



Economic and Social Council

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Committee on Economic, Social and Cultural Rights

Concluding observations on the third periodic report of the Bolivarian Republic of Venezuela*

1. The Committee on Economic, Social and Cultural rights considered the third periodic report of the Bolivarian Republic of Venezuela on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/VEN/3) at its 24th and 25th meetings, held on 2 and 3 June 2015 (E/C.12/2015/SR.24 and 25). At its 50th meeting, held on 19 June 2015, the Committee adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the third periodic report of the Bolivarian Republic of Venezuela, the common core document (HRI/CORE/VEN/2011) and the replies to the list of issues (E/C.12/VEN/Q/3/Add.1). The Committee also welcomes the constructive dialogue held with the State party's high-level delegation and on which men and women were equally represented, composed of experts from various ministries.

B. Positive aspects

3. The Committee takes note with satisfaction of the State party's ratification of the following international instruments:

(a) The Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto, on 24 September 2013;

(b) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, on 23 September 2003;

(c) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, on 8 May 2002;

(d) The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, on 13 May 2002.

4. The Committee welcomes the adoption of:

(a) The Act on the Promotion and Protection of the Right to Equality of Persons with HIV/AIDS and Their Families, in August 2014;

* Adopted by the Committee at its fifty-fifth session (1-19 June 2015).



- (b) The Labour and Workers Act, in April 2012;
- (c) The Education Act, in August 2009;
- (d) The Indigenous Languages Act, in May 2008;
- (e) The Act on the Promotion of Breastfeeding, in September 2007.

5. The Committee takes note with satisfaction of the progress made by the State party in combating poverty and reducing inequality. The Committee also welcomes the huge progress made by the State party in the fight against malnutrition through the expansion of the school meals programme and the food allowance for low-income families.

6. The Committee takes note with satisfaction of the Venezuelan delegation's commitment that, despite the economic difficulties caused by, among other reasons, the fall in oil revenues, the State party will continue to make every effort to prevent the situation from affecting social investment and the progressive realization of economic, social and cultural rights.

C. Main subjects of concern and recommendations

Justiciability of Covenant rights

7. The Committee takes note of the information provided by the State party on the application of the rights contained in the Covenant by the national courts. However, the Committee is concerned that those rights are not applied consistently and that, according to reports received, in some cases the Supreme Court has ruled that economic, social and cultural rights do not fall within the scope of judicial protection.

The Committee recommends that the State party guarantee the applicability of all rights under the Covenant and that it take the necessary steps to raise awareness of the content of the Covenant rights and their justiciability, in particular among judges, lawyers and law enforcement officials, as well as among members of the National Assembly and other actors responsible for the implementation of the Covenant, and among rights holders. The Committee also draws the State party's attention to its general comment No. 9 (1998) on the domestic application of the Covenant and encourages it to ratify the Optional Protocol to the Covenant.

Denunciation of the American Convention on Human Rights

8. The Committee takes note of the State party's denunciation of the American Convention on Human Rights and is concerned that it might affect the effective protection of economic, social and cultural rights in the State party.

The Committee urges the State party to reconsider rejoining the protection system under the American Convention on Human Rights.

Rights of indigenous peoples

9. While the Committee notes with satisfaction that the right of indigenous peoples to be consulted is recognized in the State party's legal system, it is concerned by reports received that consultations with indigenous peoples are not held regularly and with full guarantees, in particular when granting concessions for the exploration and development of natural resources (art. 1, para. 2).

The Committee recommends that the State party:

(a) Take the necessary steps to ensure that free, prior and informed consent is obtained from indigenous peoples in relation to decisions that may affect the exercise of their economic, social and cultural rights, in particular in connection with the granting of concessions for the exploration and development of mining resources and hydrocarbons;

(b) Ensure that indigenous peoples' decisions are fully respected by all stakeholders, both governmental and private;

(c) Adopt the measures needed to complete the demarcation and titling of the ancestral lands and territories of indigenous peoples in order to ensure that they are able to exercise their right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.

