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Information submitted to the Committee

The State report

On 20 August 2007, Bolivia submitted its second periodic report,¹ which was due in June 2005, to the Committee on Economic, Social and Cultural Rights (the Committee). The State Party acceded to the *Covenant on Economic, Social, and Cultural Rights* (the Covenant) in 1982 without any reservations, and

¹ E/C.12/BOL/2, 20 August 2007.

submitted its initial report² for consideration during the Committee's 25th session in 2001. The present 122-page report was elaborated by the Ministry of Justice and Human Rights, in collaboration with other relevant ministries, and was drawn from various sources, including reports to other international organisations and data from the National Statistics Institute. Twenty-one of the Committee's 2001 concluding recommendations³ were used as headings for the different sections of the report. Each section described constitutional and legislative provisions, institutions, policies and other measures put in place in view of implementing the respective Committee recommendations.

The Committee appreciated the attention given to its previous recommendations in Bolivia's report, and praised the State Party's sincerity in recognising its own limitations. However, the Committee regretted the absence of specific information on the practical application of the legal framework, stressing that it needed this information to make a fair and adequate evaluation of the country's situation. Country Rapporteur Ms Barahona Riera appreciated the report's format, but noted that some issues were insufficiently or not at all addressed. Given the rapid changes in Bolivia, she was also concerned that some of the information in the report was outdated. In Mr Sadi's view, the report focused on the future rather than the present. He reminded the delegation that while it was important to look ahead, the Committee's work still consisted of assessing present conditions. Both members hoped that the dialogue would provide more clarity on the points raised.

List of issues

The Committee drew up a list of issues to be taken up during the consideration of Bolivia's second periodic report on 16 January 2008.⁴ Bolivia provided its written replies on 28 April 2008.⁵ In its list of issues, the Committee requested more information on the place given to Covenant obligations in Bolivia's ongoing constitutional and legislative reforms, and asked whether targets and indicators have been set in order to measure progress towards the full enjoyment of Covenant rights. It also asked to be informed about the implementation of its previous observations⁶ regarding the incorporation of the Covenant into the domestic legal system; the eradication of discrimination against indigenous peoples; the housing shortage and forced evictions; the exploitation of children; and the reduction of maternal mortality. Some of the specific issues raised in relation to Articles 1 to 15 of the Covenant included the protection the Yuki people; discrimination against homosexuals and HIV-positive patients; gender equality and equal pay; paid domestic work; working conditions in the mining sector; union rights; social security; healthcare; the protection of women and children against violence; education; food security; cultural rights; the Millennium Development Goals (MDGs); and Government policy towards abortion and coca production.

NGO parallel reports

Six non-governmental organisations (NGOs) submitted parallel reports to the Committee. CLADEM's submission focused on women's enjoyment of economic, social and cultural rights and argued in favour of a gender perspective in the application of Articles 3 to 15 of the Covenant. Ipas urged the Committee to raise the issue of women's sexual and reproductive rights, particularly the high incidence of maternal mortality from unsafe abortions, during its discussions with Bolivia. The Global Initiative to End All Corporal Punishment of Children called the Committee's attention to the lack of explicit laws prohibiting corporal punishment of children. The 'Asociación de Instituciones de Promoción y Educación' (AIPE) presented a report on the realisation of the right to food. A 408-page joint report entitled 'Estado de situación de los derechos económicos, sociales y culturales en Bolivia al año 2005' was submitted by the Capítulo Boliviano de Derechos Humanos, Democracia y Desarrollo (CBDHDD) and the Comunidad de Derechos Humanos (CDH) addressing key issues relating to the implementation of Bolivia's obligations under the Covenant.

² E/1990/5/Add.44, 9 December 1999.

³ E/C.12/1/Add.60, 21 May 2001, paragraphs 26 to 46 and 47.

⁴ E/C.12/BOL/Q/2, 16 January 2008.

⁵ E/C.12/BOL/Q/2/Add.1, 28 April 2008 (in Spanish).

⁶ E/C.12/1/Add.60, 21 May 2001.

Finally, a group of Bolivian civil society organisations also submitted a document containing their own replies to the Committee's list of issues.

Themes and issues

The Bolivian delegation was headed by Mr Wilfredo Chavez, Vice Minister of Justice and Human Rights. He was accompanied by Ms Angelica Navarro, Ambassador of the Permanent Mission to the United Nations Office in Geneva, and Ms Maysa Urena, Counsellor of the Permanent Mission of Bolivia. Committee Chairperson Mr Texier welcomed the delegation of the Government of Bolivia as well as representatives from UNESCO who were present during the session. He apologized for the hour-long delay of the session, explaining that the Committee needed more time to finalise the Benin report, and thanked the delegation for their flexibility. He added that he was particularly looking forward to the dialogue with Bolivia, which was at a turning point in its history.

