62.8 per 1,000 in 2010.

8. As a symbol of the country's progress in the area of political rights, she pointed to the election of its first female President, for the period 2010 to 2014. With 38.6 percent of parliamentarians being female, Costa Rica was a leader in Latin America in that area. After the reform of the Electoral Code in 2009, all political participation was on a basis of gender parity, and all lists of political candidates had to alternate the sexes. Monitoring and follow-up strategies would have to ensure that the reforms were being applied. As a further step towards enhancing women's political participation, two centres for political training had been opened: one within INAMU and the other within the Supreme Electoral Tribunal. As a complement to their participation in formal political bodies, women had been guaranteed parity by law in the leadership of unions and civil associations; and indeed they were also very active in development or community organizations.

9. The 2007 Act on the Criminalization of Violence against Women represented a major advance for women's rights, as it embodied the view that violence against women constituted a human rights violation and a serious form of discrimination. A related law, passed in February 2011, laid down penalties for domestic violence, established a register of offenders, lengthened the duration of protective measures for the victims, and so on. Together with a law providing for protection for victims and witnesses, these instruments constituted a uniform nationwide approach of care for the victims of violence.

10. In the course of the past year, several reforms and laws had also been adopted to encourage cultural and ethnic diversity and establish affirmative action for the inclusion of disabled women in the workforce.

11. Costa Rica would continue working towards full protection of the rights of women. While laws alone would not achieve that goal, they were an important part of the process of changing the attitudes of individuals and institutions.

Articles 1 to 6

12. **Ms. Šimonović** recalled that during the consideration of the previous report, a recommendation had been made that since the Convention had the rank of constitutional law, taking precedence over national legislation, it should be invoked before national courts as a directly applicable treaty. However, the current

report gave no information on whether that had been done. She also asked for clarification of articles 7 and 48 of the Constitution, which had to do with the ranking of international treaties. Noting that the responses (CEDAW/C/CRI/Q/5-6/Add.1) to the list of issues and questions (CEDAW/C/CRI/Q/5-6) stated that a popular publication had been produced about the Optional Protocol in 2006, she wished to know whether there was also ongoing training for judicial personnel covering the Convention and its Optional Protocol, because a one-time publication would not be sufficient. She wondered, further, what Costa Rica had done under article 2 to embody the principle of equality of men and women in the Constitution or other appropriate legislation. Lastly, it would be interesting to learn whether Costa Rica was going to implement the finding of the Inter-American Commission on Human Rights that a prohibition of in vitro fertilization was an infringement of women's right to form a family.

13. **Mr. Bruun**, expressing concern that the information provided was very old, most of it dating from 2006, thus making the report less useful, said that the absence in the Constitution of a clear prohibition of sex-based discrimination made the Convention very important. Some parts of the Domestic Violence Act had apparently been declared unconstitutional, and he asked whether the Constitutional Court could invoke the Convention under those circumstances. The report also stated that in some areas the Immigration and Aliens Act ran counter to the Convention: would such legislation be null and void as a result? Drawing attention to the Committee's general recommendation No. 28, which was a very useful tool for domesticating the Convention and could be used for teaching judges and legal personnel, he asked how the Convention was taught in Costa Rica. Lastly, he would like information about the role of the Ombudsman in cases concerning sexual discrimination.

14. **Ms. Schulz** said that she was deeply concerned at the lateness of Costa Rica's report. She was also disappointed with the form of the report, which was far too long and detailed, and with its outdated content. The Committee intended its observations and recommendations to help State parties implement the Convention, but that was difficult to achieve when the information provided was so inadequate.

15. She enquired as to the consequences of the declaration, in article 75 of the Constitution, that Costa Rica was a Roman Catholic State: would that have an

impact on the rights of women, particularly their sexual and reproductive rights, and might it contribute to the persistence of sexual stereotypes that limited women's enjoyment of their rights? She was also concerned about how the concordat that Costa Rica was going to sign with the Vatican would affect matters of health and education. On the issue of discrimination against lesbians, bisexuals and other non-heterosexual women, the Committee had been informed by non-governmental organizations that such women were frequently harassed by the police, fined, or arbitrarily detained. What measures was Costa Rica taking at the legislative, administrative and practical levels so that non-heterosexuals could enjoy the same rights and freedoms as all other women?