Independence of the judiciary

10. The Committee is concerned by reports that the legally established procedure for appointing and removing judges is not applied and by the large number of judges appointed to posts on a temporary basis, who, without security of tenure, may find that their independence is significantly affected (art. 2, para. 1).

The Committee recommends that the State party adopt the measures needed to guarantee that the selection and appointment of judges and magistrates is conducted in a transparent manner, with a view to ensuring that appointments are made on the basis of integrity and suitability. The Committee also recommends that the State party adopt the measures needed to guarantee the independence of the judiciary.

Office of the Ombudsman

11. The Committee notes with concern that the Office of the Ombudsman has not discharged its mandate in an entirely independent manner or in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) (art. 2, para. 1).

The Committee urges the State party to take all the measures needed to ensure that the Office of the Ombudsman is in full compliance with the Paris Principles.

Corruption

12. The Committee takes note of the steps taken by the State party to combat corruption, but it is concerned about the lack of specific information on the outcomes of cases that have been investigated and prosecuted and by reports suggesting the lack of independence of the bodies established to prevent and combat corruption.

The Committee recommends that the State party:

(a) Take the measures needed to guarantee the independence of the bodies responsible for preventing and combating corruption, in accordance with the United Nations Convention against Corruption, so that independent and impartial investigations into all cases of corruption can be undertaken and those responsible are held accountable;

(b) Conduct awareness-raising initiatives targeted especially at public officials and lawmakers about the harmful effects of corruption on the full

enjoyment of economic, social and cultural rights, and for judges, prosecutors and the police about the need for strict enforcement of the law;

(c) Improve the transparency particularly of the activities of the public administration.

Access to information of interest to the public

13. The Committee is concerned about reports received that access to information of public interest is limited and that there is no law regulating such access. The Committee is also concerned that there is no effective accountability mechanism, thereby making it difficult to objectively assess the steps taken by the State party to ensure the full realization of economic, social and cultural rights (art. 2, para. 1).

The Committee recommends that the State party:

(a) Take the necessary measures to allow free access to information on the organization, functioning and decision-making processes of the public administration, including through the adoption of a law on access to information of public interest, and through the transparency of public affairs in practice;

(b) Ensure the effectiveness of accountability mechanisms, such as timely reporting on revenue and expenditure, and independent oversight standards;

(c) Establish effective mechanisms for the dissemination of information that is of interest to rights holders concerning the realization of economic, social and cultural rights, such as eligibility criteria for social programmes, indicator results and accountability reports.

Cooperation with civil society organizations

14. The Committee is concerned about information received regarding the lack of cooperation between the State party's authorities and civil society organizations working in the field of human rights, which has, in some cases, resulted in their reputation being seriously undermined. The Committee is also concerned that safeguards are not upheld for the work of representatives of the non-governmental organizations that submit testimony to the United Nations human rights treaty bodies. (art. 2, para. 1).

The Committee recommends that the State party redouble its efforts to establish constructive cooperation with civil society organizations and to ensure that all human rights defenders, including defenders of economic, social and cultural rights, are able to carry out their work free from any form of intimidation or threat. The Committee urges the State to put an end to defamatory statements against some of those who publicly participate in the dialogues that the Committee, in accordance with its working methods, holds with civil society organizations.

Statistical data

15. The Committee takes note of the explanations provided by the delegation concerning the data-collection system that the State party has developed, but it regrets that neither the report nor the replies to the list of issues contain sufficient updated statistical data that would allow for a better evaluation of the implementation of economic, social and cultural rights in the State party (art. 2, para. 1).

The Committee recommends that the State party continue to encourage the systematic collection of data and the production and use of statistics for human rights indicators, including indicators of economic, social and cultural rights,

based on these data. In this respect, it refers the State party to the conceptual and methodological framework for human rights indicators developed by the Office of the United Nations High Commissioner for Human Rights (see HRI/MC/2008/3). The Committee urges the State party to include in its next periodic report statistical data on the enjoyment of each Covenant right, disaggregated by age, sex, ethnic origin, urban/rural population and other relevant criteria, on an annual comparative basis.