Mr Chavez' statement aimed to complement Bolivia's report and focused on progress being made in the realisation of Covenant rights. He said that Bolivia was going through an exceptional moment in its history and was renewing its human rights commitments. He spoke at length about the elaboration of the draft Constitution, which aimed to reflect Bolivia's international human rights obligations as well as some rights that have not yet been fully recognised internationally such as the right to food. He described it as the first Constitution to put the majority and the minorities on an equal footing. Mr Chavez further elaborated on the National Development Plan and enumerated some of the country's objectives for the coming years, including eradicating poverty and unemployment, ensuring universal healthcare and education, building social housing and many others. At this point, the statement was interrupted by the Chairperson who asked the delegation to kindly accept a first set of questions from the Committee.

Status of the Convention in domestic law

Committee member Mr Pillay reminded the delegation that in 2001 the Committee had asked Bolivia to ensure the direct applicability of Covenant rights in the domestic legal order. He noted that Bolivia's report mentioned that most rights were enshrined in the Constitution, but omitted to elaborate on their justiciability. He asked the delegation to comment on the justiciability of Covenant rights under the current Constitution as well as under the draft Constitution. Recalling that the independence of the judiciary was crucial in guaranteeing the justiciability of rights, Mr Pillay further asked Bolivia about the progress made in curtailing corruption within the justice system. Committee member Mr Atangana added that he was concerned about the relative slowness of the judiciary and wondered if this could be linked to lack of sufficient funding.

Mr Chavez said in response that access to justice in Bolivia was 'relatively alright.' He acknowledged the need to improve the formal justice system, but pointed out that an alternative justice system, which was based on ancient practices and traditions, existed and served to complement the formal one. In response to concerns expressed by Mr Tirado Mejia on the incompatibility of some cultural practices with human rights, he reiterated the Government's awareness that human rights guarantees needed to be in place in both formal and alternative contexts, and that the Government was making efforts to ensure this. He also assured the Committee that the death penalty was not practiced in the alternative or 'community justice system.' He further explained that the Government wished to 'constitutionalise' community justice and to establish a 'pluri-national mechanism' to resolve possible conflicts between the two jurisdictions.

Committee member Mr Tirado Mejia called attention to recent events and noted that the date set for the referendum on the draft Constitution had recently passed on 4 May 2008. He wondered whether a new date has been set and wanted to know which guarantees, especially with relation to economic, social and cultural rights, were applicable in the meantime. Committee member Ms Wilson asked whether economic, social and

cultural rights have been incorporated into the draft Constitution in the form of detailed guarantees or if they were presented as social objectives that would require further legislation. Mr Chavez explained that the decision to delay the referendum was issued by the Electoral Court, which the Government respected. He assured the Committee that a decision on a new date was forthcoming, and that the Government intended to respect legality and democratic principles throughout the entire process. He stated that the current Constitution and laws of the country, along with its human rights action plan, served to guarantee economic, social and cultural rights while the adoption of the draft Constitution was being finalized.

Committee members Mr Sadi and Ms Barahona Riera asked if Bolivia has established a national human rights institution (NHRI) which complied with the Paris Principles and, if so, what role it played in practice. Mr Chavez replied that the ‘Defensor del Pueblo’ or the Ombudsman was a constitutional body established in conformity with the Paris Principles. It carried out trainings and issued reports and opinions on all human rights matters.

In its concluding observations, the Committee recommended that Bolivia intensify its efforts towards the adoption of the new Constitution and towards the strengthening of laws, institutions and policies necessary to guarantee the effective and full enjoyment of Covenant rights. While the process of reform is ongoing, the Committee also recommended that the Government take concrete and effective measures necessary to implement the rights recognized in the Covenant without discrimination. It also urged the State Party to adopt targets and indicators to monitor the progressive realisation of rights under the Covenant.⁷

Indigenous peoples

Recognition of indigenous peoples and their rights

Committee member Mr Zhan asked the delegation to expand on measures undertaken to end discrimination against indigenous people, noting that the report did not provide a clear answer. Ms Wilson noted with interest that the draft Constitution contains a provision on indigenous peoples’ right to self-determination and wondered whether this was considered an individual or a collective right. She further enquired about the link between agrarian reform and the rights of indigenous peoples, and the steps the Government intends to take in this regard. Mr Chavez reminded the Committee of Bolivia’s position as the first country to adopt legislation based on the *UN Declaration on the Rights of Indigenous Peoples*, including the right to self-determination. He told the Committee that this meant that indigenous groups were given some autonomy regarding legal and cultural mechanisms. The aim was to establish a ‘participatory autonomy,’ thus ensuring that indigenous peoples have access to decision-making and to the resources from which they have been excluded for centuries.

Mr Marchan Romero made reference to the category of ‘original peasant indigenous communities’ which was given a number of individual and collective rights in the draft Constitution, including intellectual property rights and the protection of cultural and scientific knowledge and heritage. However, he noted that there were no provisions on how these individuals or groups were identified, and he therefore sought clarification on the matter. According to Mr Chavez, this category referred to peoples that share a common identity, ‘cosmopolitanism’ and other beliefs that pre-dated the Spanish colonisation. This has been further supplemented by the definition formulated in the UN Declaration on Indigenous Peoples. Bolivia has enacted a law on indigenous peoples recognising a wide variety of individual and collective rights in 2007, and planned to draw up a ‘special listing’ of the indigenous peoples recognized under it. Mr Chavez added that the country continued to use a ‘general list’ based on a subjective or self-identification system where individuals associated or identified themselves as part of a group.