16. Observing that the Beijing Platform for Action and the Committee's general recommendation No. 28 had made it clear that national mechanisms for women demanded resources and needed to be placed high in the government hierarchy, she inquired whether the Government intended to increase, reduce or leave unchanged the budget and personnel of INAMU. She also asked about progress in implementing the gender equality and equity plan of action and integrating it into the National Development Plan 2011-2014.

17. **Ms. Arocha** asked about the current status of the group of laws listed in paragraph 85 of the report as awaiting adoption in the Legislative Assembly. She would also like information on the training of judicial personnel in the provisions of the Optional Protocol. She asked for comments on the impression given by the report that while Costa Rica might have specific programmes to protect the rights of certain well-defined groups of women, there did not seem to be any provision for dealing with the multifaceted discrimination that some women might face.

18. **Ms. Neubauer**, inquiring why the executive president of INAMU had been demoted from ministerial rank, asked how the mandate of the Institute was defined in order for it to have the authority, visibility and political recognition due it as a national women's mechanism. She would also appreciate an update on the setting up of the municipal women's offices, and on the progress and results of the municipal-level capacity-building project referred to in paragraph 244 of the report.

19. **Ms. Zou Xiaojiao** requested more information about the nature of the crisis INAMU had undergone

between 2004 and April 2006; the measures taken to address the situation; and the lessons that had been learned from the crisis which would allow it to properly promote the rights and status of women. It would be interesting to know how the Institute performed its monitoring function, particularly in the case of disadvantaged women. The head of delegation in her introductory statement had mentioned the 85 strategic actions under the national policy on gender equality and equity, a very large number of objectives; and she wondered how progress was monitored, if there were any penalties for non-achievement, and if NGOs were involved in the monitoring.

20. **Ms. Hayashi** noted that the Committee's general recommendation No. 25 stressed the need for the State party to distinguish between temporary special measures to accelerate achievement of concrete goals of substantive equality for women and permanent general social policies adopted to improve the situation of women. She found that the information in the report pointed more towards permanent rather than temporary or special measures.

21. The principle of gender parity had been introduced in 2009 in respect of elections, in 2010 in respect of participation by women in various types of organizations. She asked why reference had been made to "parity" rather than to "quota"; if the temporary nature of the parity principle was to be retained or lifted in the future; and, whether the parity or quota principle had been applied in respect of local political posts. Had the State party instituted any temporary special measures for the appointment and education of women judges to increase participation in the judiciary system, and had the National Council on Rehabilitation and Special Education done so to increase participation by women with disabilities in activities outside the home?

22. **Ms. Ameline** asked if a programme of temporary measures was under consideration, and noted that it could take a form different from that of quotas; if the Constitution provided for access to temporary special measures; and if, beyond the system of quotas, preferential treatment for women was planned in various sectors.

23. **Ms. Clarke** (Costa Rica) said that the delegation's replies would be an attempt to update the insufficient information given in the periodic report. Under the Constitution, men and women were equal

under the law. Various articles of the Convention — most notably articles 1 to 5 — had indeed been cited and/or applied in a number of both Constitutional and ordinary court decisions, and also at the administrative level, in respect, for instance, of sexual harassment, gender violence or special treatment of pregnant women.

24. Two articles of the Act on the Criminalization of Violence against Women initially declared unconstitutional had been found constitutional the previous year. Once the applicability of that very effective legislation had been reinstated, it had been invoked on the courts, along with the Convention. The Immigration and Aliens Act had been amended in 2009 to include mechanisms for the hearing of immigration cases by immigration tribunals, and modern administrative measures had been adopted on immigration and trafficking.