Anti-discrimination legislation

16. The Committee is concerned that, despite the legislative measures taken to promote non-discrimination, the State party still does not have a comprehensive legal framework to combat discrimination that incorporates all the criteria set out in the Covenant (art. 2, para. 2).

The Committee recommends that the State party expedite the drafting and adoption of legislation that will ensure adequate protection against discrimination in accordance with article 2, paragraph 2, of the Covenant and include therein all grounds of discrimination, including other status, such as sexual orientation and gender identity. In this regard, it draws the State party's attention to its general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights.

Gender equality

17. Despite the measures taken by the State party to promote gender equality, in particular the adoption of the "Mamá Rosa" National Plan for Gender Equality and Equity 2013-2019, the Committee is concerned about the persistent inequality between men and women in the enjoyment of economic social and cultural rights, particularly in the area of employment (art. 3).

The Committee recommends that the State party strengthen its gender equality policy and ensure its effective implementation. It also recommends that the State party intensify its efforts to change stereotypes and the perception of gender roles both in the family and in society, including by conducting awareness-raising campaigns and educating men and women about sharing responsibility for family tasks and equal opportunities for professional development as a result of education and training in areas other than those traditionally dominated by one gender.

Unemployment

18. Despite the reduction in the State party's unemployment rate, the Committee is concerned that unemployment remains high, and that it particularly affects young people and women (arts. 3, 6 and 7).

The Committee recommends that the State party strengthen its national employment strategy, introduce specific targets and aim the strategy in particular at reducing unemployment among young people and women, including by addressing the mismatch between education and labour market demands through enhanced quality in technical and vocational training and education. The Committee draws the State party's attention to its general comment No. 18 (2005) on the right to work.

Minimum wage

19. The Committee takes note of the adjustments to the minimum wage. However, it is concerned at reports according to which the existing minimum wage is not

sufficient to ensure a decent standard of living for workers and their families and at the fact that there is no transparent system of indexation and adjustment (art. 7).

The Committee recommends that the State party ensure that the national minimum wage is reviewed by means of an effective and transparent system of indexation and adjustment and set at a level sufficient to ensure a decent standard of living for all workers and their families. The Committee reminds the State party of the importance of transparent tripartite negotiations between State authorities, elected representatives of workers and employers in establishing an effective system for setting the minimum wage.

Trade union rights

20. The Committee takes note with concern of reports of acts of violence and intimidation against trade union leaders and members. The Committee is also concerned about interference by some State authorities in the election of trade union representatives (art. 8).

The Committee urges the State party to protect trade union rights and effectively investigate all reports of violations of trade union rights that are brought to its attention. The Committee recommends that the State party review the legal provisions restricting the right of trade unions to freely elect their representatives.

Social security

21. Despite the State party's efforts to extend social protection coverage, the Committee is concerned at the lack of information on the measures taken to ensure that all persons are covered by the social security system, including the most disadvantaged and marginalized individuals and groups, and to ensure that minimum essential levels are met by the social security system. The Committee is also concerned that the social security system provided for in the Social Security System Act has not yet been set up (art. 9).

In the light of its general comment No. 19 (2008) on the right to social security and its statement on social protection floors (2015), the Committee urges the State party to:

(a) Strengthen its efforts to ensure that all persons are covered by the social security system, including the most disadvantaged and marginalized individuals and groups, without discrimination on any of the grounds prohibited under article 2, paragraph 2, of the Covenant;

(b) Adopt the necessary measures to ensure that the amount of social assistance benefits is sufficient to cover the real cost of living for all persons and families, including by setting up an effective and transparent indexation system;

(c) Take the necessary measures to create the social security system provided for in the Social Security System Act.