⁷ E/C.12/BOL/CO/2, 16 May 2008, paragraph 25 and 26.

The Committee recommended that the State party continue its efforts to ensure that all Covenant rights are accessible to indigenous peoples, especially the right to education, adequate housing, food and health services.⁸ The Committee also urged Bolivia to continue its recovery and demarcation efforts of ancestral land and territories of indigenous peoples. The various legal provisions and national plans on land reform and distribution needed to be operational immediately in order to proceed with the qualification of indigenous lands.⁹

Furthermore, the Committee noted that Bolivia should consider a special regime for the protection of intellectual property and collective rights of indigenous peoples, including their scientific knowledge and traditional medicine. For this purpose, the Committee recommended the establishment of a register of intellectual property rights of indigenous peoples as well as of a system ensuring that the benefits accrue directly to them.¹⁰

Bonded labour

Ms Bras Gomes noted that Bolivia's indigenous peoples have not only been excluded from the benefits of the country's resources, but some have also been forced to work in conditions of semi-slavery, particularly in the agricultural sector. Ms Wilson recalled that Mr Chavez referred to bonded labour as a pervasive issue and said in his statement that powerful economic interests opposed the Government's efforts to 'liberate' the victims. Both members asked what the Government planned to do in order to protect these individuals and give them freedom of choice of work.

Mr Chavez responded that the Government did not tolerate these practices and aimed to assist the Guaraní families who fell victim to them. He further stated that the Government has included the issue in a strategic plan that aimed to address its numerous components, including changing land ownership and ensuring the proper use of land. However, he regretted to inform the Committee that some small groups of landowners who did not want to lose their privileges opposed the Government's measures. He called the Committee's attention to a recent attempt made by the Government to reach out to victims in the Guaraní area. He said that the politicians, Guaraní leaders and members of the press who came to the area were met with violent resistance. In order not to exacerbate the situation, he added, the Government had decided to suspend all measures.

The delegation showed an excerpt of a film on the situation of indigenous peoples near the end of the session. The film, entitled 'Comunidades cautivas: queremos ser libres,' depicted the difficult working and living situation endured by some Guaraní families in Bolivia. Mr Chavez said that the fight for the rights of the indigenous peoples was one of the main reasons the delegation came to Geneva, adding that it was important for the Government to have the support of the international community on this issue.

In the Committee's concluding observations, Bolivia was asked to carry out labour inspections in places where the exploitation of workers and contemporary forms of slavery are allegedly practised, and where appropriate, to take necessary and effective measures to prevent these kinds of abuse and punish those responsible.

Poverty and inequality

Most Committee members recognised poverty as one of the main obstacles to the enjoyment of economic, social and cultural rights. As recalled by Mr Sadi, Bolivia was named the poorest country in Latin America and also has one of the widest income gaps in the region. This concern was echoed by Mr Pillay who further noted that, despite some modest improvement since 2001, the statistics mentioned in the report remained

⁸ E/C.12/BOL/CO/2, paragraph 28.

⁹ E/C.12/BOL/CO/2, paragraph 36.

¹⁰ E/C.12/BOL/CO/2, paragraph 37.

quite bleak. In this context, Mr Sadi, Mr Pillay and Mr Zhan asked the delegation to explain why poverty persisted and to elaborate on the measures put in place to address the issue.

Mr Chavez acknowledged that poverty continued to be a challenge, but stressed that the reduction of the poverty index was a priority for the State. He added that this was seen foremost as a question of ending social injustice and inequality. As such, it was linked to the issue of land ownership or, more precisely, of the high concentration of wealth in the hands of the few. He said the Government would like to ‘socialise’ the land and carry out a number of reforms. He reassured the Committee that it did not, however, intend to carry out these reforms by force. Instead, he said, the Government would like to bring in experts, technicians and cartographers to measure and evaluate the use of the land.

Mr Chavez further stated that poverty alleviation measures needed to be combined with housing, health and social security projects. With the help of the current policies, some wage increases have already been realised. Mr Chavez expressed optimism that Bolivia’s economic situation and prospects could sustain its efforts to end poverty and promulgate its social projects. Nationalisations and debt forgiveness have contributed to the progress achieved so far, but international assistance would be greatly appreciated. Finally, he assured the Committee that the Government planned to address poverty vigorously, while noting that the process would be long given the difficulties it needed to overcome.

The Committee urged Bolivia to take all necessary measures to reduce extreme poverty, to effectively implement its social development strategies, and to identify the impact of the plans as well as their weaknesses. The Committee also encouraged Bolivia to implement fiscal measures aimed at a better distribution of wealth among the population, both in rural and urban areas. It further requested the State party to include in its next periodic report disaggregated data, a comparative analysis and indicators on the number of people living in extreme poverty as well as on progress in fighting poverty.¹¹

Gender equality

Ms Wilson stated that she was distressed to read that the *General Labour Act* considered women to be in the same situation as minors¹² and therefore wanted to know if there was a provision on gender equality under Bolivian law. Ms Barahona Riera noted that some programmes have been put in place to address the issue of gender equality, and wanted to know more about their funding and results. She further asked the delegation to elaborate on the provisions in the draft Constitution that refer to equality between men and women.

