



Economic and Social Council

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Committee on Economic, Social and Cultural Rights

Forty-eighth session

Summary record (partial)* of the 2nd meeting

Held at the Palais Wilson, Geneva, on Monday, 30 April 2012, at 3 p.m.

Chairperson: Mr. Pillay

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Substantive issues arising in the implementation of the International Covenant on Economic, Social and Cultural Rights

* No summary record was prepared for the rest of the meeting.

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The meeting was called to order at 3.05 p.m.

Substantive issues arising in the implementation of the International Covenant on Economic, Social and Cultural Rights

NGO submissions

1. **The Chairperson** invited the representatives of non-governmental organizations (NGOs) present at the meeting to share with the Committee their comments and concerns in relation to States parties whose periodic reports would be considered during the session.

Slovakia

2. **Ms. Westeson** (Center for Reproductive Rights) said that her organization had three concerns regarding sexual health and reproductive rights in Slovakia. Firstly, oral contraception and abortion on request were not available through the public health system and prices were prohibitively high for most women. Furthermore, existing discriminatory practices had been exacerbated at the end of 2011 when the Slovak Parliament had taken the regressive step of expressly excluding contraception from health cover on the grounds that contraceptives were life-style drugs. Secondly, a lack of comprehensive and accurate statistical data on reproductive and sexual health meant that the Government had insufficient understanding of the reasons for the country's low contraceptive usage and high rate of unintended pregnancies and was therefore ill-equipped to identify the requisite remedial measures. Thirdly, sex education was currently included in school curricula not as a separate, mandatory subject but as a component of biology, ethics and religious education courses. As a result, instruction tended to focus on anatomy and stereotyped notions of marriage and parentage in which information on human rights and relationships was absent.

3. She urged the Committee to ask the delegation of Slovakia what action its Government was taking to address the concerns outlined.

4. **Ms. Mazurova** (Amnesty International) said that her organization wished to highlight the discrimination suffered by the thousands of Roma children in Slovakia who had been placed in ethnically segregated classes where they received an inferior form of education. Segregation was expressly prohibited under the Anti-Discrimination Act and the School Act, yet the two institutions mandated to oversee implementation of the relevant provisions, namely the State School Inspectorate and the Slovak National Centre for Human Rights, had insufficient authority to monitor compliance and sanction instances of non-compliance. Additionally, Slovak legislation contained no specific definition of segregation and there was a lack of political will to tackle the problem. Her organization therefore called on the Government of Slovakia to strengthen the powers and competencies of the two oversight bodies, to introduce a clear legal obligation for schools to provide desegregated education and to take specific action to end desegregation.

5. **Ms. Tamankova** (Representative of the Roma in Slovakia) said that her daughter was one of numerous Roma children who had been assigned to segregated first-grade classes at the start of the 2011 school year. Believing that their children needed to be integrated with non-Roma if they were to compete effectively and learn the Slovak language and that segregated classes encouraged intolerance that persisted in later life, the parents had lodged a complaint and launched a campaign to secure their children's integration in mainstream education. As media exposure had so far failed to achieve that end, she appealed to the Committee for support in petitioning the State authorities.

6. **Ms. Debrecéniová** (Citizen and Democracy) said that her organization also had grave concerns about the limited access to contraception and abortion in Slovakia. The Government had no comprehensive policy on sexual and reproductive rights and was

reluctant to introduce one because of increasing interference from the Catholic Church hierarchy. Conscientious objection was frequently cited as grounds to deny access to contraception and abortion and the oversight necessary to ensure that existing legislation was enforced was lacking. Practice in Slovakia therefore diverged considerably from the country's legal and Covenant-based obligations.

7. **Mr. Sadi** said that the limited focus of the NGO submissions might suggest that reproductive health and the situation of the Roma were the only critical issues in Slovakia and that the State party was fulfilling its obligations in other areas. Since that was unlikely to be the case, he would like to know what other issues were, in the NGOs' view, of particular concern. He also sought more detail about the cost of contraceptives and asked why it was thought that mandatory sex education should not be combined with other subject areas.

8. The Committee was conscious of the need to protect the Roma against discrimination throughout Europe. Since it appeared that in Slovakia existing legislation was insufficient to bring about the required change in attitudes and practices, he wondered whether targeted campaigning might be needed to raise awareness and tackle the root causes.