Economic exploitation of children

22. The Committee, while taking note of the progress made in fighting child labour, is concerned about reports received of the prevalence of child labour in the State party and regrets that updated statistical data has not been provided that would allow it to assess the problem. (art. 10).

The Committee recommends that the State party step up the fight against the economic exploitation of children, by ensuring that legislation is vigorously

enforced and by strengthening child labour monitoring mechanisms and support measures for poor families. The Committee urges the State party to include in its next report disaggregated statistical data that will allow it to assess the incidence of economic exploitation in the State party.

Domestic violence

23. The Committee is concerned about the low number of investigations and convictions in cases of violence against women and the absence of a national strategy for the prevention of domestic and gender-based violence (art. 10).

40. **The Committee recommends that the State party:**

(a) Effectively investigate, prosecute and punish all acts of domestic and gender-based violence;

(b) Develop a coherent strategy to prevent domestic and gender-based violence, including campaigns to raise general public awareness of the negative effects of domestic and gender-based violence;

(c) Carry out training programmes on the criminal and serious nature of domestic and gender-based violence aimed at public officials, such as law enforcement officials, prosecutors and judges, as well as social workers and teaching staff.

(d) Extend the protection for victims of domestic and gender-based violence, inter alia, by establishing a sufficient number of shelters nationwide, including for individuals belonging to indigenous peoples.

Poverty

24. Despite the significant reduction of poverty due to the implementation of social programmes known as “missions”, the Committee notes with concern that in recent years there has been a downward trend in the results of poverty reduction efforts (art. 11).

The Committee recommends that the State party should undertake a comprehensive and independent evaluation of the so-called “missions” in order to identify the obstacles to further progress in the fight against poverty. Thereafter it should take the necessary corrective measures, while ensuring that these and other programmes with similar goals have a human rights-based approach and sufficient resources for their implementation and paying due attention to disparities and gaps between urban and rural areas and to the needs of the most disadvantaged and marginalized groups.

Right to adequate housing

25. Notwithstanding the progress made in the area of housing with the roll-out of the Great Venezuelan Housing Mission and the involvement of various citizens’ movements, the Committee is concerned at the continued existence of informal settlements, the persistent housing shortage in the State party and at reports concerning defects in the dwellings that have been built and the deterioration of the urban environment (art. 11).

In the light of its general comment No. 4 (1991) on the right to adequate housing, the Committee recommends that the State party adopt a comprehensive social housing strategy that:

(a) Is based on the right of every individual to adequate and affordable housing, with clearly defined standards of quality and habitability;

(b) Does not lead to segregation based on economic or social status, political opinion or any other prohibited grounds of discrimination under the Covenant;

(c) Provides for resources, including building materials, that are proportionate to the unmet need for social housing, effective monitoring of the housing situation in the State party and an accountability framework for the implementation of policies and plans;

(d) Ensures the availability of and access to adequate basic services such as water, sanitation and electricity, and the availability of equipment and services that facilitate the use of public transportation and promote reasonable energy consumption.

Right to food

26. Despite the State party's progress in strengthening agricultural production and integrating small producers into the local economy, the Committee is concerned that the State party has increased its dependence on food imports, a situation which has contributed to a serious shortage and scarcity of food and basic necessities (art. 11).

The Committee recommends that the State party increase investment in local agricultural production, thereby improving the productivity of small farmers and their access to local markets, in order to raise incomes in rural areas. It also urges the State party to assess the results of the agrarian reform process with a view to redesigning the national strategy on the realization of the right to food. The Committee further recommends that the State party adopt emergency measures to address the shortage of food and basic necessities. It refers the State party to the Committee's general comment No. 12 (1999) on the right to adequate food and the Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security, adopted by the Food and Agriculture Organization of the United Nations.

Health-care system

27. The Committee takes note with concern of the reports regarding the critical situation of the health-care system in the State party due to the severe shortage and irregular supply of medicines and surgical and medical equipment. It is further concerned at the poor state of repair of some hospitals and the reported lack of medical personnel (art. 12).

