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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS Thirty-ninth session Geneva, 5-23 November 2007

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on Economic, Social and Cultural Rights

Paraguay

1. The Committee on Economic, Social and Cultural Rights considered the second and third periodic reports of Paraguay on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/PRY/3) at its 44th, 45th and 46th meetings, held on 13 and 14 November 2007 (E/C.12/2007/SR.44-46), and adopted, at its 55th meeting, held on 21 November 2007, the following concluding observations.

A. Introduction

2. The Committee welcomes with satisfaction the submission of the second and third periodic reports of the State party, although late, and the written replies to its list of issues. The Committee also appreciates the presence of a high-level delegation from the State party, which is comprised of specialists in subjects covered by the Covenant, and illustrates the importance the State party attaches to dialogue with the Committee. It regrets, however, that some of its questions have remained unanswered.

B. Positive aspects

3. The Committee notes with satisfaction that during the period covered by the second and third periodic reports, the State party adopted the new Penal Code and the new Code of Criminal Procedure; the Code on Children and Adolescents (Act No. 1680/01); the Domestic Violence Act (Act No. 1600/00); and Act No. 2861/06 penalizing the trade in and distribution of pornographic material representing minors and persons with disabilities, and that it ratified the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities.

4. The Committee notes with satisfaction the activities undertaken by the Office of the Ombudsman in the area of economic, social and cultural rights, in particular those related to the rights to education, work and health.

5. The Committee notes with satisfaction the courses and activities undertaken by the Human Rights Commission, under the Ministry of Justice and Labour, aimed at promoting human rights.

6. The Committee notes with satisfaction the efforts of the State party in the area of literacy.

7. The Committee welcomes the progress made by the State party in extending the coverage of civil status registration to include the entire population and especially indigenous communities.

8. The Committee welcomes the programmes designed to provide alternatives to the internment of delinquent minors, and also notes the separation of minors and adults in detention facilities.

9. The Committee welcomes with satisfaction the establishment of a Secretariat for Women, at the ministerial level.

10. The Committee notes the efforts of the State party to curb deforestation in Paraguay.

C. Factors and difficulties impeding the implementation of the Covenant

11. The Committee notes the absence of any significant factors or difficulties preventing the effective implementation of the Covenant in the State party.

D. Principal subjects of concern

12. The Committee regrets that most of its 1996 recommendations have not been fully implemented, and that the State party has not addressed in a more effective manner the following principal subjects of concern, related to its initial report, which are still relevant:

(a) The persistence of striking disparities in the enjoyment of economic, social and cultural rights in Paraguayan society. The Committee is also concerned that, despite the State party's economic growth over recent years, the number of persons living in extreme poverty has increased;

(b) The slow pace of agrarian reform. While noting that the Rural Welfare Institute has become the National Institute of Rural and Land Development (INDERT), the Committee reiterates its concern over the situation of farmers and the indigenous population, who do not have access to their traditional and ancestral lands. The Committee notes with concern the concentration of land ownership in the hands of a very small proportion of the population;

(c) The wage gap between men and women;

(d) The persistence of domestic violence. Although the Committee notes that in the period covered by the periodic reports, the State party adopted a law against domestic violence, it is concerned that the punishment for such criminal conduct is a mere fine and that the requirement for it to be habitual in order to be classified as a criminal offence allows such acts to go unpunished;

(e) There is no minimum wage guarantee for all workers. The Committee notes with concern that a large number of public sector workers still receive salaries below the minimum wage;

(f) The trade union rights of workers are not fully guaranteed. The Committee is concerned about the slow procedure of trade union registration with the Ministry of Justice and Labour, and the fact that employers can delay the process by sending a written communication. It is also concerned about the exposure of trade union leaders in the private sector to harassment;

(g) The high proportion of the population excluded from any form of social security. The Committee is concerned at the high level of unemployment, the size of the informal economy, which amounts to 80 per cent of the economically active population, and at the fact that persons working in that sector receive inadequate wages and are not eligible for social benefits;

(h) The high number of child workers. The Committee is especially concerned about the vulnerability of children working in domestic service, who are exposed to ill-treatment, exploitation and sexual abuse, while many of them are deprived of the right to education. The Committee notes that there is no effective structure providing legal and judicial protection for these children;

(i) The population is not guaranteed the right to health. Although the health sector budget has increased, the Committee notes with concern that the majority of the Paraguayan population has no adequate health care. The Committee further notes with concern that in 2004 the public sector focused predominately on the higher-income population.

13. The Committee notes with concern the discrimination faced by women in Paraguay, which is perpetuated by prejudices and traditional social conditions, in spite of the legal instruments and programmes that have been adopted by the State party.