9. **Mr. Texier** said the assertion that legislative developments were dictated by the Catholic Church was worrying and asked why, in the NGOs' view, the State was not capable of overriding the Church's objections and bringing its legislation into line with international standards.

10. **Mr. Kerdoun**, reiterating Mr. Sadi's concern about the limited focus of the NGO submissions, asked why information on issues including the rights of persons with disabilities, gender inequality and the rights of the child had not been included.

11. **Ms. Westeson** (Center for Reproductive Rights) said that the NGOs had focused on the areas in which they had specific expertise and authoritative information.

12. **Ms. Debrecéniová** (Citizen and Democracy) said that the lack of NGO coverage of other problems in Slovak society, which included domestic violence, discrimination in the labour market and wage inequality, was in part attributable to a lack of Government support for the NGOs' work. It certainly did not reflect a lack of interest or concern.

13. Oral contraception cost between 7 and 15 euros per month. That amount might not seem high when considered objectively but was undoubtedly prohibitive for many women, including women of limited resources living in Roma settlements or in violent relationships and adolescents who could not confide in their parents. Doctors had also confirmed that, although readily prescribed, contraceptives were often declined on cost grounds.

14. The issue with regard to sex education was not so much that it should be a separate subject as that it should be approached from a human rights perspective that was not distorted by ideology. Although the Slovak Constitution expressly stipulated that the State should not be bound by any ideology or religion, the influence of the Catholic Church had become stronger since the new Government had taken office in 2010. Since that time, NGOs had not even been invited to participate in policy development. Clearly the Catholic Church had a right to express its views, but the State should be guided by international human rights principles and not by religious ideology.

15. **Ms. Baldwin-Pask** (Amnesty International) said that her organization's focus reflected a wider programme of research into the situation of the Roma across Europe as well as fitting in with the Committee's programme of work.

16. **Mr. Sadi**, noting that, as a member of the European Union, Slovakia was subject to high-level human rights rules and regulations and to the jurisdiction of the European Court

of Human Rights, asked why no cases had been referred to that court, especially if, as the NGOs had indicated, the State party's laws on segregation were deficient.

17. **Ms. Mazurova** (Amnesty International) said that, although no cases against Slovakia had been referred to the European Court of Human Rights, a similar case concerning the Czech Republic had been heard. However, a Slovak district court had ruled against segregation in a case brought in 2011. The school concerned had appealed against the decision and the case was now before the higher court awaiting a decision.

Peru

18. **Ms. Finer** (Center for Reproductive Rights) said that her organization was concerned that Peru had not yet adopted a protocol that would guarantee women non-discriminatory access to legal reproductive health services, including therapeutic abortion, as required under the Covenant. The grave impact of that lack of access had been highlighted in two individual cases considered by the Human Rights Committee and the Committee on the Elimination of Discrimination against Women (*K.L. v. Peru*, CCPR/C/85/D/1153/2003, and *L.C. v. Peru*, CEDAW/C/50/D/22/2009, respectively) that had prompted recommendations for the State party to establish a mechanism guaranteeing the effective access to therapeutic abortion that might have eased the victims' suffering in those cases. Not only was such a mechanism still lacking but her organization's concerns had been compounded by indications that the protocol under discussion might, once established, introduce a procedural requirement for women seeking abortion to appear before a hospital ethics committee or medical council. She urged the Committee to seek an explanation for the State party's delay in complying with the aforementioned recommendations and to urge it to adopt a domestic protocol for therapeutic abortion that did not impose additional barriers on access to a legal and medically indicated service.

19. **Ms. Ramirez** (PROMSEX – Centre for the Promotion and Defence of Sexual and Reproductive Rights) said that she wished to draw attention to two obstacles that prevented adolescent boys and girls from accessing public sector sexual and reproductive health services. The first of those obstacles was rooted in a 2006 amendment to the Peruvian Criminal Code according to which any sexual relationship involving persons aged between 14 and 18 years was classified as rape, irrespective of whether or not the acts were consensual. The negative repercussions of that amendment, which had been recognized in a Ministry of Health report published in 2009, included an increase in adolescent pregnancies, increased exposure to the risk of sexually transmitted infections and a rise in adolescent maternal mortality. A bill to modify that provision had been submitted to Parliament in 2010 but had been withdrawn a few months later. The second obstacle was rooted in article 4 of the General Health Act, which established that minors seeking medical treatment required the prior consent of their legal representative. That provision had been interpreted as implying that adolescents could not access sexual and reproductive health services without their parents' authorization.

