

BOLIVIA

CESCR E/2002/22 (2001)

256. The Committee considered the initial report of Bolivia on the implementation of the Covenant (E/1990/5/Add.44) at its 15th to 17th meetings, held on 2 and 3 May 2001, and adopted, at its 27th and 28th meetings, held on 10 May 2001, the following concluding observations.

A. Introduction

257. The Committee welcomes the initial report submitted by Bolivia, the written replies to the Committee's list of issues (E/C.12/Q/BOL/1), and the additional information submitted during the dialogue. However, the Committee regrets the 17-year delay in the submission of the initial report as well as the delay in the submission of the written replies to the Committee's list of issues.

258. The Committee has considered the written materials submitted by Bolivia, which contain mostly legal information. While this information is important, the Committee regrets the absence of specific information on the practical application of the legal framework, which is necessary for the Committee's evaluation of the implementation of economic, social and cultural rights in Bolivia.

259. The Committee regrets that many of the questions put by the members of the Committee were left unanswered or were answered by statements of a general nature.

B. Positive aspects

260. The Committee welcomes the creation of the Ministry of Justice and Human Rights (1994), and the human rights offices established by the Ministry in the sensitive areas of the country. Similarly, the Committee notes with appreciation the establishment in 1997 of the Human Rights Ombudsman (Defensor del Pueblo).

261. The Committee appreciates the elaboration by the State party of a comprehensive and multidisciplinary "Promotion and Defence of Human Rights" project with the assistance of the Office of the United Nations High Commissioner for Human Rights and UNDP.

262. The Committee notes with appreciation that article 1 of the Constitution establishes Bolivia as a multi-ethnic and multicultural democracy. In this regard, the Committee notes with interest the announcement by the delegation of the future enactment on 31 May 2001 of the new Penal Procedures Code, which renders three of the main indigenous languages, namely Quechua, Aymará and Tupi-Guarani, languages of judicial and administrative procedures.

263. The Committee notes with satisfaction the enactment of laws and the establishment of a number of programmes and policies for promoting equality between women and men, as well as the establishment in 1993 of a Subsecretariat of Gender Affairs under the National Secretariat for Ethnic, Gender and Generational Affairs of the Ministry for Human Development.

C. Factors and difficulties impeding the implementation of the Covenant

264. The Committee notes the enduring negative economic conditions suffered by the State party, due in part to the relatively undiversified structure of the economy, the structural adjustment programmes undergone by Bolivia since 1985 and its considerable foreign debt.

265. The Committee is aware that efforts to introduce legal crops to replace cocaine production in certain rural areas have led to the impoverishment of the small farmers involved.

D. Principal subjects of concern

266. The Committee regrets that laws incorporating the Covenant into Bolivia's domestic legal system have not yet been adopted.

267. The Committee is deeply concerned about allegations of corruption against certain Supreme Court judges.

268. The Committee is deeply concerned about the extent of poverty in Bolivia. According to UNDP figures, 88.8 per cent of all households in Bolivia have an income below the poverty line. Moreover, 90 per cent of these households are in rural areas. This situation is reflected in indicators such as infant mortality, life expectancy, literacy, and access to sanitation, potable water and health-care services. In this regard, the Committee deplores the highly uneven distribution of wealth in Bolivia.

269. The Committee is particularly concerned about the marginalization of, and discrimination against, indigenous communities in Bolivia, who constitute the majority of Bolivia's rural population and who suffer from inadequate access to basic education, adequate housing, and health services. Moreover, the Committee is concerned that the State party does not acknowledge the economic, social and cultural rights of indigenous populations as a distinct group.

270. Notwithstanding the impressive number of legal instruments and policies adopted by the State party to ensure gender equality, the Committee expresses its concern about the de facto inequality between men and women, which is exacerbated by the perpetuation of traditional prejudices and social conditions, such as discrimination in education of the girl child in rural areas. Such discrimination is particularly reflected in the low level of representation of women in public service, the high female illiteracy rate, unequal wages for work of equal value, and the high proportion of women working under inadequate conditions in the informal sector or as domestic workers.

271. The Committee deplores the de jure discrimination of salaried domestic workers established in Chapter II of the General Labour Law, with regard to daily and weekly rest and annual paid vacation, dismissal, social benefits and salary. Further, the Committee is concerned that domestic workers are subject to ethnic, class, gender and other discrimination.

272. The Committee is concerned that the method for determining the minimum wage is arbitrary, and that the current level of minimum wage does not secure a standard of living in dignity for the

affected workers and their families.

273. The Committee considers that the excessively lengthy procedure for declaring a strike legal constitutes a restriction on the right provided for in article 8, paragraph 1 (d), of the Covenant. Similarly, the Committee expresses concern that restrictions imposed in the General Labour Law on trade union rights infringe on the rights provided for in article 8, paragraph 1 (a).

274. The Committee deplores the practice of child labour and the exploitation of children in domestic work, in particular the existence of the practice of indigenous criaditos, which remains outside the control of the State party.

275. The Committee is concerned that land reform is not a top priority on the Government's agenda, and that the Government does not provide legal counselling for farm workers with regard to establishment of title for their lands.

276. The Committee is concerned about the large housing shortage, the incidence of forced evictions with respect to peasants and indigenous populations in favour of mining and lumber concessions, and the absence of effective measures to provide social housing for low-income, vulnerable and marginalized groups.

277. The Committee is disturbed about the situation of children subjected to physical and mental abuse, as well as the extent of child malnutrition in Bolivia.

278. The Committee is concerned about the current status of reproductive health rights of women, and in particular the high rate of maternal mortality - the highest in Latin America - which is attributed to illegal abortions and to the absence of medical assistance during childbirth.

