



Economic and Social Council

Distr.: General
8 January 2010
English
Original: French

Committee on Economic, Social and Cultural Rights Forty-second session

Summary record of the 7th meeting

Held at the Palais Wilson, Geneva, on Thursday, 7 May 2009, at 10 a.m.

Chairperson: Mr. Marchán Romero

Contents

Consideration of reports

- (a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Second periodic report of Brazil (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Editing Unit, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

The meeting was called to order at 10.05 a.m.

Consideration of reports

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (agenda item 8) *(continued)*

Second periodic report of Brazil (E/C.12/BRA/2; core document (HRI/CORE/1/Add.53/Rev.1); concluding observations of the Committee on the initial report of Brazil (E/C.12/1/Add.87); list of issues to be taken up (E/C.12/BRA/Q/2); written replies by the Government of Brazil to the list of issues to be taken up (E/C.12/BRA/Q/2/Add.1)) *(continued)*

1. *At the invitation of the Chairperson, the members of the delegation of Brazil took places at the Committee table.*

Articles 6–9 of the Covenant (continued)

2. **Mr. Dasgupta** said that he understood from paragraphs 87–93 of the written replies by the Government of Brazil to the list of issues to be taken up that policies promoting the right to work of indigenous peoples were targeted exclusively at those living in settlements and not those living outside settlements, in other words almost 70,000 people. He also pointed out that most domestic workers apparently had no work papers and, therefore, no effective protection of their work-related rights. He asked what was being done to ensure that all workers had documents that would provide them with protection and whether delinquent employers were prosecuted in the case of a repeated offence or simply incurred a fine. Lastly, he enquired whether any measures were contemplated to bring into the social security system the many workers who still had no work contracts and were therefore not covered by social security.

3. **Ms. Bras Gomes** asked whether the programme guaranteeing an income for those people who because of age or disability were not in the labour market could be considered as a step towards establishing a guaranteed minimum income. As she had understood that at one time minimum wage legislation had been discussed, she asked the Brazilian delegation to indicate whether such a law had been adopted, and whether the *Bolsa Família* programme came closest to a minimum income scheme. Given that 34.7 per cent of the workforce were not covered by social security, she asked whether the State party had considered establishing a basic set of social security benefits for workers in the informal sector, as recommended by the International Labour Organization (ILO).

4. She enquired whether people with no social security cover on account of insufficient income were covered by the social assistance scheme, and, if so, what benefits were granted. She also asked whether measures taken to encourage workers to enrol in the social security system had had the desired effect and, if not, what other measures were planned. Were the minimum pension amounts enough to provide a decent standard of living? Was the stability of the social security system guaranteed in Brazil? Were high public sector pensions a destabilizing factor for the rest of the system?

5. **Mr. Zhan Daode** asked whether the measures taken to combat domestic violence, particularly violence against women, 19 per cent of whom reported being victims according to a study mentioned in paragraph 145 of the second periodic report of Brazil, had led to an improvement and, if so, to what extent.

6. **Mr. Tirado Mejía** praised the major progress made towards eradicating forced labour and slave work since submission of Brazil's initial periodic report. He also welcomed the Supreme Court of the State's decision defining those offences as coming under federal jurisdiction, which enabled the State to adopt a more effective policy. He

enquired too about the progress of the bill which envisaged, in cases of persons convicted of forced labour or slave work practices, the expropriation of lands where the offence was committed, in addition to criminal sanctions.

7. **Mr. Vannuchi** (Brazil) confirmed that the construction of walls around *favelas* in Rio de Janeiro had begun in March 2009. According to information obtained by the Brazilian delegation, the Government of the State of Rio de Janeiro had initiated the project, on the grounds of security (problems of organized crime) and environmental factors (risk of landslides). Civil society and the Bar Association had reacted and some people were calling for a halt to the building of the walls. He would take the initiative of contacting the state authorities to let them know of the Committee members' concerns.

8. **Ms. Gonçalves** (Brazil) said that labour market inequalities persisted but that the situation had improved between 1996 and 2007, during which period the proportion of women in the labour market had increased from 52.2 per cent to 58.8 per cent. Unemployment still affected women more than men, and black women more than white women. The former were more often employed as domestic workers than the latter. Moreover, 92.6 per cent of economically active women reported carrying out domestic tasks, compared to 50.7 per cent of men. Measures had been taken to alter those trends. Two national conferences had been organized on Women's Policies, and the second edition of the Pro Gender Equality Program that had been adopted provided for measures in favour of equality at work.

