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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Thirty-ninth session

SUMMARY RECORD OF THE 34th MEETING

Held at the Palais Wilson, Geneva,  
on Tuesday, 6 November 2007, at 3 p.m.

Chairperson: Mr. TEXIER

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Second to fourth periodic reports of Costa Rica (continued) (E/C.12/CRI/4; E/C.12/CRI/Q/4 and Add.1; HRI/CORE/1/Add.104)

1. The CHAIRPERSON invited the Committee to continue its consideration of Costa Rica's replies (E/C.12/CRI/Q/4/Add.1) to the list of issues concerning articles 1 to 9 of the Covenant.
2. Mr. RIEDEL, referring to the reply to question 2, said that while it was important that the Constitutional Chamber of the Supreme Court of Justice had cited the Covenant, the Committee would be particularly interested to hear about cases in which the Covenant's provisions had actually been applied in practice. The case cited in the replies related to noise pollution and related nuisances. What had been its outcome?
3. The CHAIRPERSON, speaking in his capacity as a member of the Committee, asked whether free-trade zones existed not only in the country's ports, but also in the interior, and to what extent domestic laws, trade union rights and labour inspections were applicable in such zones.
4. Ms. UBEDA (Costa Rica) said that in Costa Rica not only did corruption pose a legal, economic and political problem; it was also a moral challenge. While in many countries high officials enjoyed impunity from accusations of corruption, Costa Rica was a State based on the rule of law with a strong democratic tradition and well-established legal standards, and two former Presidents had been among those charged with illicit acts following investigations of corruption cases that had come to light two years previously. Both had spent time in prison or under house arrest. The cases were still pending, and had been referred to the criminal courts. Unlike in most countries, in Costa Rica the Office of the Attorney-General was independent of the executive branch. While corruption was admittedly a problem, it was heartening to see that the system was functioning reasonably well even in such circumstances. In general, it was the Controller's Office, an independent constitutional body, that bore responsibility for combating corruption at the central level. Pursuant to an Act against Corruption and Illicit Enrichment in the Public Administration, public servants were obliged to declare all their assets, including not only real estate, vehicles and bank accounts, but even the brands of clothing they owned.
5. While international loans in the health sector had indeed had an impact on the services that were available, they hardly amounted to more than 0.5 per cent of the overall health budget, and they were used mainly for the purchase of equipment. They therefore had had a minimal effect on the level of social spending in the country.
6. The poverty rate had recently fallen from 20 per cent to about 16 per cent, but the Government was aware that the gap between the poorest and the wealthiest Costa Ricans was growing, and in the past year it had taken comprehensive steps to reduce such inequality. In the year ending July 2007 the rate of extreme poverty had declined from 5.3 per cent to 3.3 per cent.

Some 126,000 disadvantaged students had received financial assistance, and specific programmes were being implemented for women and children in rural and indigenous communities, for example to build infrastructure for the provision of school lunches. Unemployment had fallen in the year ending July 2007 from over 6 per cent to 4.6 per cent, and a higher proportion of new jobs had gone to women, and poor women in particular.

7. In accordance with the 1951 Convention relating to the Status of Refugees and its Protocol of 1967, refugees had the right to work in Costa Rica. However, the integration of refugees was a complex matter, and because many employers were unaware of the refugees' legal rights and were thus reluctant to hire them, the Government had carried out awareness campaigns to explain that such employment was authorized.

8. The Constitution guaranteed all foreigners, including migrants and refugees, the same rights and obligations as Costa Rican citizens. The Constitutional Chamber had recently ruled against a system that had limited the number of foreigners to 10 per cent of the workforce.

9. Many indigenous people lived in remote areas that were economically marginalized, which made it difficult to incorporate such groups into the labour market. The Government was making efforts to overcome such obstacles and to reduce regional inequalities.

10. Her delegation welcomed the recommendation to ratify ILO Conventions Nos. 113 and 118, which remained relevant. Social security was quite extensive, covering some 90 per cent of the population for most health services, and 100 per cent for emergency services. There were nonetheless serious regional disparities. In some poorer cantons in the border areas, coverage rates for the former were as low as 53 per cent. To address such disparities the Government assigned basic comprehensive health-care teams to work in such areas.