20. In light of those obstacles, her organization suggested that the Committee should call upon the State party to facilitate access to contraception and other reproductive health services, prioritizing measures that should help to reduce rates of adolescent pregnancy and maternal mortality, which, in some rural and forest areas of Peru, were exceptionally high.

21. **Ms. Cedano** (DEMUS – Movement for the Defence of the Rights of Women) said that her organization would like the Committee to raise the issue of forced sterilization with the delegation of Peru. Studies indicated that around 290,000 men and women from predominantly impoverished backgrounds had undergone forced sterilizations during the Government of Alberto Fujimori in application of policies designed to limit population growth. At least 17 women had died as a result. An inquiry into those deaths and over 2,000 other cases initiated in 2002 had prompted a State acknowledgement of the need to

compensate the victims and punish those responsible but had been abandoned in 2010, in part on the grounds that any resultant criminal proceedings would be time-barred.

22. Persistent petitioning had secured a reopening of the inquiry in 2011 but her organization was concerned that the public prosecution service had not been allocated sufficient resources to ensure a thorough examination of each individual case. In the meantime, the victims continued to be denied due reparation. She urged the Committee to recommend that the State party should assign sufficient resources to the investigation without delay and that it should adopt a national policy of comprehensive victim reparation.

23. **Ms. Casas** (Planned Parenthood) said that she wished to highlight the negative repercussions of a 2009 Constitutional Court ruling that had stalled the development of a Ministry of Health programme to guarantee free emergency contraception nationwide on the grounds that the morning-after pill had abortive rather than contraceptive effects. Although the Ministry of Health had endeavoured to reinstate the programme, citing more recent scientific evidence that confirmed the absence of harmful side effects, women were still denied access to free emergency contraception through the public health service even if they were victims of sexual violence. She asked the Committee to urge the Government of Peru to review the official scientific evidence on the effects of emergency contraception and to reintroduce free distribution of the morning-after pill on that basis.

24. **Ms. Raico** (Manuela Ramos Movement) said that her organization was concerned by the high level of sexual violence in Peru. According to statistics, around 12 per cent of Peruvian women had been coerced into a non-consensual sexual relationship at least once in their life, resulting in unwanted pregnancy in around 5 per cent of cases – a figure which equated to at least 35,000 pregnancies a year. The victims' plight was exacerbated by restrictive legislation that limited access to emergency contraception and abortion. Since a bill to decriminalize abortion in cases of sexual violence submitted to Congress in 2009 had been pending a decision for more than two years and its approval was by no means certain, she suggested that the Committee should urge the Government of Peru to prioritize and accelerate the legislative amendments necessary to ensure access to safe, legal abortion for victims of sexual violence.

25. **Ms. Rasmussen** (International Rehabilitation Council for Torture Victims) said that victims of torture and ill-treatment had very limited access to timely care and rehabilitation in Peru and that, as a corollary, they frequently suffered persistent ill health with negative repercussions for other areas of their life, including an inability to perform in education and at work, that exacerbated their suffering and poverty. Since the State party's failure to provide adequate support and care deprived victims of a broad spectrum of rights guaranteed under the Covenant, she suggested that, in its recommendations, the Committee should call on the State party to address those deficiencies.

26. **Ms. Suárez Franco** (FIAN International) said that her organization wished to suggest three areas for discussion during the dialogue with the State party. The first of those areas was poverty and malnutrition. Although sustained economic growth had reduced overall poverty in the past decade, huge disparities persisted between urban and rural populations. The uneven distribution of wealth was reflected in higher rates of chronic malnutrition among rural and indigenous children. The second area of concern was mining and hydrocarbon exploration and the threat that such activities posed to the livelihood, self-sufficiency and well-being of rural communities. A law establishing a requirement for prior community consultation had been adopted in response to the threefold increase in industrial development-related disputes but had so far proved largely ineffectual. The third area of concern was the lack of a legal framework guaranteeing the right to food.