14. The Committee is concerned about multiple discrimination faced by women in rural areas, a large proportion of whom are heads of households and face poverty and extreme poverty on a daily basis. Their situation sometimes forces them to emigrate or to become victims of sexual exploitation.

15. The Committee notes with concern that the wages paid to domestic workers, the majority of whom are women, represent only 40 per cent of the minimum wage. While noting the explanation presented by the State party that such employees receive board and lodging from their employers, the Committee believes such a low percentage of the minimum wage is not sufficient to ensure a decent living for these workers. Furthermore, domestic workers work up to 12 hours a day, often without social security or overtime pay.

16. The Committee notes with concern that the expansion of soybean cultivation has fostered the indiscriminate use of toxic agrochemicals, leading to deaths and illnesses among children and adults, contamination of the water supply and the disappearance of ecosystems, while it has jeopardized the traditional food resources of the affected communities.

17. The Committee notes with deep concern the large number of forced evictions of peasant and indigenous families, particularly in the communities of Tetaguá Guaraní, Primero de Marzo, María Antonia and Tekojoja, who had been occupying the land, and the reports received that the National Police used excessive force in carrying out those evictions, by burning and destroying housing, crops, property and animals.

18. The Committee notes with concern that some 45 per cent of indigenous people do not hold legal title to their ancestral lands and are thus exposed to forced eviction.

19. The Committee notes with concern that the State party has not yet adopted a housing policy especially for rural areas, despite the housing shortage reportedly affecting more than a million families.

20. The Committee is concerned that the high level of malnutrition affecting mainly rural populations and indigenous people is on the rise, and regrets that it has not received sufficient information from the State party in that regard.

21. The Committee notes with concern that clandestine abortions are a major cause of death among women, and the high level of maternal and infant mortality.

22. While noting the increase in the budget of the psychiatric hospital of Paraguay, the Committee is concerned about the situation of patients in psychiatric institutions, especially women and children, and the lack of adequate procedural safeguards for persons committed to such institutions. The Committee is particularly concerned about the abuses suffered by some patients held in solitary confinement.

E. Suggestions and recommendations

23. The Committee calls upon the State party to address the specific subjects of concern already expressed with respect to its initial report, and reiterates that the State party should implement the Committee's suggestions and recommendations in this regard. In particular:

(a) The Committee calls upon the State party to take all necessary measures to reduce extreme poverty and to improve its social development strategies, including coordination measures among the various institutions, as well as evaluations to assess the impact of plans and identify their shortcomings. The State party should also adopt additional fiscal measures aimed at improving the distribution of wealth throughout the population in both rural and urban areas. In this respect, the Committee invites the State party to take into consideration its statement on "Poverty and the International Covenant on Economic, Social and Cultural Rights", adopted on 4 May 2001 (*Official Records of the Economic and Social Council, 2002, Supplement No. 2* [E/2002/22/E/C.12/2001/17], annex VII). The Committee requests that the State party, in its next report, include disaggregated and comparative data, and indicators, on the number of persons living in poverty and extreme poverty, as well as on progress made in efforts to combat poverty and extreme poverty;

(b) The Committee recommends that the State party increase its efforts to speed up the demarcation of ancestral lands and territories and their return to the indigenous peoples, following up the distribution of land to farmers with measures such as technical assistance, inputs, tools, microcredit, training and infrastructure, as well as irrigation and electricity systems. The State party must ensure that the budget allocated to agrarian reform is not diverted;

(c) The Committee recommends that the State party take the necessary measures to ensure equal working conditions for men and women, including equal pay for equal work. The State party should adopt, as soon as possible, the law on equal pay that is being discussed in the Senate, and ensure that it is fully in line with the Covenant;

(d) The State party should step up its efforts to eliminate domestic violence and consider amending its criminal legislation on domestic violence to increase the penalty for this offence;

(e) The Committee urges the State party to take effective measures to reduce the unemployment rate and regularize the informal economy; and to guarantee that workers are able to exercise their labour rights, including the right to social security;

(f) The Committee recommends that the State party ensure that the Ministry of Justice and Labour carries out trade union registration procedures with due diligence. The State party should adopt strong measures to protect unionized workers and their leaders from acts of intimidation, including through investigation, legal proceedings and the imposition of penalties on those responsible for such acts;

(g) The Committee requests the State party to adopt effective measures to ensure parity in the minimum wage paid to public and private sector workers, ensuring that the minimum wage allows all families to enjoy an adequate standard of living;

(h) The Committee encourages the State party to redouble its efforts to eliminate child labour, particularly in domestic service, taking all appropriate measures. It requests the State party to investigate all cases of exploitation and sexual abuse of child workers, and bring to trial and punish those responsible;

(i) The Committee recommends that the State party step up its efforts in the area of health, and invites it to establish a global health policy enabling the poorest sectors to have access to free, high-quality primary health care. The Committee requests the State party, in its next report, to provide detailed and updated information, including disaggregated statistical data and indicators, in order to assess the level of progress achieved in that area.