11. While the proportion of uninsured persons had declined from 18 per cent to about 12 per cent over a 14-year period, in absolute terms very many people still lacked insurance. The phenomenon of massive migration from rural to urban areas was not unique to Costa Rica, and could be seen throughout the region. In Costa Rica's case, it corresponded to economic changes that had begun in the 1990s, when tourism, manufacturing, construction and services had begun to grow, spurring employment-related migration. It was of interest that even the tourist industry was now increasing its activities in rural areas. The Government clearly had to make efforts to integrate the free-trade zones with the national economy in order to take full advantage of job-creation opportunities. The Constitutional Chamber had an enormous amount of authority in Costa Rican society. The Chamber was renowned for its effectiveness and for being accessible to all citizens. As the country's highest court, its rulings took precedence over those of all other judicial bodies, and in the event of a failure to comply with its decisions, the cases in question were automatically referred to the criminal courts.

12. The free-trade zones were tax-free areas, but they were certainly not enclaves where national legislation and regulations were inapplicable. All the country's human rights standards were fully applicable in such zones, as were the laws concerning trade union rights and freedom of association.

13. Ms. BONOAN-DANDAN said that, while the statistics provided on the right to work were useful, it was difficult to gauge any improvement in the situation and to establish whether the State party felt that progress was sufficient without knowing what benchmarks and targets had been set. It appeared that the Government was satisfied with the progress made, but since Costa Rica had last appeared before the Committee almost two decades previously, she wondered whether the improvements were in fact significant.

14. She asked the Costa Rican delegation to explain what had been the impact of the decline of the agricultural sector, for example, on the right to food. She herself came from a country that had once been a predominantly agricultural economy but was now becoming a service economy, and access to food had become a problem. She also enquired how the Central America-Dominican Republic-United States Free Trade Agreement (CAFTA-DR) might have further affected the situation, pointing out that there must be safeguards to the right to food, particularly for the most disadvantaged groups.

15. Lastly, on the banana industry issue, the State party had claimed that no persons had been laid off due to union persecution, whereas the information held by the Committee suggested otherwise. While, on the surface, such a practice might not appear to constitute union persecution, the falling price of the banana had allegedly been used as a justification for laying off workers. She requested a detailed comment on the matter.

16. Mr. SADI said the delegation's assurances that the right to work was enjoyed equally by nationals and non-nationals was encouraging, but requested it to demonstrate that claim with specific details of cases in which that equality had been enforced, in order to show that it was not simply an abstract right. Secondly, he accepted the State party's claim that the migration of people from rural to urban areas was essentially caused by the change in the economy, as the same pattern had occurred in other countries, but stressed that the issue of substandard working conditions in rural areas also had to be recognized and addressed.

17. Ms. UBEDA (Costa Rica) said that, while her delegation understood why Committee members had asked for more detail, statistics were an important starting point. She said that her Government was continually striving to reduce inequalities in employment and that enough would have been achieved in the area of poverty reduction only when poverty had been eliminated altogether, which the President had stated would be possible by 2010.

18. Many measures had been taken in the social sector in relation to the National Development Plan for 2006-2010, with the aim of generating high-quality employment in the best possible working conditions. She drew attention to paragraphs 50 and 52 of the replies to the list of issues (E/C.12/CRI/Q/4/Add.1) in that respect, and added details of three further measures: firstly, a salary policy designed to maintain the real value of total salaries in both the public and private sectors and to bring purchasing power in line with minimum wage levels; secondly, a system of indicators to monitor and evaluate the use of resources from the Social Development and Family Allowances Fund; and, lastly, a programme to strengthen State action in relation to occupational health.

19. Agriculture had been the State party's main source of income in the nineteenth century and the first half of the twentieth century, and while production had declined significantly since then, it did remain high: the major exports were coffee and bananas, and less traditional products such

as citrus fruit were also exported. An important additional aspect was that the country had been developing an open economy during the second half of the twentieth century. That did not mean, however, that social programmes had been abandoned when there had been sustained growth, which in fact led to increased public social investment.

20. On the banana industry, she pointed out that the Government did not own banana plantations or employ plantation workers, but that it did employ port workers handling banana exports. Costa Rica had effective mechanisms in place to deal with possible individual complaints from banana workers - it had ratified the various Inter-American instruments and the Constitutional Chamber guaranteed justiciability - but her delegation was unaware of any such cases.

21. Ms. SEGURA HERNÁNDEZ (Costa Rica) said it was important to bear in mind that, alongside the fall in the price of bananas, which had a potentially negative impact on banana workers, there had been a shift in the focus of the banana industry to products derived from bananas. The National Banana Corporation incorporated different banana companies and had measures in place to encourage them to respect parameters such as the rights of workers.

22. There had been one complaint of unfair labour practice in the Central Pacific region which had been shelved because no anti-union activities had been proved. The Ministry of Labour and Social Security had a procedure for investigating complaints, which had led to specific action by the Ministry to prevent anti-union activities. If sufficient grounds were found, cases were brought before the labour courts at the Ministry's request through its labour inspection units in each geographical region. A series of examples were given in the State party's replies to the list of issues to show how the inspections were carried out.