25. The Office of the Ombudsperson for Women was in charge of receiving and following up on claims of discrimination and harassment, instituting court action if necessary, and keeping the public informed. It was acting aggressively to defend the rights of women. Costa Rica was committed to improving the presentation of its periodic reports to the Committee, and had received helpful regional technical guidance for the purpose.

26. Although the National Institute for Women was no longer a ministry without portfolio, it still had executive office status. Its budget had tripled to about 1.5 million dollars; it thus far had established four regional offices, and it maintained shelters for women fleeing situations of violence. INAMU worked with the three branches of Government and the Supreme Electoral Tribunal to implement the national policy on gender equality and equity which they had devised, as well as with civil society organizations and especially women's organizations, whose representatives sat on its Executive Board. INAMU had just completed an assessment of the exact progress made in achieving the strategic objectives set under the previous four-year gender equality and equity plan of action and it would in the course of 2011 draw up the plan for the next four years.

27. **Ms. Villanueva** (Costa Rica) said that the judiciary had had a gender equality policy in place since 2005, ensuring equality in its internal operations, its management of human resources and working

conditions and its jurisprudence. Equal access to justice by women had been a central aspect of the modernization of the judiciary. Gender mainstreaming was being achieved by means of online human rights courses based on the Convention for new officials, and continuing-education workshops for longer-serving employees among the prosecutors, defence attorneys and police. In the area of jurisprudence, from the Constitutional Court on down, the various courts had set up specific data-collection systems, for decisions handed down in gender-related cases, thus providing visibility to women's rights. The judiciary also had systems for monitoring personnel-hiring practices: currently 46 per cent of judicial staff and 55 per cent of judges were women. Vertical segregation, however, was the main problem facing women in the judiciary system: they tended to be concentrated in lower-level judgeships and public prosecutor positions because of heavier family responsibilities. Proposals were being advanced for removing the obstacles to the promotion of women to higher posts.

28. The Constitutional Court ruling that the carefully crafted Act on the Criminalization of Violence against Women was unconstitutional was ascribable to cultural attitudes and the reluctance of certain Constitutional Court judges to accept change. Costa Rica was a signatory of the 2008 Brasilia Regulations Regarding Access to Justice for Vulnerable People, in the interests of removing any discrimination against indigenous people, the disabled or persons of different sexual orientation. Having made the required changes in physical premises and court practices, it was monitoring compliance.

29. As for the distinction between quotas and parity, quotas represented a minimum threshold for the political participation of women, while participation on terms of parity was a much higher standard. Costa Rica was proud of its 2009 reform of the Electoral Code precisely because — with requirements such as alternate listing of candidates by gender — it had taken the country to that higher standard of parity democracy.

30. One aim of the national policy on gender equality and equity was to give priority to institutions and institution-building at the local as well as national level. INAMU had therefore thus far established municipal women's units in 61 of the 81 municipalities in the country. Constant coordination of the two networks was provided by various mechanisms, such as

the national-level technical gender equity units under INAMU. INAMU and technical gender equity units, the judiciary and the other branches of Government were all involved in various ways in disseminating information about the Convention and the Optional Protocol — by issuing pamphlets containing their texts, holding public encounters, conducting human rights courses and the like. People were being familiarized with the Convention and the Optional Protocol and the large body of women's rights laws to which they had given rise.

31. Article 7 of the Constitution provided that international treaties took precedence over national law, and the treaties were regularly invoked when they granted more rights than the Constitution or the laws. Of the ten laws and 16 bills mentioned in the report, only the health reform legislation and the employment code legislation were still pending.

32. **Ms. Clarke** (Costa Rica) said that protection of minority groups such as indigenous women and women of African descent was a specific part of the national policy on gender equality and equity, with special attention being paid to special needs of the most vulnerable women. The year 2011 being the International Year for People of African Descent, a national plan against racism and racial discrimination had been developed on the basis of the Durban Declaration, and the gender perspective had to be incorporated into actions by the Foreign Ministry in the course of the year. The challenge was to have a comprehensive strategy for women that was based on their cultural diversity and covered not only indigenous women but women of African origin as well. The Constitutional Court had ruled that affirmative action was required in order to achieve equality, and it would be included in the second plan of action.