24. The Committee requests the State party to ensure the equality of men and women in all spheres of life, in particular by taking effective measures to combat discrimination in the education of girls and young women, in access to employment and in working conditions. The Committee recommends that the State party adopt a law on equal opportunities for men and women and ensure that the activities of the Secretariat for Women have a real impact on women's lives.

25. The Committee recommends that the State party take whatever positive measures are necessary to eliminate discrimination suffered by women in vulnerable situations, such as women in rural areas, including the elaboration of a comprehensive public policy to combat trafficking in persons and to provide protection and assistance to victims.

26. The Committee recommends that the State party amend the articles of the Labour Code that establish discriminatory conditions for domestic work, and increase the number of labour inspections in that sector.

27. The Committee urges the State party to adopt urgent measures to ensure that soybean cultivation does not undermine the ability of the population to exercise the rights recognized by the Covenant. Apart from ensuring compliance with the law on toxic agrochemicals, the State party should establish an effective legal framework for protection against the use of toxic agrochemicals and carry out effective and frequent inspections.

28. The Committee urges the State party to take the necessary measures, including legislative measures, to: (a) prevent the eviction of peasant and indigenous families who are occupying the land; (b) address the claims made by peasant and indigenous families and ensure that they are not repressed; (c) follow up on complaints filed with the Office of the Public Prosecutor; (d) ensure that the judicial authorities take the provisions of the Covenant into account when handing down their decisions; and (e) investigate, bring to trial and punish those responsible for forced evictions and violations related to the rights recognized by the Covenant.
29. The Committee urges the State party to take all the necessary measures to guarantee that indigenous people hold legal title to their indigenous lands.
30. The Committee urges the State party, in accordance with its general comment No. 4, on the right to adequate housing, to take all appropriate measures, including the construction of housing units, to solve the problem of the housing shortage affecting mainly rural areas, low-income families and other marginalized persons and groups. The Committee requests the State party, in its next report, to provide detailed and updated information, including disaggregated statistical data and indicators, in order to assess the level of progress achieved in that area.
31. The Committee recommends that the State party adopt effective and urgent measures to combat hunger and malnutrition. The State party should amend its public agricultural and agrarian policies in order to promote agriculture among peasant families and food security. It should allocate the maximum amount of resources available for financial and technical support to small and medium-sized producers.
32. The Committee strongly encourages the State party to take the necessary legislative steps to address the problem of female mortality caused by clandestine abortions, and recommends that school curricula openly address the subjects of sex education and family planning in order to help prevent early pregnancies and the spread of sexually transmitted diseases. It also recommends that it adopt a law on sexual and reproductive health that is compatible with the provisions of the Covenant. The State party should also continue its efforts to reduce maternal and infant mortality.
33. The Committee encourages the State party to continue its efforts to improve the situation of persons undergoing treatment in psychiatric institutions, and to speed up progress in the implementation of the commitment deed signed in 2004 and, especially, guarantee access to judicial remedy for persons committed to such institutions. The Committee also recommends that the State party adopt in the near future a bill on mental health that is fully compatible with the Covenant.
34. The Committee recommends that the State party give due consideration in its land restitution programme to the right of indigenous peoples to their ancestral lands, which are essential to the expression of their cultural identity and to their very survival.
35. The Committee recommends that, in its next periodic report, the State party provide more detailed analysis of the cases examined and the results of activities undertaken by the Ombudsman.
36. The Committee recommends that the State party strengthen the mandate of the Human Rights Commission, including through the provision of adequate funding, and allow it to participate, at the national level, in activities to follow up on the concluding observations.
37. The Committee requests the State party to disseminate widely the present concluding observations at all levels of society and, in particular, among State officials, the judiciary and civil society organizations in general, and to inform the Committee in its next periodic report about all steps taken to implement them. It also encourages the State party to engage non-governmental organizations and other members of civil society in the process of discussion at the national level prior to the submission of its next periodic report.
38. The Committee invites the State party to update its core document in accordance with the requirements of the harmonized guidelines on reporting compiled in 2006 (HRI/GEN/2/Rev.4).
39. The Committee requests the State party to submit its fourth periodic report as a single document not later than 30 June 2011.