Mr Chavez responded that the Government has put in place legislation and concrete measures to give men and women equal status. He stressed that Bolivia’s human rights action plan put women at the centre of priorities and that the Government has increased efforts to ensure that women were given key decision-making positions within the administration. With relation to the funding of these programmes, he made reference to two main sources: Government surplus from the nationalisation of natural resources and the hydrocarbon tax.

Ms Bras Gomes noted that the gap between men and women’s income has remained wide, reaching as high as 30%. She asked if the Government has made efforts to reduce this wage gap. In connection to this, Ms Wilson asked the delegation to indicate which legal provisions guaranteed equal pay for men and women performing equal work and whether women who felt discriminated against had access to judicial remedies and/or recourse to the Ombudsman. The delegation did not address these questions in detail during the dialogue, mentioning only that ‘equal pay for equal work’ was guaranteed under Bolivian law.

¹¹ E/C.12/BOL/CO/2, paragraph 27(a).

¹² E/C.12/BOL/2, paragraph 72.

In its concluding observations, the Committee asked Bolivia to ensure equality between men and women in all spheres of life by taking effective measures and providing economic resources to combat discrimination in education of girls and adolescents and in access to employment. It was also asked to ensure equal working conditions between men and women, including equal pay, as well as access to housing and land tenure. The Committee recommended that Bolivia integrate a gender perspective in all public policies.¹³

The right to work

Unemployment

Looking at the employment statistics in Tables 1.1 and 1.2 of the report, Mr Abdel Moneim noted with confusion that Bolivia distinguishes between the ‘unemployed’, the ‘redundant’ and those ‘seeking work’. He expressed concern that these categories masked the real extent of unemployment in the country. Secondly, he also asked the delegation to explain why there appeared to be far less unemployment in rural than in urban areas. Ms Bras Gomes noted that unemployment has led to a strong push towards ‘informal’ and ‘emergency’ employment. She was concerned that these forms of employment were particularly unstable and insecure, and that social safety nets were lacking in these sectors. In view of this, she wanted to know what measures the Government has undertaken in order to create more job opportunities and to reduce job insecurity. Furthermore, she wanted the delegation to address the issue of the working poor and to detail the programmes put in place to improve their situation.

Mr Chavez said in his statement that all people were entitled to fair, decent work and adequate remuneration under Bolivia’s laws. In addition, the Government continued to generate employment by improving sources of work. The delegation added that workers in agriculture and other short-term jobs were permitted to enjoy insurance. Incentives were also put in place to encourage independent workers, such as self-employed or informal workers, to take up insurance.

Mr Martynov noted that the Government has put in place technical and professional training projects to improve the employment situation. He asked that more specific information be given with regards to the types of programmes, the targeted population as well as the number of individuals benefitting or having already benefitted from them. The delegation referred the Committee to its replies to the list of issues, which provided a detailed description of the technical and professional training projects.

The Committee in its concluding observations asked Bolivia to ensure that the benefits of its current macroeconomic growth are also used to create new and decent jobs, to ensure that informal sector workers are able to exercise their labour rights, and to create job opportunities to reduce the phenomenon of emigration.¹⁴

Conditions of work

Ms Bras Gomes welcomed the adoption of a national minimum wage. However, she and Mr Zhan were unsure whether the amount chosen ensured an adequate standard of living and asked the delegation to elaborate on the issue. Allegations of dangerous and inappropriate working conditions in the mining industry and sugar cane harvest, particularly cases involving under-aged workers, were also brought to the attention of the delegation.

In response, Mr Chavez reminded the Committee that the minimum wage in Bolivia was at a standstill for 10 years until the Morales Government decided to adopt a new minimum wage when it came to power. It recognised that the level was low and barely sufficient, but added that the Government gave various allowances in order to increase overall income. These took the form of rents for the elderly and bonds for young people. Regarding work conditions, he acknowledged that the Government has received complaints of

¹³ E/C.12/BOL/CO/2, paragraph 29.

¹⁴ E/C.12/BOL/CO/2, paragraph 30.

bad conditions in the mining industry and cane harvest. He assured the Committee that the Government was addressing the issue.

The Committee, in its concluding observations, urged Bolivia to ensure that the minimum wage is sufficient and to monitor that it enables workers and their families to enjoy an adequate standard of living.¹⁵ It also strongly encouraged Bolivia to increase its efforts to protect workers' rights in Bolivia, particularly those working in mining, Brazil nuts, flowers and poultry dressing, and especially domestic workers. Bolivia should also take appropriate measures so that the law on the protection of paid domestic work could enter into force as soon as possible.¹⁶

Unionisation and union rights

Mr Abdel Moneim and Ms Bras Gomes were concerned that the long period required for collective bargaining might impede workers' right to strike. Ms Bras Gomes wished to be updated on public officials' right to create and join trade unions which, based on the report, seemed quite restricted. Mr Texier echoed these concerns. He further noted that an ILO Report in 2007 found that little progress has been made in the area of collective bargaining despite assistance from the ILO since 2004. He enquired if there have been any developments since then. In his opening statement, Mr Chavez said that the draft Constitution protected union and union representatives, allowing them to defend collective interests. The delegation stated that further information was forthcoming.