9. With respect to domestic violence, there had been a marked improvement, although data for assessing the effectiveness of the law on domestic violence were not yet available. Services had been set up to help women victims of violence. The number of cases reported to the authorities was rising. The free helpline available to women, which received 240,000 calls in 2008, provided information for victims and referred them to other agencies for help.

10. **Mr. Vannuchi** (Brazil) said that the number of workers employed in conditions tantamount to forced labour or slave work was estimated in Brazil by some non-governmental organizations (NGOs) at 25,000, but the figure was probably higher. The inspection groups set up by the Ministry of Labour had doubled their teams since the election of President Lula da Silva. Constitutional Amendment No. 438/01 providing for the expropriation of lands on which the exploitation of slave work was detected had been passed by the Senate and the Chamber of Deputies in the first of two rounds of voting. With regard to efforts at the national level, 170 businesses had made a commitment in August 2008 not to buy products that might be linked to slave work and not to use such products in their production processes. The sector represented 20 per cent of Brazil's economic output. The governors of the main states involved (including Mato Grosso, Pará, Tocantins, Maranhão and Bahia) participated in the agreement. At the international level, Brazil was cooperating with Paraguay and Bolivia within Mercosur to enable joint action and border intervention by several States, as well as with the United Nations (UN), to overcome the problem.

11. **Ms. Campos Motta** (Brazil) said with regard to offences related to racism that a study carried out nationally between 2005 and 2009 had indicated that during the period under study 1,500 complaints had resulted in 650 police investigations. In São Paulo 44 people had been convicted under state legislation to combat discrimination based on race or colour. The figures showed that acts of racism were prosecuted increasingly frequently, but did not mean that racism had increased.

12. **Ms. Rocha** (Brazil) said that child labour had fallen by 60 per cent in recent years and had been practically eradicated in the formal sector. Approximately 2.5 million children were still working in Brazil, which was a real tragedy for the country. The focus over the coming years would be on eradicating child labour in the informal sector,

particularly cases of girls and boys employed as domestic workers, and of children working on farms. Even when they were enrolled in school, those children often continued to work on the family farm. The age of compulsory education would be raised from 10 to 15 years.

13. The benefits paid out under the programme mentioned by Ms. Bras Gomes in effect guaranteed a minimum monthly income for the elderly after the age of 65 years. The *Bolsa Família* programme applied to 20 million poor families, with or without elderly people or people with disabilities. The benefits paid increased according to the number of children. The total amount of such benefits represented 28 per cent of what had been spent fighting poverty in Brazil.

14. **Mr. Vannuchi** (Brazil) said that the problem of the “blacklist” mentioned by Mr. Texier in the previous meeting was no longer as serious as it had been. He would bring up the question on his return to Brazil. Registering unions with the Ministry of Labour helped to ensure freedom of association. Registration was voluntary. Some unions did not agree to registration on ideological grounds or because they did not want to report certain offences. The minibuses operators’ union, for example, was not registered, and some minibus drivers were linked to organized crime.

15. **Mr. Donadon** (Brazil) said that minimum income benefits had been paid out to more than 17 million people according to March 2009 figures. Of these people, more than a quarter were registered with the social services office in their municipality. With regard to workers in the informal sector, it was estimated that currently 15.5 million of them had an income equal to, or higher than, the minimum wage. In addition, approximately 600,000 unemployed workers were receiving unemployment benefits equal to, or higher than, the minimum wage.

16. Some measures taken to give workers from the informal sector access to the social protection system had already been successful, but as yet no study assessing them had been carried out. The social protection programme adopted two years previously had been strengthened in December 2008. The system meant that some workers were allowed to contribute only 11 per cent of the minimum wage, whereas the normal rate was 20 per cent or higher. The scheme applied to those working in micro-enterprises and aimed to cover between four and five million workers within one to two years.

17. Furthermore, a measure transferring employees’ contributions to the businesses employing them had led to 2.2 million workers in the informal sector being included in the formal sector between 2002 and 2004. The issue of domestic workers was a complex one since it was difficult to monitor what was happening in the private sphere by entering suspected offenders’ homes. A plan to extend social cover was being considered, with the goal of increasing social protection by 20 per cent. Lastly, lifetime pensions paid under the Continued Benefit programme were not linked to family income and were made to persons over the age of 65 and persons with disabilities.

18. Generally speaking, the social protection system in the State party was still under development and required some improvements, particularly to take account of demographics, increasing life expectancy but also geographical distribution between urban and rural areas.

19. **Mr. Vannuchi** (Brazil) said that the lifelong pension, a minimum benefit provided by social services equivalent to one minimum wage, was currently paid to some 2.5 million people. As the income of the richest 10 per cent of the population had gone up by 4.9 per cent and that of the poorest 10 per cent by only 1.9 per cent, the Government was keen to raise the minimum wage and the benefits paid under the *Bolsa Família* programme, in anticipation of the long-term effects of its policy.