The Committee recommends that the State party allocate sufficient resources to the health sector. It urges the State party to adopt as a matter of urgency the necessary measures to guarantee the availability and quality of health-care services and to ensure a sufficient number of public health-care establishments, goods and services with skilled medical personnel, scientifically approved and unexpired drugs and hospital equipment and adequate sanitation.

Sexual and reproductive health

28. The Committee is concerned at the high maternal mortality rates, which are due in part to the lack of adequate sexual and reproductive health services and the large number of unsafe abortions. The Committee is further concerned at the high teenage pregnancy rates (art. 12).

The Committee recommends that the State party:

(a) **Take the necessary legislative and administrative measures to solve the problem of maternal mortality, taking into account the technical guidance**

provided by the Office of the United Nations High Commissioner for Human Rights on the application of a human rights-based approach to the implementation of policies and programmes to reduce preventable maternal morbidity and mortality (A/HRC/21/22);

(b) Amend its legislation on the prohibition of abortion in order to render it compatible with other fundamental rights, such as women's right to health, life and dignity;

(c) Intensify its efforts to ensure the accessibility, availability and affordability of sexual and reproductive health care, especially in rural areas;

(d) Expand and strengthen comprehensive and age-appropriate sexual and reproductive health education for both sexes in primary and secondary curricula.

Disease prevention and treatment

29. The Committee is concerned that the number of HIV/AIDS cases in the State party has risen and that there are frequent shortages of antiretroviral drugs. The Committee is also concerned about the increase in the number of cases of malaria and other mosquito-borne diseases (art. 12).

The Committee recommends that the State party adopt a national plan to prevent the spread of HIV/AIDS, malaria and other mosquito-borne diseases, paying due attention to groups at risk. It also urges the State party to take the necessary steps to ensure adequate coverage of antiretroviral drugs and to make them accessible to persons living with HIV/AIDS. The Committee further urges the State party to carry out awareness-raising activities aimed at promoting understanding of the modes of transmission of HIV and tolerance towards persons living with HIV/AIDS, particularly among medical personnel, employers and the general public.

Right to education

30. The Committee takes note with satisfaction of the measures adopted by the State party to increase investment in and improve access to education. However, the Committee is concerned at reports regarding the inclusion in school programmes of materials and activities for the purpose of indoctrination that may be incompatible with the full development of the human personality and the sense of its dignity as well as with respect for human rights and fundamental freedoms (art. 13).

The Committee recommends that the State party take all the measures needed to ensure that education promotes full respect for human rights and fundamental freedoms as well as active participation in a free society, where understanding, tolerance and friendship among nations prevail.

Cultural rights and freedom of expression and information

31. The Committee is concerned at the lack of information on the steps taken to prevent limitations on the exercise of the freedom of information and expression, which is a vital component of the right to participate in cultural life, and to benefit from technological and scientific progress (art. 15).

The Committee urges the State party to adopt effective measures to remove restrictions on the freedom of expression and information in the State party and to enable all persons under its jurisdiction to take part in cultural life and to enjoy the benefits of scientific progress and its applications.

D. Other recommendations

32. **The Committee encourages the State party to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention for the Protection of All Persons from Enforced Disappearance.**

33. **The Committee requests the State party to disseminate the present concluding observations widely at all levels of society, in particular among indigenous peoples, public officials, judicial authorities, lawmakers, lawyers and civil society organizations and to inform the Committee in its next periodic report on the steps taken to implement them. It also encourages the State party to engage civil society organizations in the discussions to be held at the national level prior to the submission of its next periodic report.**

34. **The Committee requests the State party to submit its fourth periodic report by 30 June 2020 at the latest. It invites the State party to update its common core document, where applicable, in accordance with the compilation of guidelines on the form and content of reports to be submitted by States parties to the international human rights treaties (HRI/GEN/2/Rev.6, chap. I).**