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

Summary record of the first part (public)* of the 8th meeting

Held at the Palais Wilson, Geneva, on Thursday, 3 May 2012, at 3 p.m.

Chairperson: Mr. Pillay

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Combined second to fourth periodic reports of Peru (continued)

* No summary record was prepared for the second part (closed) of the meeting.

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

Consideration of reports

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

Combined second to fourth periodic reports of Peru (continued) (E/C.12/PER/2-4; E/C.12/PER/Q/2-4 and Add.1; HRI/CORE/PER/2010)

Articles 13 to 15 (continued)

1. **Mr. Marchán Romero** said that the recent resurgence of large-scale mining projects in Latin America had affected various segments of Peruvian society. He welcomed the promulgation of Act No. 29785 on the Right of Indigenous or Aboriginal Peoples to Prior Consultation and noted that a set of draft regulations to govern the implementation of the Act had also been adopted. However, an insufficient amount of time had elapsed since the promulgation of the Act to allow a significant number of cases to have been brought. In view of the Committee's general comment No. 21, which encompassed the right of indigenous peoples to their ancestral lands and natural resources, he would be interested to learn about the criteria established by the Act and draft regulations for assessing the negative impact of mining activities on those lands and resources and the strategy the State party proposed to adopt to remedy the situation. He also enquired as to the impact of the 2001 Act to establish a regime to safeguard the collective biological knowledge of indigenous peoples; the total gross proceeds from product sales that had benefited the population through the Indigenous Peoples' Development Fund; and the projects that had been funded by those proceeds. He also wished to know how the State party had reconciled its commitments under the Act with its commitments under its free trade agreements. In its next periodic report, the State party should provide more information on the steps taken to guarantee the participation of minorities in all aspects of cultural life, as set out in the Committee's general comment No. 21.

2. **Ms. Suárez Salazar** (Peru) said environmental studies had shown that industrial activities such as mining had an impact on public health. It was hoped that companies would voluntarily strengthen their commitment to State health promotion initiatives.

3. Ninety eight per cent of the drugs marketed in Peru were generic. All relevant stakeholders had agreed on a list of exclusively generic drugs for use in medical guides and protocols. Moreover, generic drugs were unaffected by free trade agreements and the removal of customs duties would lower their price, making them more accessible. The remaining 2 per cent of drugs, which were protected by intellectual property law, included medicines used to treat serious conditions such as cancer. However, efforts were made to ensure that such drugs were supplied to the population as cheaply as possible. Act No. 29459, adopted in 2009, had updated State policy on generic drugs and other related issues. Among its positive aspects, the Act guaranteed access to generic drugs and required doctors to prescribe them to the extent possible.

4. According to a demographic survey on family health carried out in 2010, there was a significant pregnancy rate among teenage girls aged between 15 and 19. The percentage was higher for teenagers living in rural areas and in the jungle region but was lower in Lima and in coastal areas. However, the teenage pregnancy rate continued to grow despite regional disparities. The maternal and neonatal mortality rate had fallen substantially since 2000, in particular due to the intervention of the Ministry of Health and the revision of relevant strategies to increase access to institutional childbirth services, especially in rural areas and among the poorest segments of society. The increased visibility of the Ministry, the greater availability of health professionals and improved facilities were all contributory

factors in that decline. Normative measures aimed at bringing the teenage pregnancy rate down included the maternal mortality multisectoral plan for 2009–2015. Teenagers could receive both counselling on how to avoid pregnancy and comprehensive sexual and reproductive health care. Moreover, the national action plan for children and adolescents included strategies to reduce the number of teenage pregnancies, cases of infant mortality and cases of mortality of children under 5, as well as to increase access to institutional childbirth services.