27. She asked the Committee to urge the State party to address those concerns. In particular, she would like to know how it planned to ensure equal access to adequate food

in all communities, to protect rural communities from the negative effects of mining and hydrocarbon exploration, to guarantee the right to prior community consultation and to establish the legal framework needed to ensure the right to adequate food.

28. **Mr. López** (International Commission of Jurists) said that the impact of Act No. 29785 on the Right of Indigenous or Aboriginal Peoples to Prior Consultation and its recently adopted implementing regulations had been undermined by the Government. Several articles of the Act had been challenged for being in violation of the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169), which Peru had ratified in 1994. Under the Act, a series of mining concessions granted between 1995 and 2011 in violation of ILO Convention No. 169 had been allowed to stand. Moreover, only six national indigenous peoples' organizations had been invited to take part in consultations on the drafting of the Act's implementing regulations, leaving out an array of regional groups. Four of the national organizations had subsequently withdrawn from the consultations. The Conga mining project in northern Peru had left the city of Cajamarca, which had previously enjoyed abundant water supplies, with only limited access to water that had been contaminated as a result of mining.

29. The independence of the Peruvian Constitutional Court had been compromised by the appointment of four political nominees as judges to the Court in 2008 and the retention of two others whose mandates had expired. The Court's tendency in recent years to dismiss complaints brought before it as inadmissible without considering the merits, and the growing inconsistency of its rulings, including in controversial cases of human rights violations, had further weakened the Court's credibility.

30. **Ms. Shin Heisoo**, noting that the statutory rape age in Peru had been raised from 14 to 18, said she regretted that abortion in cases of rape had still not been decriminalized. She would like to have more specific examples of rulings by the Constitutional Court of Peru that were incompatible with the provisions of the Covenant.

31. **Mr. López** (International Commission of Jurists) said that more than 60 per cent of complaints filed with the Constitutional Court between 2007 and 2012 had been found inadmissible. The Court had, for instance, dismissed challenges to two laws, one on water resources and the other on natural resources, containing provisions that were incompatible with the Covenant, stating that there was no evidence that indigenous communities would be affected by those laws.

32. **Ms. Ramírez** (PROMSEX) said that the Constitutional Court had ruled in 2006, in line with views expressed by the World Health Organization and the Peruvian Medical Association, that the morning-after pill was a contraceptive. Three years later it had, for no apparent reason, reversed that decision and ruled that it was abortifacient.

33. **Mr. Riedel** said that allegations by NGOs that called into question the independence of the judiciary in Peru were a source of concern but needed to be substantiated by more factual detail.

34. **Mr. Texier** asked whether any documents illustrating the negative impact of mining activities by multinational companies on the economic, social and cultural rights of the affected communities were available.

35. **Ms. Suárez Franco** (FIAN International) said that the available information had emerged from consultations conducted among the affected communities but that more details would be gathered from civil society groups and forwarded to the Committee.

Spain

36. **The Chairperson** drew the attention of Committee members to the fact that Spanish NGOs had been unable to attend the meeting.

37. **Mr. Marchán Romero** said that the Center for Economic and Social Rights, a coalition of Spanish NGOs, had provided an extensive report, with an executive summary in English, which had been posted on the Committee's web page.

38. **Ms. Shin Heisoo** said that the failure of some NGOs to attend Committee meetings might be attributable to their lack of resources and proposed that their participation should be discussed later in the session.

Ethiopia

39. **Mr. Hodenfield** (CIVICUS) said that farmers and pastoralists in Ethiopia did not have the right to sell, exchange or mortgage land, which was under the sole control of the Government. Since 2005, 3.5 million hectares of land had been leased to foreign and domestic investors and, by 2015, that amount would double. Contrary to claims by the Government, much of the land in question was occupied by farmers or pastoralists, thousands of whom had, according to some reports, been forcibly removed without compensation or the provision of replacement plots. Investors were not placed under any obligation to contribute to the country's food security needs, provide social services or invest in infrastructure. The Government should strengthen land tenure security, protect small-scale landholders and pastoralists from displacement and provide adequate compensation and social services in cases of expropriation.