279. The Committee expresses its concern about the limited possibilities for indigenous populations to enjoy education in their mother tongue and to use their mother tongue in their dealings with public authorities.

280. The Committee is concerned by the slow progress in the process of literacy training and the still high levels of illiteracy in Bolivia. According to UNESCO, the level of illiteracy for adults is 16.3 per cent. The situation for children is also alarming: 70 per cent of children under 9 years of age do not attend school.

E. Suggestions and recommendations

281. The Committee strongly urges the State party to ensure that the Covenant is taken into account in the formulation and implementation of all policies concerning economic, social and cultural rights.

282. The Committee encourages the State party to ratify the additional Protocol to the American Convention on Human Rights, concerning economic, social and cultural rights (Protocol of San Salvador), which the State party signed in 1988.

283. The Committee calls upon the State party to ensure that the economic, social and cultural rights enshrined in the Covenant are directly applicable in the domestic legal order.

284. The Committee requests the State party to provide, in its second periodic report, detailed information about the effect of the decentralization of government on the enjoyment by Bolivian citizens of their economic, social and cultural rights.

285. The Committee urges the State party to take remedial action against the marginalization of, and discrimination against, indigenous populations in all sectors of society. The Committee requests the State party to provide, in its second periodic report, detailed information about the efforts made by the State party to enhance the enjoyment of rural populations, in particular rural indigenous populations, of their economic, social and cultural rights.

286. The Committee urges the State party to take effective measures to combat discrimination against women in public, economic and social life.

287. The Committee recommends that the State party adopt and implement programmes to increase technical and professional training opportunities and job opportunities and to reduce unemployment.

288. The Committee calls on the State party to ensure just and favourable working conditions to domestic workers, in particular with regard to daily and weekly rest and annual paid vacation, terms of dismissal, social benefits and salary.

289. The Committee recommends that the State party consider ratifying ILO Conventions No. 2 (1919) concerning unemployment and No. 29 (1930) concerning forced or compulsory labour.

290. The Committee urges the State party to ensure that the minimum wage is sufficient to provide an adequate standard of living for the worker and his family.

291. The Committee asks the State party to ensure that the excessive time period for collective negotiation does not constitute an obstacle to the right to strike.

292. The Committee urges the State party to combat violence against women by initiating a campaign with a view to combating negative traditional practices and prejudices and their effects and consequences. In this regard, the Committee also calls on the State party to ensure adequate financial and human resources for the implementation of the National Plan for the Prevention and Eradication of Violence Against Women. The Committee requests the State party to provide, in its second periodic report, detailed information and up-to-date statistics on the phenomenon of violence against women in Bolivia, as well as results of the measures taken to combat this serious problem.

293. The Committee also urges the State party to ratify ILO Convention No. 182 (1999) concerning the prohibition and immediate action for the elimination of the worst forms of child labour, and to take effective measures to eradicate the phenomenon of criaditos.

294. The Committee recommends that the State party explicitly take the Covenant into account when

implementing the policies, programmes and projects deriving from its Poverty Reduction Strategy Paper, which forms part of the enhanced Heavily Indebted Poor Countries Initiative. In this regard, the State party is referred to the Statement on poverty and the International Covenant on Economic, Social and Cultural Rights adopted by the Committee on 4 May 2001 (see annex VII below).

295. The Committee urges the State party to pursue land reform as a priority in its agenda, to provide the economic and human resources needed for its implementation and to proceed without delay with the title establishment procedures.

296. The Committee recommends that the State party address the problems of the large housing shortage, the high incidence of forced evictions and the lack of social housing for low-income, vulnerable and marginalized groups. The Committee requests the State party, in its second periodic report, to give detailed information on the number and nature of forced evictions having taken place in Bolivia, in accordance with the Committee's General Comment No. 7 (1997) on forced evictions.

297. The Committee urges the State party to address the problems and shortcomings facing children and affecting their welfare, beginning with the varied types of child exploitation such as the trafficking of children, their sexual exploitation and domestic maltreatment. The Committee urges the State party to provide the necessary financial resources needed for children's education and the eradication of child malnutrition.

298. The Committee calls upon the State party to take measures to reduce the female mortality rate, and in particular to bring about a reduction of deaths caused by illegal abortion and unassisted childbirth. In particular, the Committee recommends that the State party intensify the implementation of its National Sexual and Reproductive Health Programme, organize educational campaigns regarding women's sexual and reproductive health, and include such subjects in school curricula.

299. The Committee recommends that the State party give priority to education in its budget, establish literacy programmes for adults, in particular in the rural areas, and make efforts to increase the school attendance levels of children under the age of 9. In this regard, the State party is urged to implement a comprehensive National Education for All Plan, as anticipated by paragraph 16 of the Dakar Framework of Action, adopted at the World Education Forum in April 2000, taking into account the Committee's General Comments No. 11 (1999) on plans of action for primary education (art. 14 of the Covenant) and No. 13 (1999) on the right to education (art. 13 of the Covenant).

300. The Committee encourages the State party to proceed with enacting the Penal Procedures Code, which renders three of the main indigenous languages, namely Quechua, Aymará and Tupi Guarani, languages of judicial and administrative procedures.

301. The Committee recommends that the State party avail itself more actively of technical assistance and cooperation from the Office of the United Nations High Commissioner for Human Rights and the relevant United Nations specialized agencies and programmes, particularly in the preparation of its second periodic report.

302. The Committee requests the State party to disseminate the present concluding observations

widely among all levels of society and to inform the Committee on all steps taken to implement them. It also encourages the State party to consult with non-governmental organizations and other members of civil society in the preparation of its second periodic report.

303. Finally, the Committee requests the State party to submit its second periodic report by 30 June 2005, and to include in this report detailed information on the steps it has taken to implement the recommendations contained in the present concluding observations.