5. With regard to family planning and access to emergency contraception, a survey had shown that most women of child-bearing age knew something of family planning methods, with modern methods being the most well-known. However, knowledge of contraceptives was not always concomitant with their use. While emergency contraceptives could be obtained free of charge, according to the National Institute of Statistics and Information Technology, around 87 per cent of teenagers aged between 15 and 19 did not use contraceptives. However, there was an increase in contraceptive use when the teenagers were in a relationship. Young people aged between 20 and 24 demonstrated a similar tendency. Teenagers and young people who did use contraception preferred modern methods to traditional methods. Furthermore, the national multisectoral plan for the prevention of teenage pregnancy for the period 2012–2021 had been finalized. It included carrying out a national study on teenage pregnancy within the framework of the Andean Plan to prevent adolescent pregnancy and would involve both the Government of Peru and civil society. The Government had also devised technical health regulations intended to establish accreditation criteria for the appropriate health services with a view to guaranteeing their adequacy and relevance. In addition, regional councils aimed at combating pregnancy among adolescents had been established in the regions of the country where the teenage pregnancy rate was highest. They enjoyed the support of many youth organizations and encouraged young people to be proactive in reducing the incidence of teenage pregnancy. The councils carried out their work through a central action plan and were influential in formulating policy. They received budgetary allocations not only from the Ministry of Health but also from the Ministry of Education.

6. The Criminal Code prohibited abortion with the exception of therapeutic abortion, which was permissible only with the woman's consent or that of her legal representative and when performed by a qualified medical practitioner in order to save her life or to avoid serious and permanent medical complications. Various institutions had guidelines on therapeutic abortion, including the Institute of Maternal and Perinatal Care and major hospitals. In accordance with the recommendations made by the Human Rights Committee and the Committee on the Elimination of Discrimination against Women, a guide on comprehensive care in cases of voluntary termination for therapeutic reasons had been devised.

7. Peru had previously had one of the highest maternal mortality rates in Latin America and, regrettably, the majority of those cases could be attributed to direct and avoidable causes. The number of maternal deaths had declined significantly since the 1990s but remained well above the developed-country average. Given that statistics on maternal mortality were compiled at 10-year intervals, there were no precise annual statistics available. However, there had been a slight decline in the number of maternal deaths registered with the Ministry of Health between 2010 and 2011. In 2011, the greatest number of maternal deaths corresponded to women aged between 38 and 48. While haemorrhaging and hypertension were the major causes, the incidence of death from infection remained disturbing, given that infection was, for the most part, avoidable. It was hoped that increased access to institutional childbirth services, improved prenatal care and the follow-up provided by programmes for expectant mothers would lead to a decline in the maternal mortality rate. The primary objective of the maternal mortality multisectoral plan for 2009–2015 was to foster political commitment to reducing maternal and perinatal

mortality. Access to institutional childbirth services had increased in rural areas thanks to the implementation of culturally appropriate strategies and health coverage reform, which allowed the State to extend health-care benefits to the poorest segments of society.

8. Initiatives aimed at meeting the demand for family planning services and preventing unplanned pregnancies were funded by a strategic family planning programme that operated on a results-based budget.

9. The State guaranteed the population's right to health through its policy of universal health insurance. It subsidized the health-care benefits specified in the basic health insurance plan adopted by Supreme Decree in 2009, which guaranteed treatment to all persons meeting the criteria laid down therein. In addition to State-subsidized health insurance, there was a semi-contributory insurance scheme, as well as a fully contributory insurance scheme. As a result, the number of persons who possessed some sort of health insurance, and who thereby enjoyed access to health care, had increased dramatically in recent years. Recent figures showed that there were now about 21 million health insurance beneficiaries. Significant progress had been achieved among poorer populations in rural areas. However, given that a culture of health insurance had yet to take root in Peruvian society, many people preferred to wait until they had a medical problem and seek treatment at their own expense, with the result that many Peruvians were still uninsured. The Government had considered remedying that situation by making health insurance compulsory. Among the challenges to be faced was the low number of young persons with health insurance and the fact that many people remained unaware of the full range of health-care benefits available to them and consequently did not claim them.

10. **Mr. Burneo Labrín** (Peru) said that statistics for 2012 showed that around 90 per cent of households in urban areas had access to drinking water and around 84 per cent had access to sanitation. The influx of migrants into the cities and their settlement in peripheral urban areas had proved problematic, as it was difficult and costly to extend access to drinking water and sanitation to those areas. There was a need to devise policies on urban growth and construction that would alleviate the current situation. In rural areas, only 43 per cent of households had access to drinking water and only 26 per cent to sanitation. Government policy aimed to increase access to those services to a significant degree by 2016.

11. With regard to housing, the 2007 national census had revealed an overall housing deficit of some 2 million units. Around 1 million existing units did not meet the criteria of decent housing and often lacked basic services such as drinking water and sanitation. The Government had devised a programme of loans to low-income segments of the population to help them gain access to housing. During the period 2005–2011, loans amounting to some \$120 million had been granted for the purpose.