40. **Mr. Abdullahi** (African Rights Monitor) said that ethnic groups in the Oromia and Ogaden regions of Ethiopia were victims of human rights abuses and had limited access to legal, health and education services. The Government persecuted people in Ogaden because of their ethnic identity and religion. A United Nations humanitarian assessment mission to the area in 2007 had found that the Government was engaged in economic warfare against its residents. Women and children from both areas were especially vulnerable to trafficking and sexual abuse and, in its combined report (E/C.12/ETH/1-3), the State party had refused to recognize that those regions were confronting a dire humanitarian crisis. Health-care facilities were nearly non-existent in the two areas, which had been mined by the Ethiopian army, and the 80 per cent illiteracy rate in Ogaden was the highest in the country.

41. **Mr. Schrijver** said he would like to know more about the companies that were investing in land in Ethiopia and whether they were foreign-owned.

42. **Mr. Sadi** said it would be helpful to have more specific information about which land in Ethiopia had been affected by expropriations and whether it belonged to the pastoralists concerned. Similarly, more information was needed about who owned the land being sold off to investors in Peru.

43. **Ms. Cong Jun** said that she would like to know whether local labour was employed on the farmland leased to foreigners in Ethiopia.

44. **Mr. Hodenfield** (CIVICUS) said that in Ethiopia the State alone was responsible for the equitable distribution of land. Failure to compensate people for expropriation was tantamount to an attack on their right to food. China, Germany, Israel and Saudi Arabia were the principal sources of investment in Ethiopian land, which was used primarily to produce biofuel and food for their domestic markets. They were encouraged to export their harvests and paid lower land rates than Ethiopian citizens. Only a small number of poorly paid local people were employed on the land after being dispossessed of it, partly because modern mechanized farming methods were used.

General discussion

45. **Ms. Winter** (FIAN International) said that the transfer of millions of hectares of land from peasants to corporations around the world had a direct impact on the food

security of marginal communities. States that chose not to provide available land to such communities but rather to hand it over to investors were failing to meet their obligation of care towards disadvantaged groups. Large-scale land acquisition led to increasingly mechanized agricultural production, which was unsustainable and resulted in the displacement of local producers. The expansion of cash crop monocultures was detrimental to local food production and increased dependence on food imports. The Committee should: consider issuing a general comment on land; support the recommendations contained in the final study of the Human Rights Council Advisory Committee on the advancement of the rights of peasants and other people working in rural areas; consider the impact of land grabbing during its dialogues with States parties; and apply the Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights to cases of land grabbing reported during the monitoring process.

46. **Mr. Sadi** said that the matter of land was too broad a subject to be addressed in a general comment.

47. **Mr. Texier** said that the Committee required more detailed and State-specific information on the issue of land grabbing in order to address the subject when it considered the periodic reports of States parties. He urged civil society groups to pool resources and produce full parallel reports that addressed all the provisions of the Covenant, rather than concentrating on single issues such as sexual and reproductive health. The issue of torture did not fall within the scope of the Covenant.

48. **Mr. Riedel**, noting that the Committee would be empowered to consider individual communications once the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights came into force, urged NGOs to provide broad input and specific recommendations in order to help the Committee to deal more effectively with a growing workload.

49. **Ms. Suárez Franco** (FIAN International) said that she would encourage the Committee to hold a meeting on land grabbing and its effects on economic, social and cultural rights. A briefing session on the Food and Agriculture Organization's Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security would also be useful. As a rule, the land in question was State land that had traditionally been farmed by landless peasants. As the holder of land titles, the State could simply evict them without consultation and with promises of compensation that were rarely kept. In other cases, owners of smallholdings were subjected to pressure to sell their properties to large-scale investors.

50. The concept of the right to land was closely connected with the right to food and human dignity. In the same way that the State was obliged to foster conditions conducive to fulfilment of the right to work, it was equally responsible for creating conditions guaranteeing the right to food and human dignity.

51. Expropriated landowners who continued to work on the land that they had lost were considered to be in a situation of in situ or economic displacement. Generally, their working conditions were poor and they no longer had decision-making power over how to produce their own food.

52. **Mr. Kjaerum** (International Rehabilitation Council for Torture Victims) said that the provision of rehabilitation for torture victims was a health-care issue and thus of direct concern to the Committee.

53. **Ms. Ramírez** (PROMSEX) said that no mention had been made in the combined periodic reports of Peru of sexual and reproductive health matters, except for maternal mortality.

54. **Ms. Jourdan** (Association of World Citizens) said that the Committee should stress the need for equality of access to health care in all States.

The discussion covered in the summary record ended at 5.30 p.m.