33. **Ms. Villanueva** (Costa Rica) said that the statement in article 75 of the Constitution that Roman Catholicism was the State religion had to be considered within the historical context of Costa Rica. Also, it should not be interpreted in an exclusionary sense, because the same article guaranteed freedom of worship. The previous Administration had proposed removing the provision, but the proposal had been withdrawn. Agreement of the civil society was needed, and any decision had to reflect national feeling.

34. **Ms. Gabr**, while congratulating Costa Rica on its election of a female president and the growing number

of women elected to Parliament and government posts, said that such progress did not necessarily signal the uprooting of male superiority, which nourished a negative perception of women's role in the family and did nothing to improve the status of immigrant and indigenous women in general. It would be interesting to learn what steps Costa Rica was taking to address such issues.

35. Additional information on the results of the National Plan to Eradicate Commercial Sexual Exploitation of Children and Adolescents for the period 2008-2010 would be appreciated. She wondered what means existed to assist victims of human trafficking, including immigrant and indigenous women, and to protect children in trafficking situations.

36. **Ms. Awori** commended the State party on its adoption of legislation to address violence against women; however, she would like to know how Costa Rica was tracking the impact of the Domestic Violence Act and the Act on the Criminalization of Violence against Women. It would be useful to learn what steps were being taken to collect disaggregated data by sex and age, and how many cases of violence against women had been reported, by offence. Additional details on existing administrative, legal and judicial measures aimed at affording better protection to women victims of domestic violence.

37. Referring to the measures taken to address the issue of sexual harassment in the workplace, she wondered whether the Government of Costa Rica had adopted or was planning to adopt a comprehensive law on all forms of sexual violence and offences. The Committee would also welcome additional information on the political and technical bodies established as part of the National Response and Prevention System on Violence against Women and Intra-Family Violence.

38. **Ms. Murillo de la Vega** said that she would like information on the number of convictions on charges of child pornography and sexual abuse of indigenous women, and on whether the Criminal Code provided for the prosecution of clients of prostitution. It would be interesting to learn whether Costa Rica had entered into agreements with Nicaragua on border control and trafficking of women and girls. She would also welcome statistics on the sexual exploitation of girls and boys as well as information on any programmes developed to address that issue and the related impact of HIV. Bearing in mind the influence of the Catholic

Church in designing public policies, it would be useful to learn whether people were aware of and had access to contraceptives. It was the Government's responsibility to promote the use of contraceptives as a way to avoid unwanted pregnancies and sexually transmitted diseases.

39. **Ms. Šimonović** said that updated statistics on femicides would be appreciated. Clarification should be given as to the difference between the Domestic Violence Act and the Act on the Criminalization of Violence against Women. Furthermore, she would like more information on the three women's shelters mentioned in the delegation's opening statement, including on their funding, the Government's cooperation with non-governmental organizations (NGOs) in that regard and the Government's plans, if any, to build additional shelters. On the issue of refugees living in Costa Rica, she wondered whether the significant drop in the rate of applications for asylum might be related to the enactment of a new immigration law in 2010 or to a change in procedure.

40. **Ms. Arocha Domínguez** said that the sexual exploitation of girls, boys and adolescents remained a cause for concern. The delegation should clarify the extent to which the lack of resources highlighted in the written responses to the list of issues affected the impact of the National Coalition against Migrant Smuggling and Human Trafficking and the related national plan of action. Clarification should also be provided as to the role of the Government and of NGOs in the prevention of human trafficking and care for victims of trafficking. While she was not opposed to cooperation between the Government and NGOs, it was important to recall that the primary responsibility in such matters lay with the State.