23. Ms. UBEDA (Costa Rica), in response to the request for clarification on solidarity movements, said that Costa Rica had two basic ways of organizing its workers: through traditional trade unions and through solidarity movements, which had begun around 20 years previously. Each institution could set up its own solidarity movement, and workers and employers could join and benefit from them. The two systems coexisted and it was possible to be a member of both a trade union and a solidarity movement.

24. In response to the request for proof that the right to work was not just a matter of legislation but was upheld in reality, she said the fact that Costa Rica recognized the right to work was the very reason why there were so many Nicaraguan migrant workers in the country. Details of case law involving instances in which rights had not been upheld and which had been resolved by the Constitutional Chamber would be provided the following day; for example, a decision of 1994 on foreigners' right to work and a decision of 1999 which had abolished a limit previously imposed on companies whereby foreign workers must make up no more than 10 per cent of the workforce. Studies had shown that foreign labour had made a significant contribution to economic growth in the country.

25. The CHAIRPERSON invited members of the Committee to raise questions in connection with Costa Rica's written replies (E/C.12/CRI/Q/4/Add.1) concerning articles 10 to 12 of the Covenant.

26. Mr. ATANGANA, recalling previous observations by the Human Rights Committee, which had requested the State party to consider amending strict anti-abortion legislation to allow certain exceptions since the rigidity of legislation had led to clandestine abortion and put victims in great danger, asked what measures had been taken in the meantime.

27. While acknowledging the information already provided, he asked the State party for further information on measures adopted to combat drug use by young persons and adults, domestic violence and sex tourism, and on the impact of the two plans adopted to prevent and eradicate child labour.

28. Mr. KOLOSOV said that three non-derogable rights arose from article 11 of the Covenant on the right to an adequate standard of living: the rights to adequate food, clothing and shelter. Although the implementation of article 11, paragraph 1, of the Covenant could be gradual, he considered that Costa Rica had been party to the Covenant for long enough to fully implement those provisions. In civilized society people should not be deprived of their right to food, clothing and shelter. Malnutrition among children was particularly serious. The Government should intensify its efforts in order to ensure that in its next periodic report it could state that nobody was thus deprived.

29. Mr. PILLAY asked the State party to explain the differing accounts of the number of people living below the poverty line in Costa Rica: the delegation had said the poverty rate had decreased to 16 per cent, whereas the World Bank Country Report 2007 and the Economist Intelligence Unit Country Briefing 2007 put the figure at 20 per cent, stating that the current Costa Rican President had set a target of reducing the rate to 16 per cent by 2010. He also asked whether the State party's poverty-reduction strategy was targeted towards the disadvantaged and marginalized groups that generally made up the poor population - those living in rural areas, indigenous people, migrants, children, women, Afro-Costa Ricans - especially when they suffered from discrimination, high unemployment and lack of basic amenities and services, and whether the strategy incorporated economic, social and cultural rights.

30. He inquired whether the right to decent housing guaranteed by broad legislation was justiciable, and whether the Government's low-cost housing programme had been targeted towards the 10,000 families currently living in extreme poverty, as identified by local transparency committees set up by the State party. Since large numbers of people, including many Nicaraguans and Afro-Costa Ricans, were living in squatter settlements in high-risk areas, he expressed regret that the State party had not fully answered question 20 on forced evictions. He therefore asked the State party to clarify, either at the current session or in the next periodic report, whether forced evictions complied with the Committee's general comments 4 and 7, by ensuring due process of law and providing compensation or alternative accommodation, and to provide case law on the matter. Lastly, he asked whether the fact that the State party tolerated squatting meant that homelessness did not exist in Costa Rica.

31. Mr. RIEDEL said that, according to the statistics provided in the written replies to the Committee's list of issues, despite a minor improvement in the number of teenage pregnancies in Costa Rica, births to girls under the age of 18 had continued to represent 14 per cent of the total number of births per year between 2001 and 2005. He asked what was being done to reduce teenage pregnancies. Although the State party had provided information about legislation in place to protect mothers and children, including the Convention on the Rights of the Child, it had

not provided any details of practical measures that were being taken to implement that legislation, whether those measures had been effective and, if not, what was being done to rectify the situation. While, in its written replies to question 21 on the list of issues, the Government described its legislation for the protection of adolescent mothers and its “building opportunities programme”, it gave no indication of the results of those measures. Further information in that regard would be appreciated. He wished to know what the results of the implementation of the guidelines on teenage pregnancy had been, and who was responsible for monitoring the progress made. He wondered whether any targets were being set to improve situations requiring improvement, in order to provide the Committee with results-based, disaggregated statistics in the next periodic report.