12. **Mr. Jiménez Mayor** (Peru) said that the Constitutional Court was currently considering Act No. 28704, which would criminalize consensual sexual relations between minors. Under existing Peruvian criminal law, only unlawful acts committed by persons who were over 18 could constitute crimes. Unlawful acts committed by minors who were aged 18 and under were punishable by social and educational measures rather than by criminal penalties. Cases of persons who were over 18 having sexual relations with minors were often complicated and had to be considered on a case-by-case basis.

13. **Mr. Villena Petrosino** (Peru) said that the Act on the Public-Sector Budget divided expenditures into seven areas: social services, production, administration, governance and public order, debt servicing, forecast obligations and contingencies. In 2012, more than \$12 billion had been allocated to social services, or 6.3 per cent of gross domestic product, which constituted a historically high portion of Government spending. The amounts

allocated to education and health care in the 2012 budget were 16 per cent and 11.5 per cent higher, respectively, than in 2011.

14. Efforts were being made to address the disparities in quality of instruction and physical infrastructure between schools in urban and rural areas and public and private schools. In 2009, a national programme for the renewal of public flagship educational institutions had been implemented through Emergency Decree No. 004/2009 with a view to revitalizing those institutions through state-of-the-art technology and training of specialized staff. In addition, there was a pilot project for flagship secondary schools, currently 73 in number, which were entirely funded by the Government and offered student accommodation, meals and career counselling. The Government had formulated five-year education policies to address the alarming underperformance of students in reading comprehension and mathematics. Quoting recent statistics, he said that pupils in rural or public institutions consistently tested lower in reading comprehension than their counterparts in urban or private institutions. The goal was to increase mathematics skills by 35 per cent and reading comprehension by 55 per cent by 2016. Further data, disaggregated by department, were available in the quarterly reports of the National Institute of Statistics and Information Technology. Investments were being made to further the education of marginalized populations by expanding early education, improving primary and secondary education in rural areas, standardizing curricula, promoting decentralization via Internet networks and elaborating a follow-up and assessment system.

15. **Mr. Burneo Labrín** (Peru) said that, between 2005 and 2010, the school dropout rate at the primary level had fallen in both urban and rural areas to 1.4 per cent and 1.6 per cent, respectively. The rate was slightly less when instruction was given in indigenous languages as opposed to Spanish. The dropout rate at the secondary level had also declined over the same period, but remained high at 8.3 per cent. The language of instruction played a more significant part in dropouts at the secondary level.

16. **Mr. Jiménez Mayor** (Peru) said that the objective of Act No. 29785 on the Right of Indigenous or Aboriginal Peoples to Prior Consultation was to inform indigenous populations of the potential effects, benefits and opportunities related to a given project on their territory. Under the Act, concerned populations could challenge a project in court and interested parties were obliged to take all necessary measures to guarantee the collective rights of indigenous or native peoples, particularly the right to life, physical integrity and development. The case of a refinery in the centre of the country which had been denied authorization to operate owing to the lack of an environmental impact assessment demonstrated that there was effective protection of local populations.

17. **Mr. Burneo Labrín** (Peru) provided statistical data on the country's indigenous population. There were approximately 1,500 recognized indigenous communities in the Amazon region and 6,000 in the Andes region. Although most of them had been granted title to their lands, 182 in the Amazon and 972 in the Andes had not. Based on the 2007 census, 30 per cent of the overall population could be considered as indigenous. According to the National Institute for the Development of Andean, Amazonian and Afro-Peruvian Peoples, there were 77 different ethnicities, speaking 57 languages from 18 language groups, thus constituting both a great wealth and a great challenge. Peru was aware that the contribution of indigenous peoples was greatly undervalued and that there were insufficient bilingual education establishments. Only 40 per cent of the population in the Amazon region had access to health-care facilities, forcing huge numbers to travel to receive care, and an estimated 30 per cent turned to traditional medicine and shamans. There were, nonetheless, a number of laws designed to address those issues. Act No. 29735 of July 2011 regulated the use, conservation, development, revival, promotion and dissemination of aboriginal languages. A national language policy was under consideration by the Ministries of Culture and Education. The Forest and Forest Wildlife Act stipulated that forest

resources must be managed in keeping with the culture of indigenous peoples inhabiting a given territory. An earlier law dealing with biological resources and ancestral know-how had led to the establishment of a fund for indigenous issues, such as land registration and ownership. A database would be created in an effort to better locate and recognize indigenous communities with a view to broader implementation of the right to prior consultation.