Social security and healthcare

A number of Committee members enquired about Bolivia's social security system. Ms Bras Gomes said the basic principles set out in Bolivia's legal framework seemed appropriate, but she wanted more information on their practical application. She and other Committee members noted with appreciation Bolivia's free healthcare programme for pregnant women and children under the age of five, but wondered if Bolivia planned to extend this programme universally. Ms Bras Gomes also referred to the trend towards privatisation in Bolivia's pension reforms. She expressed concern that, in light of information from CLADEM, poor people, especially women, have greater difficulties in gaining access to the private system. She further drew the delegation's attention to the lack of proper identity documents, which prevented some elderly people from gaining access to their pension benefits. The delegation was also asked to explain how the various social security schemes were funded.

Mr Chavez stressed that the Government gave a lot of attention to improving the social security system. It has decided, among other measures, to promote a responsible privatisation of the pension system in order to increase flexibility. He also added that further improvements to the social security system were presently under consideration by Congress. The retirement age was also going to be lowered from 65 to 60 to reflect the current life expectancy. These Government programmes, he also said, would be partly funded by nationalisations. With regards to the issue of lack of proper ID, he noted that a vast campaign has been launched to promote the documentation of individuals in view of ensuring that they have access to public allowances. In this respect, there has been a lot of progress, but a lot more work needed to be done.

The Committee recommended in its concluding observations that Bolivia make an assessment of its social security system in view of establishing the mechanisms needed to ensure comprehensive and adequate social security coverage, especially pensions and maternity benefits, for all workers, including those of informal sector.¹⁷ It also urged Bolivia to redouble its efforts in the area of health. In particular, it asked the State party to adopt a global health policy to ensure that the poorest sectors of the population have access to free

¹⁵ E/C.12/BOL/CO/2, paragraph 27(b).

¹⁶ E/C.12/BOL/CO/2, paragraph 27(e).

¹⁷ E/C.12/BOL/CO/2, paragraph 31.

universal primary healthcare, including dental care.¹⁸ In addition, it recommended that Bolivia extend the ‘Universal Mother and Child Healthcare System’ in order to cover all children up to the age of five and their mothers, particularly indigenous families.¹⁹ The Committee further requested Bolivia to include in its next report detailed and updated information, including disaggregated statistical data and indicators, to enable the Committee to assess progress in this area.

The protection of women and children

Sexual and reproductive health

Some Committee members recalled that during the previous examination, the Committee called Bolivia’s attention to its elevated rates of maternal and infant mortality, which were some of the highest in the region. Mr Tirado Mejia noted that although there have been some improvement since 2001, the situation remained serious. Referring to an NGO report, he noted that there was a high incidence of death due to illegal abortions, especially in adolescent girls. He asked what measures the State has envisaged to address this concern and whether the Catholic Church, traditionally opposed to abortion, has expressed a reaction on the matter.

Mr Chavez confirmed that there were reports of deaths due to illegal abortions and that many of them involved adolescent girls. He explained that discussions on abortion were ongoing and that the question was seen by the country as an issue of education. As such, he noted that awareness-raising, control and monitoring were needed. In addition, he found that the position of the Catholic Church did have an impact. There was a law governing abortion, he confirmed, but considerable delays in the judicial system meant that some women decided to have recourse to abortion before the final judicial decision has been made.

In its concluding observations, the Committee asked the State party to take the necessary measures, including legislative measures, to tackle the problem of deaths among women due to clandestine abortions. It recommended that sex education and family planning be included in the school curriculum and be discussed openly in order to prevent early pregnancies and the transmission of sexual diseases. It further asked Bolivia to continue its efforts to reduce maternal mortality. To this end, the Committee recommended the prompt enactment of a framework law on sexual rights and reproductive rights and not to repeal Section 266 of the Penal Code.²⁰

Violence against children and child labour

Mr Kolovsov denounced the difficult situation of children in Bolivia, citing reports of early marriages, domestic violence, child abuse and child labour. He asked how the Government dealt with these issues and what progress has been made since Bolivia’s previous report. Noting with distress allegations of widespread psychological and physical abuse of children, Ms Wilson strongly urged the Government to prohibit corporal punishment in all spheres. She also asked if the Government has been able to enforce the prohibition of the practice of ‘criadito.’ Mr Sadi enquired about the enforcement of the minimum age for marriage.

Mr Chavez found the figures cited by the Committee regarding violence against children ‘rather high,’ and promised to look into the matter. He also noted that violence against children was a criminal offence under the law and as such was subject to penalties. Moreover, he said that an advocacy programme has been launched by the Ombudsman with the aim of preventing violence against children. Ms Urena added that Bolivia is a party to the *Convention on the Rights of the Child* and as such has undertaken to align its laws on child protection to the Convention. She added that corporal punishment is prohibited and that the State offered free medical, psychological and legal support to victims of violence.