32. Turning to the written reply to question 22 on the list of issues, he said that although the State party had stated that audit reports showed no evidence of mismanagement, misappropriation or embezzlement of Social Security Fund (CCSS) resources provided by foreign donors, paragraph 154 gave detailed information on legislation on internal control of CCSS which was so strict as to give the impression that there must be some truth in the allegations. The Government had stated that in 2004 cases of corruption had been reported by the media, and that those responsible were being brought to justice in two criminal cases. He asked what stage those cases had reached.

33. Mr. SADI said that, although the State party had provided information on laws, policies and programmes to combat trafficking in persons, sexual tourism and child prostitution, he wished to know how many perpetrators of those offences had actually been prosecuted. He asked why there was such a disparity between the minimum age of sexual consent and the minimum age for marriage. He wondered why marital rape and non-marital rape were treated equally, and why it was thought that marital rape was more difficult to prosecute than non-marital rape.

34. Mr. TIRADO MEJÍA requested an explanation of the State party’s policies on reproductive health in the light of its religious background and cultural history. He wished to know what was the Government’s attitude to drugs, and how drug addicts were treated. He wondered whether they received health care, and whether there were any awareness-raising campaigns in place on drug use. In that connection, statistics on drug use in the State party would be appreciated.

35. Ms. WILSON said she wished to know whether legislation on the criminalization of violence against women had entered into force and, if not, when it would do so. She asked whether domestic violence would be criminalized and, if so, what penalties would be imposed on the perpetrators. She further inquired whether the Government had a policy on rehabilitation for victims of domestic violence and whether there were any shelters where women and children who had been victims of domestic violence could take short-term refuge. She also asked whether children were subjected to domestic violence as often as women, and whether corporal punishment had been criminalized in schools or at home. Was there a comprehensive policy in place on the prevention of child abuse?

36. Turning to the right to an adequate standard of living, she asked what state of repair the roads were in, and whether the State was responsible for the construction and maintenance of transport infrastructure. She wondered whether poor roads were the reason why rural areas were becoming increasingly remote. She asked what was being done to improve the situation

regarding waste disposal, since the lack of a proper sanitation system constituted a serious health risk. Noting that indigenous families were particularly affected by poverty, and often had to sell their ancestral lands in order to pay off their debts, she asked for the State party's comments on that matter, and requested further information on what was being done to improve access to health services for indigenous people, which had previously been limited by administrative problems.

37. Mr. DASGUPTA, noting that Costa Rica's health insurance scheme had become increasingly comprehensive in scope over the past 10 years, asked whether health spending would increase in the future, in order to keep pace with increases in the cost of medical services. He requested clarification of statistics on poverty, since the information provided by the delegation did not match that published by the World Bank. He asked how poverty was measured.

38. Mr. RZEPLINSKI asked whether any agreements had been concluded between the State party and international organizations or institutions, such as the United Nations Educational, Social and Cultural Organization (UNESCO), on the protection of children's rights and free access to primary education, and with the World Health Organization to provide adequate and equal health protection, particularly for children. He wondered whether there were any programmes in place to provide computers in schools. He asked what was being done to prevent violence and drug use in schools, and to offer support for children and parents, and ensure that schools offered children a safe environment, free from fear.

39. Ms. UBEDA (Costa Rica) said that only 3.3 per cent of the population lived in extreme poverty and might suffer from malnutrition, clothing shortages and lack of appropriate housing. The Government was striving to improve the standard of living. Schools had canteens to guarantee appropriate nutrition for children living below the poverty line. The attendance rate in primary schools was 99 per cent. Employment, health and education programmes were targeted at the poorest sectors of society, in order to reduce poverty levels. There had been a misunderstanding of statistics on poverty quoted by her delegation, which had led to some confusion. Since July 2006 there had been a decrease in poverty of over 3.5 per cent, and a 2 per cent decrease in extreme poverty. The Government was striving to reduce poverty still further.

40. Forced evictions followed a relatively strict procedure based on the principles of due process and legality, and guaranteed the protection of the rights of those being evicted. If evictions were necessary for the construction of public buildings, for example, there were legislative provisions establishing the right of those evicted to compensation. Cases concerning the violation of a constitutionally established right could be brought before the courts. Her delegation would provide the Committee with specific case law, as situations differed considerably in the housing system, and the criteria applied for various housing programmes varied.