18. **Mr. Jiménez Mayor** (Peru) said that one of the main tasks of Act No. 29785 was to create a national register of indigenous peoples in order to delineate indigenous areas and better inform indigenous groups. There had been a case in which the Constitutional Court had ordered the suspension of the operations of an enterprise that had failed to mention the existence of an indigenous community in its area of activity. Therapeutic abortion was practised in Peru and steps were being taken to standardize the procedure across health-care centres.

19. **Mr. Marchán Romero** said that the delegation had provided very satisfactory answers to his questions. He asked if there was a particular process for recognizing indigenous communities: did an assessment of objective criteria suffice or did the communities have to take the initiative?

20. **Ms. Shin** Heisoo asked if abortion was authorized in the case of rape, whether adolescents could access contraceptives free of charge through public health insurance, and whether the State party was aware of forced sterilizations being practised and, if so, what measures were being taken to support victims.

21. **Mr. Riedel** asked for additional information on water and sanitation, particularly what plans were in place and their results and if concerned populations were consulted about planned projects.

22. **Mr. Tirado Mejía** asked the reason for the courts' regressive stance on the morning-after pill and its alleged abortive properties. Recalling that contraception was not merely a matter of awareness but of practice as well, he wished to know if contraceptives were available through public health insurance. He also enquired whether there had been any legal consequences for the perpetrators of forced sterilizations.

23. **Mr. Jiménez Mayor** (Peru) said that, until recently, the word "indigenous" had had negative connotations in Peru, and the term "campesino communities" appeared in the Constitution. However there was a shift back towards using "indigenous". Under article 7 of the Prior Consultation Act, the criteria for identifying indigenous peoples were: direct descent from the country's aboriginal populations, spiritual and historical links to a traditionally used or occupied territory, distinctive social institutions and customs, cultural patterns and ways of life different from those of other population groups, and a collective awareness of their indigenous identity. Information on all those criteria would be fed into the national register of indigenous peoples which was currently under construction. Abortion in cases of rape was illegal. There were shortfalls in the provision of basic services, such as electricity and drinking water, with marked differences between urban and rural areas.

24. **Ms. Suárez Salazar** (Peru) said that free distribution of contraceptives through health centres was being considered under the national strategy for improving sexual and reproductive health, which also addressed issues such as responsible parenting, adolescent pregnancy, abortion and HIV/AIDS. In 2006, the Constitutional Court had ruled that the morning-after pill did not have abortive effects; however it had changed its stance in 2009, ordering the Ministry of Health to discontinue its policy of free distribution on the grounds that the abortive effects of the pill had not been scientifically proved or disproved. Since then, the Ministry had been consulting with experts of the Pan American Health Organization and the World Health Organization to determine the exact properties of the

pill in order to bring the issue back before the Constitutional Court. The shortfall of medical specialists was 5,686. Government measures to resolve the problem included 270 additional residency placements, 58 per cent of them in regional health centres, mobile health-care units and incentives for physicians to settle in rural areas.

25. **Mr. Burneo Labrín** (Peru) said that any forced sterilizations had occurred as part of a Government policy of the 1990s that was no longer in effect. The case of one woman who had died as a result of the procedure had been taken before the Inter-American Commission on Human Rights. Although an out-of-court settlement had been reached, a criminal investigation had also been opened to shed light on both the immediate responsibility for the death and the policy behind the practice.

26. **Mr. Jiménez Mayor** (Peru) said that the Government's goal was to meet minimum human rights standards in policymaking on public services. The Council of Ministers would shortly be submitting a bill to create a torture prevention mechanism attached to the Public Prosecution Service. He recalled that Peru was in a process of democratic transition, having returned to democracy only 12 years earlier, and that tremendous efforts were being made towards social inclusiveness.

27. **The Chairperson** thanked the delegation for an open and productive dialogue and expressed the hope that the Government would consider ratifying the Optional Protocol in the near future. He urged the State party to meet reporting deadlines in the future.

The public part of the meeting rose at 5.25 p.m.