¹⁸ E/C.12/BOL/CO/2, paragraph 34.

¹⁹ E/C.12/BOL/CO/2, paragraph 35.

²⁰ E/C.12/BOL/CO/2, paragraph 27(f).

The Committee recommended that the State party conduct a study to determine the number of children in Bolivia who are subjected to physical and mental abuse, and, on the basis of the study, to take the necessary legislative and practical measures to protect children from violence.²¹ The Committee also encouraged the State party to redouble its efforts to eliminate child labour in all sectors, especially in domestic service, taking all the necessary legislative and economic support appropriate to compensate poor families who no longer perceive income from child labour. The Committee also called upon Bolivia to conduct inspections at workplaces and take steps to prevent the exploitation of child workers and punish those responsible.²²

Domestic violence

Mr Atangana and Ms Barahona Riera raised the issue of domestic violence and regretted that the report merely mentioned a legal provision without further specifying the penalties attached to it and giving data to show the evolution of the phenomenon. Mr Chavez explained that in Bolivia the couple is considered a ‘unit,’ and the woman, therefore, had to be respected. Unfortunately, he noted, machismo has crept into the indigenous populations. He stressed that the law provided for specific sanctions for various offences against women, including domestic violence. He told the Committee that the Government considered education the primary means to combat the phenomenon, explaining that imprisonment would destroy the family and deprive it of financial support since men generally remained the primary breadwinners.

The Committee urged Bolivia to intensify its efforts to combat domestic violence by enacting specific legislation criminalizing such violence and ensuring appropriate training for members of the security forces and judges to enable them to deal adequately with such cases. In addition, the Committee urged it to ensure the availability and accessibility of ‘crisis centres’ where victims of domestic violence can find safe lodging and psychological support.²³

Trafficking of women and children

Mr Atangana and Ms Barahona Riera welcomed the enactment of a law prohibiting trafficking, but sought more information on its practical impact. Speaking on behalf of the delegation, Ms Urena explained that Bolivia has criminalised the offence of trafficking and has also prescribed penalties. A national council against trafficking and an inter-ministerial body headed by the Ministry of Justice had also been created. This body recently recommended that Bolivia needed to fill the gaps in the law by firmly establishing the difference between victims and perpetrators. She stated that efforts were also being made to create safe houses or shelters for victims of human trafficking, but these programmes were experiencing some funding problems.

Malnutrition and the right to food

Mr Abdel Moneim and other Committee members welcomed Bolivia’s ‘Zero Malnutrition’ and ‘school lunch’ programmes. Mr Martynov recalled that the delegation mentioned a framework law on nutrition and wanted to know more about its current status. Mr Sadi, for his part, wanted to know more about the impact of the current food crisis in Bolivia. Mr Chavez replied that a national council on food security, which aimed to eradicate malnutrition among children under 5, has been created. He added that school curricula included food education. He also emphasised that a 41% drop in infant mortality has been achieved, but that efforts continued and supporting measures were constantly being developed, including the use of alternative indigenous medicines.

Ms Urena added that the then Special Rapporteur on the right to food, Jean Ziegler, recently congratulated Bolivia for its recognition of the right to food and urged others to follow its example. Regarding the current

²¹ E/C.12/BOL/CO/2, paragraph 27(c).

²² E/C.12/BOL/CO/2, paragraph 27(d).

²³ E/C.12/BOL/CO/2, paragraph 33.

food crisis, she mentioned that Bolivia was co-sponsoring an initiative to bring the issue to the Human Rights Council. In this regard, Ms Navarro added that the food situation in Bolivia was ‘difficult,’ owing to Bolivia’s continued dependence on food aid, vulnerability to external shocks, and other States’ policies, including the agricultural subsidies of industrialised countries.

Ms Barahona Riera asked if Bolivia was able to ensure self-sufficiency for food and to address the problem of single crop cultivation. Mr Sadi noted that Bolivia had adopted a strong stance against bio- or ‘agro-fuels’. He wanted to know how its opposition to agro-fuels related to the right to food and what concrete measures it had undertaken to implement this policy. With regard to bio-fuel and single-crop production, Ms Urena said that Bolivia did not want to hamper exports due to the bio-fuel discussion. She added that Bolivia was focusing its efforts at the political level and was in talks with neighbours such as Brazil about the issue. She also expressed hope that once the new Constitution entered into force, the Government could adopt a stronger position on the matter.

The Committee encouraged the State party to continue to take measures to enable it to ensure the availability of food needed for its population. In addition to the ‘Zero Malnutrition’ programme, the Committee urged Bolivia to take steps to facilitate access to productive resources in order to enable people to be self-sufficient in a sustainable manner. Moreover, it urged the State party to increase education programmes on nutrition topics.²⁴

Housing and forced eviction

Mr Pillay remarked that neither the report nor the replies were able to sufficiently address the concern raised by the Committee regarding forced evictions and the lack of social housing. He further asked for data and comments on the situation of the homeless. Mr Chavez replied that the Government has adopted a framework law on social housing in 2006 and was in the process of carrying out projects in this regard. He stated that the Government’s aim was to build 12,000 homes by the end of the year for the most vulnerable part of the population. He added that there was a national housing plan, aiming to provide people without housing with stable financing and 300,000 units. This, he claimed, would enable Bolivia to close the gap.