41. With regard to squatter settlements, the Ombudsman was issuing a series of recommendations to the Ministry of Housing and the Joint Social Welfare Institute to provide inhabitants of the la Carpio squatter settlement with title deeds. In that connection, a special working commission had been established to draft and implement an urgent comprehensive plan, work on which was under way. The la Carpio settlement, whose population was made up



of 60 per cent Nicaraguans and 40 per cent Costa Ricans in socially precarious situations, was the paradigmatic case in terms of evictions and was receiving considerable attention with a view to ensuring that titles were issued and evictions did not recur.

42. With regard to the misappropriation of funds, the complaints made to the criminal authorities and investigated by the public prosecutor were related to a Spanish loan, which was included in the 0.5 per cent figure for international loans in the health sector. Those cases did not relate to internal mismanagement of the Costa Rican Social Security Fund as such, but rather to mismanagement of resources relating to the purchase of equipment, including equipment that had not been used in hospitals but had remained in storage. Two ex-presidents of the Fund were currently being tried in the criminal courts in relation to those incidents. Two cases had been investigated by an independent body, and criminal proceedings had been initiated in one case.

43. Mr. RIEDEL asked whether there was a system of alternative or emergency accommodation in place to prevent homelessness among people legally evicted.

44. The CHAIRPERSON invited the Committee to raise any further questions concerning, in particular, articles 13 to 15 of the Covenant.

45. Ms. BONOAN-DANDAN asked whether primary education was in fact entirely free or whether corollary fees applied, such as the cost of materials. She wished to know how the salaries of State schoolteachers compared with those in private education. Noting that, according to the report, the illiteracy rate was particularly high in one part of the country, she requested details of the area in question and the reasons for the disparity. She wondered to what extent artistic education and cultural activities were included in the school curriculum.

46. Ms. WILSON asked what was being done to improve access to basic education for indigenous people and whether facilities were adequate and adapted to their culture. She wished to know whether special schools for people with disabilities were adequately equipped and staffed and whether they were also available in rural areas.

47. Noting that, according to the report, the teaching of a second language was being expanded, she asked how it was decided which language to teach, and whether the same language was taught throughout the country. She wondered what was being done to protect indigenous languages. She asked the delegation to comment on the conclusion of the Committee on the Elimination of All Forms of Racial Discrimination that two indigenous languages were threatened with extinction, and asked what measures were being taken generally to protect indigenous languages and the cultural heritage of all indigenous people.

48. Mr. ABDEL-MONEIM noted with concern that, according to the State party report, the budget of the Ministry of Culture had decreased substantially in recent years and asked why that had been allowed to happen. Conversely, it appeared that the functions of the Ministry had been expanded, and he wondered whether that had been made possible by extrabudgetary resources or other means. He drew attention to the fact that, in many countries, there was a worrying trend towards the privatization of the cultural sector.

49. Mr. MARCHÁN ROMERO asked whether the indigenous reserves referred to in the report corresponded to the ancestral territories and whether collective rights to that land were

recognized. He wished to know the results of the pilot indigenous education programme launched in 1996 and whether there were plans to extend it to other indigenous areas. He asked whether there were any specific laws or measures to preserve ethnic identity and whether there was constitutional recognition of the multicultural and pluri-ethnic character of Costa Rica. He inquired whether, in addition to the constitutional provision, there were any other specific laws on intellectual property. Noting that the constitutional provision referred to “temporary” protection of copyright, he asked what period was understood under “temporary”. Had the State party taken account of the Committee’s general comment 17 on intellectual property when drafting provisions in that area?

50. He shared the concern over the significant decrease in the budget of the Ministry of Culture, and wondered how it was to be interpreted.

51. He asked what measures had been adopted to ensure a balance between environmental conservation and protection of biodiversity, on the one hand, and development of the tourism sector, on the other.

52. Mr. TIRADO MEJÍA, referring to article 6, requested clarification as to whether the right to work did in fact apply to all in Costa Rica, including migrants, asylum-seekers and refugees, as the Committee had received reports that asylum-seekers did not have the right to work.

53. Mr. SADI asked whether the State party had any programme to promote an integrated school system.

54. Mr. PILLAY expressed concern that, according to reports received by the Committee, some textbooks used at primary and secondary levels depicted black people in a derogatory and stereotyped fashion. He asked the delegation to comment on that claim.

55. Mr. KOLOSOV asked whether Costa Ricans, particularly younger people, had been exposed to any negative effects through the Internet. He wished to know whether the school curriculum paid attention to advances in the dialogue of civilizations.

56. Mr. RIEDEL, referring back to the right to health, asked what measures had been taken to improve the situation with regard to drinking water and sewage, as referred to in the report, which was of particular interest since the Human Rights Council was considering the appointment of a special rapporteur on that subject.

The meeting rose at 4.40 p.m.