20. Turning to the inequalities suffered by Brazil's black population — with, in particular, a 9.3 per cent unemployment rate (compared with 7.3 per cent for the white population), 55 per cent of jobs without a work permit, an average income equal to 53 per cent of that of the white population, or the least favoured jobs (public works, agriculture, domestic service) — he said that, according to the latest indicators, the gap was narrowing and offered hope of real income equality between blacks and whites within 30 years or so. Again according to recent indicators, regional inequalities, which were great within Brazil, were becoming less marked.

21. National rapporteurs, who came from civil society organizations, carried out their activities freely, in complete independence, with no financial ties, and all their reports were duly studied and taken into account in an attempt to address problems, especially the issue of indigenous workers (about 260,000 of whom reportedly lived outside settlements), for whom rapporteurs were working to compile statistics. With regard to the participation of women in political life, although some progress had been made thanks to the amendment of the Electoral Act, equality had by no means been achieved, especially in the judicial sector, where women occupied barely 10 per cent of posts. Inequality was even more pronounced the higher one rose in the hierarchy.

22. With regard to the Growth Acceleration Programme, he said that it was a particularly ambitious programme of exceptional public resource investment in various sectors, including transport. The priority areas identified by the President were registration of births and reform of the agricultural sector.

23. **Mr. Abdel-Moneim** said that statistics provided by the State party indicated that although its gross domestic product (GDP) had almost tripled between 1995 and 2005, while population growth had been very low, per capita GDP had risen only from 4.025 per cent to 4.320 per cent. He also noted that the unemployment rate of 16–29 year olds had worsened markedly. He welcomed attempts to solve unemployment, especially the focus on infrastructure projects, which were important for realizing the right to work, and he encouraged the State party to continue its efforts. With regard to the important tax legislation adopted, it should certainly help narrow the income gap but in order to do so had to be effectively applied. Frequently in developing countries, the problem was that those with the highest incomes, who should therefore contribute the largest share of taxes, were those who in fact paid the least. Lastly, he raised the issue of the stabilization of the economy in an international economic environment which tended to make the so-called “emerging” countries more vulnerable.

24. **Mr. Texier** asked whether the State party was implementing positive discrimination to combat discrimination against women in particular, given their absence from the highest posts in the judiciary (Supreme Court) and enquired whether there were policies to promote women's access to civil service posts in general. He also asked whether the State party was considering adopting a law on the right to strike in the civil service.

25. **Ms. Bras Gomes** asked the Brazilian delegation to clarify whether the lifetime pension paid under the Continued Benefit programme and the *Bolsa Família* programme were part of a process intended to establish a guaranteed minimum income.

26. **Mr. Vannuchi** (Brazil), referring to GDP growth, said that the intention was to strengthen growth thanks to a favourable national environment, but without increasing inequalities. While they had been widespread a few years previously, Brazil had initiated a process to reverse the trend and improve social indicators, which required a more systematic approach. With regard to the recent mortgage crisis, which had not left Brazil unscathed, statistics that seemed to indicate that the country was beginning to recover offered grounds for optimism. It should be possible to invest in job creation projects, such as a social housing programme to build a million units.

27. **Mr. Favreto** (Brazil) confirmed that the right to strike was regulated only in the private sector, and that there was no specific law for the public sector. Regarding women's share of posts in the judiciary, gender balance had been reached in courts of first instance in some states, and access to higher courts was by appointment.

28. **Ms. Rocha** (Brazil) said that guaranteeing a basic income for the whole population required considerable investment. Moreover, implementing the *Bolsa Família* programme raised political issues, as some people judged that the investments were not justified and should be reserved for more vulnerable groups. Generally speaking, universal implementation of both programmes required consensus in Brazilian society.

29. **Ms. Campos Motta** (Brazil) said that data on persons of African descent, members of indigenous communities and people with disabilities had been given in paragraphs 84 et seq. of the written replies by the Government of Brazil to the list of issues, and pointed out that a vote would take place on 13 May 2009 in Brazil on the question of racial equality and the fight against inequality at work.

30. **Ms. Tobias** (Brazil) said that in July 2009 a course to improve the skills of persons of African descent would begin in 15 states. The programme would also be extended to 25,000 workers with disabilities.

31. **Ms. Rocha** (Brazil) pointed out that a vocational training programme had been set up in 2008 for recipients of *Bolsa Família* benefits, offering 85,000 places, with contributions by several business partners committed to recruiting 30 per cent of those completing the course.