Regarding evictions, Mr Chavez said that people had worked and lived in certain areas for centuries and the evictions were not straightforward. The State wanted to avoid any conflict and tried to reconcile views of the various parties. Funds were provided to people to avoid their eviction in 1992-94, but the problems continued. The cities continued to grow, putting pressure on the provision of basic services and creating a number of health issues. Since local authorities were ill-prepared, the problem has continued to aggravate in the past 20 years and has led to social tensions. The various programmes have had limited success in resolving this issue. In addition, lack of proper documentation has prevented certain people from gaining access to certain services and rights.

The Committee urged Bolivia to take all necessary measures to: a) prevent the peasant families who occupy land peacefully are forcibly evicted; b) ensure that the judiciary takes into account the provisions of the Covenant in its decisions; c) investigate and punish those responsible for forced evictions and violations related to the rights recognized by the Covenant; and d) implement and expand the National Housing and Solidarity Program by allocating sufficient funds to ensure the implementation comprehensive housing policies, especially for low income groups and marginalized individuals and groups.²⁵

Education

²⁴ E/C.12/BOL/CO/2, paragraph 32.

²⁵ E/C.12/BOL/CO/2, paragraph 27(h).

Mr Kerdoun noted with appreciation that Bolivia seemed to attach great importance to the reform of the education system at all levels. He was concerned, however, with the adoption of a bilingual system and wanted to know what consequences this might have on social cohesion. He also regretted that Bolivia failed to inform the Committee of the Government's budgetary allotment for education and that the most recent data on education available in the report were from 2002. In this regard, he stressed that recent statistics were needed in order to effectively assess the evolution of the situation.

Mr Chavez replied that there have been different stages in the reforms of the educational system that were closely linked to the economic policy of successive administrations. The first stage, which began in 1994, consisted of deregulation and opening up of the education system and was characterized by the privatisation of many schools and universities. The model still worked, but the approach had slightly changed. Bilingual education was now prioritised, with the aim to develop reading and writing skills in Spanish along with the native tongue. Mr Chavez added that illiteracy was eradicated from a number of municipalities. On the missing data, he noted that updated statistics on education had been provided in Bolivia's reply to the Committee's questionnaire. He also mentioned that 5% of Bolivia's GDP and 21% from the General Treasury were earmarked for education.

Ms Wilson drew the delegation's attention to the unequal rates of enrolment for boys and girls in all levels of education, as well as to the high illiteracy rates of women compared to men. She asked what programmes have been put in place to encourage women to stay in school and how they have impacted the situation. Mr Kerdoun asked the delegation about measures to reduce dropout rates and exclusion.

Mr Chavez replied that the initiatives put in place to encourage students to stay in school and reduce dropout rates included subsidies and the school lunch programme. He spoke, in particular, of the 'Josito Pinto' scholarship programme currently covering the 5th and 6th years of schooling, which the Government planned to extend up to the 8th year. Both the scholarship and lunch programmes have had an almost immediate effect, he added. However, there was no majority in the Senate to implement a draft bill on the further improvement of education. Ms Wilson also asked Mr Chavez for more information about the special education programmes for children with disabilities, but he did not comment on this issue.

The Committee recommended that the State party continue in its efforts to eradicate illiteracy, including extending the program '*Yo, si puedo*' to more people, and to adopt as soon as possible the new law on Bolivian education.²⁶

Other issues

Migrant workers

Mr Tirade Mejia enquired about the measures taken by the Government to protect the rights and interests of migrant Bolivian migrant workers. Mr Chavez replied that the plan involving migrant workers included the creation of 'mobile consulates', which aims to gather information and to improve the situation of Bolivian's abroad, including those in an irregular situation. He also noted that their right to vote is guaranteed by the Government. Ms Navarro added, at Mr Kolovsov's request, that the 'mobile consulates' did not require the establishment of new consulates. Rather, this policy consisted of bringing the consular workers closer to the Bolivian migrants by having them visit the communities and interact with the people. In addition, Ms Urena commented that the Government was aware of the inconsistencies within the current legislation on migration and was now drawing up a new migration bill in close collaboration with relevant ministries and civil society groups.

²⁶E/C.12/BOL/CO/2, paragraph 27(g).

People living with HIV/AIDS

Mr Tirado Mejia noted that the State party's reply to the issue of protecting people living with HIV/AIDS seemed to focus on homosexuals. He called the delegation's attention to the fact that this problem was not confined to homosexuals and called on them to expand programmes to all sectors of society. Mr Chavez cited the case of an expelled HIV positive military cadet who had been allowed to return to the army as an example of Bolivia's determination to end all forms of discrimination against those with HIV/AIDS.