41. It was difficult to understand why the Government of Costa Rica, a country renowned for its statistical expertise, should not be able to provide current data disaggregated by gender. The delegation should also clarify the discrepancies between the stated achievements of the National Plan to Eradicate Commercial Sexual Exploitation of Children and Adolescents for the period 2008-2010 and the recent concluding observations of the Committee on the Rights of the Child, which had noted with concern the absence of criminal law provisions specifically criminalizing trafficking in children and the fact that trafficking in children for purposes of forced labour

and sexual exploitation continued to be a serious problem in Costa Rica.

42. **Ms. Jahan**, noting that for the second time in a decade, the State Department of the United States of America had placed Costa Rica on its human trafficking Tier 2 watch list, said that she too was concerned that Costa Rica was not doing enough to prevent the trafficking and sexual exploitation of women, as the number of convictions reported in that connection was fairly low. She suggested that the issue of trafficking needed to be dealt with both nationally and regionally; in that connection, she requested updated information on the Government's plans to develop a regional plan for combating traffic in women. Further details on the resources available for anti-trafficking awareness-raising and the protection and reintegration of victims into society would also be appreciated. Lastly, the delegation should indicate the progress Costa Rica had made on bringing domestic legislation on trafficking in persons into line with the international instruments it had ratified and to what extent related developments incorporated a gender perspective.

43. **The Chair**, speaking in her capacity as an expert, recalled that while it was important to take account of cultural realities, including religious traditions, article 5 of the Convention was clear that cultural patterns of conduct must not interfere with the equality of women with men. A secular State would provide more opportunities for implementing the Convention.

44. **Ms. Clarke** (Costa Rica) said that the Act on the Criminalization of Violence against Women was broader than the Domestic Violence Act and as such defined all types of violence against women, including femicide, as crimes. Two articles of that Act — on abuse and emotional violence, respectively — which had previously been declared unconstitutional had since been adopted. Responding to requests for more recent statistics, she said that the number of femicides reported during the years 2005 to 2010 were, respectively, 40, 35, 16, 32, 39 and 39; 13 such murders had been reported thus far in 2011. The rate of femicide was 0.44 per 100,000 women, according to the National Institute for Women. All such information was disaggregated by gender and offence by the judicial branch of the Government.

45. With regard to statistics on sexual harassment, 213 cases had been reported in 2010: that was 90 per

cent higher than the number reported in 2009, undoubtedly the result of increased awareness among women about their rights and their option to seek redress. A survey had recently been conducted on the number of public institutions that had a specific mechanism to deal with cases of sexual harassment; a law had recently been passed to facilitate the creation of such mechanisms for those institutions which did not already have one. In 2010, the Ministry of Security had dealt with over 83,000 cases of domestic violence. The National Institute for Women had set up a team responsible for cases of violence: it received almost 6,000 complaints on average every year and provided information to victims about the legal and psychological assistance available to them under the law. It also operated a hotline, which was available 24 hours a day, seven days a week, for women seeking to submit a complaint regarding gender-based violence.

46. Turning to the issue of trafficking, she said that through the newly established National Coalition against Migrant Smuggling and Human Trafficking and its related plan of action, the Government sought to focus on prevention of trafficking and care for victims, as well as the investigation of trafficking cases and inter-institutional cooperation. The Government had various options for ensuring victims' protection, including hotel stays, and cooperated with NGOs, which provided invaluable help in making their shelters available. The issue of trafficking had been included in discussions at a recent regional summit; a regional commission on trafficking and border control also existed.

47. **Ms. Villanueva** (Costa Rica) said that the Domestic Violence Act dealt only with protective measures, whereas the Act on the Criminalization of Violence against Women defined various types of gender-based crime. There were efforts to improve the criminal prosecution of trafficking, including the recent reform of the Criminal Code through the adoption of an act on protecting victims, witnesses and other persons involved in criminal proceedings; that act also guaranteed legal assistance for victims. A growing number of cases of child pornography had been reported, which had led to efforts by the Government to introduce harsher sentences for perpetrators and to expand the concept of illicit pornography. A draft law on the issue was being considered by the National Assembly. It was hoped that a bill on the proposed

establishment of a platform to ensure legal assistance for trafficking victims would be adopted shortly.

The meeting rose at 1 p.m.