Persons deprived of liberty

With regards to people in detention, Mr Tirado Mejia noted with concern the poor conditions in Bolivian prisons. He wanted to know if the Government was addressing the issue of healthcare for prisoners and the detained. Mr Chavez replied that the Government has put in place programmes to mitigate health risks and improve conditions. He cited a few examples, including a TB prevention programme, vaccination against yellow fever, HIV/AIDS prevention and an ophthalmological project carried out with the help of a Cuban medical team.

Coca production and consumption

Mr Tirado Mejia observed that coca production and use have been common in South-America since ancestral times. Given Bolivia's plans to enhance and legalise coca crop, he asked the delegation to indicate what consequences this policy might have on people's health and on the economy. He also asked the delegation their opinion on this policy's international implications since it appears to contradict international norms.

Ms Navarro explained that the coca leaf has been used for medicinal purposes in the region for some 3000 years, notably by the Kallawayas, whose medical knowledge and practices have been proclaimed as an 'intangible cultural heritage' by UNESCO in 2003. She further stated that the international legal regime prohibiting coca was largely elaborated without any input from indigenous peoples and consideration for human and indigenous rights. In her view, this was a significant problem. She explained that the Government's new policy was an inclusive process, and one that ensures that human rights were respected. It involved holding talks with stakeholders rather than simply eradicating coca fields.

Protection of the environment

Mr Sadi and Ms Barahona Riera enquired about Bolivia's policy towards the environment and, in particular, towards deforestation in the Amazon basin. Mr Chavez replied that the Government was trying to combat illegal logging and that it was currently in talks with Brazil regarding some transboundary environmental issues. Ms Navarro added that the protection of the environment was among President Morales' top priorities. To illustrate this point, she read Mr Morales' 'ten points in order to bring about harmony with Mother Earth' to the Committee.

Conclusions and next steps

The country rapporteur noted with concern that amidst all the political and socio-economic changes, there has been an atmosphere of confrontation, even regional conflict, in Bolivia. With the safeguards of the draft Constitution not yet in practice, she urged the Government to carefully consider its actions to avoid exacerbating tensions. She suggested that education be used as a tool to combat intolerance within the country, and called on the Government to reject any manifestation of violence whatever the source.

The delegation took on the Rapporteur's comments. In addition, Mr Chavez told the Committee that the Government intended to continue efforts to raise awareness on the draft Constitution, with the aim of helping the population make an informed choice in the coming referendum. Mr Chavez thanked the Committee for its tolerance and understanding of Bolivia's situation, and said that he found the dialogue constructive and useful. He added that the concept of 'vivir bien' or 'living well,' which was the basis of the work done by the current Government, was the message Bolivia wanted to impart to the Committee. With the help and support of the international community and the various human rights bodies, he expressed confidence that Bolivia could gradually implement its human rights obligations and ensure the welfare of all Bolivians.

The Chairperson found that the film shown by the delegation could in fact answer eloquently the questions raised by the Committee about education, health, poverty and other issues. After expressing appreciation for the quality of the dialogue, he concluded by assuring the delegation that the Committee would take into account Bolivia's particular situation when drafting the recommendations and that it saw the efforts of the new Government as a positive development for the future.

Other human rights treaty bodies and special procedures have dealt with some of the issues raised by the Committee in relation to Bolivia. In 2003, the Committee on the Elimination of Racial Discrimination (CERD) made several recommendations with relation to the rights of indigenous peoples, particularly land rights,²⁷ and expressed concern regarding the situation of Afro-Bolivians who faced severe disadvantages in health, life expectancy, education, income, literacy, employment and housing.²⁸ The Committee on the Rights of the Child (CRC) urged Bolivia in 2005 to adopt an adequate minimum age for marriage;²⁹ to ensure children are protected from institutional and other forms of violence;³⁰ to ensure health and welfare of children, including disabled children;³¹ and to ensure access to good quality education.³² The Committee on Migrant Workers (CMW), which examined Bolivia's 1st report in April 2008, encouraged Bolivia to ensure respect for the economic, social and cultural rights of migrant workers and members of their families.³³ In 2007, the Special Rapporteur on the right to food commended Bolivia's enactment of a land-reform bill which aimed to redistribute unused or underused land to Bolivia's indigenous populations,³⁴ and further recommended that other countries follow Bolivia's example in the implementation of the right to food at the national level.³⁵

The Committee's concluding observations were approved on 16 May 2008.³⁶ The Committee asked Bolivia to submit its third and fourth periodic reports in a single document no later than 30 June 2010.

Last revised and updated: 7 July 2008.

²⁷ CERD/C/63/CO/2, 10 December 2003, paragraph 13.

²⁸ CERD/C/63/CO/2, paragraph 15.

²⁹ CRC/C/15/Add.256, 11 February 2005, paragraphs 23 and 24.

³⁰ CRC/C/15/Add.256, paragraphs 33-36; 43 and 44.

³¹ CRC/C/15/Add.256, paragraphs 45-52.

³² CRC/C/15/Add.256, paragraphs 53-56.

³³ CMW/C/BOL/CO/1, 24 April 2008.

³⁴ A/HRC/4/30, 19 January 2007, paragraph 14.

³⁵ A/HRC/3/30, paragraph 69.

³⁶ E/C.12/BOL/CO/2, 16 May 2008.

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