Articles 10 to 12 of the Covenant

32. **Mr. Riedel**, referring to the written reply by the Government of Brazil to question 28 of the list of issues, enquired whether the maternal mortality rate had continued to fall since 2006, as it had between 2002 and 2006. Noting that the number of caesarean procedures was particularly high in Brazil and that 44 per cent were unnecessary, he asked what steps had been taken by Brazil to provide information on sexual and reproductive health. He mentioned the phenomenon of clandestine abortions that was particularly widespread in Brazil and noted in paragraph 287 of the written replies to the list of issues that abortion was illegal, except in cases of rape or when the life of the mother was at risk. He would like to know whether the State party was considering decriminalizing abortion in other cases, particularly on purely medical grounds.

33. With regard to HIV/AIDS, he asked what specific measures had been taken to reduce infection rates and to halt the spread of the disease, particularly among disadvantaged groups such as street children. He would also like to know whether the use of asbestos had been banned, whether asbestos victims had been compensated and whether the various problems identified had been followed up.

34. He also asked what percentage of the State budget was spent on water and sanitation, and what percentage of the population had access to clean drinking water and sewage systems. Referring to information indicating that the water supply and sewage systems were reportedly seriously deficient because of lack of maintenance, he enquired whether profits made from such activities were reinvested in system maintenance.

35. **Mr. Texier** asked what progress had been made on agrarian reform, which had initially been one of the major priorities of President Lula's programme, given that according to the Landless Workers' Movement progress had been very slow. He pointed out that under the Covenant, developing or reforming agrarian systems was one way to achieve the most efficient development and utilization of natural resources, and, therefore, to improve access to healthy nutrition.

36. **Mr. Tirado Mejía** asked whether Brazil had implemented policies to combat the drug problem and, if so, whether they focused on repression or prevention of drug abuse. With regard to people held in police custody, he would like additional information on living conditions in prisons and police stations.

37. **Mr. Pillay**, welcoming the marked decline in the number of the poor since 2004, asked whether the improvement in the situation was as noticeable in rural areas and whether it had also had an impact on Afro-Brazilians. He referred to reports indicating that the poor could not cope with rising electricity and water prices following privatization and asked what the Brazilian authorities were doing to help the poorest sections of society. He was surprised to read in paragraph 230 of the written replies by the Brazilian Government to the list of issues that undocumented people and the homeless were outside the reach of public policies and he rejected the argument that the State could not help such people owing to their marginalization. He referred to reports indicating that the homeless, whose numbers were growing steadily, received no social assistance and were at times the victims of police harassment and violence. He invited the delegation to provide additional information on those points.

38. He welcomed the fact that the right to housing was justiciable since it was enshrined in the Constitution and that a national strategy as well as several pieces of legislation had been adopted to improve the housing situation. However, he questioned the effectiveness of the current instruments and legislation, given that at least 6 million families had no housing, not to mention the catastrophic living conditions in *favelas*. He would also like information on steps taken by Brazil to provide better protection for indigents against forced evictions and asked whether legislation on forced eviction was consistent with the Committee's general comment No. 7 on forced evictions. He also enquired whether Brazil had followed up recommendations formulated by the Special Rapporteur on adequate housing in the report published following his mission to Brazil (E/CN.4/2005/48/Add.3).

39. **Mr. Kerdoun** said that although Brazil had banned genetically modified organisms (GMOs) in 2006, it had officially approved the cultivation of genetically modified maize and soya shortly after. He would like to know why Brazil had reversed its decision and whether it was considering making the cultivation of GMO crops widespread. He requested information on the general legal framework governing the National Food and Nutritional Security System. He would like to know the price of the water sold to farmers in semi-arid regions and the amount of water supplied to each farmer. Lastly, he asked whether there was a framework law on water and whether water management was entrusted to public bodies or private companies.

40. **Mr. Sa'di** said that the distinction made by the State party between street children, children on the street, children of street families and children in a street situation was not useful because everyone knew what the term referred to, namely poor children who, having dropped out of school and remaining occasionally homeless, were forced to work to survive. He would like to know why the phenomenon was no longer at the centre of government policies and programmes as it had been in the 1980s and 1990s.

41. Although its intentions were praiseworthy, the Zero Hunger Programme, which consisted in distributing food to the population, was perhaps not the most appropriate response to food insecurity. While it was perfectly appropriate for natural disasters when the population temporarily had no food, it could not replace a programme enabling the population to fully exercise their right to food through the development of income-generating activities or the strengthening of family farming.

42. The Brazilian delegation could perhaps indicate whether abortion was authorized in cases of incest, as in cases of rape or when continuing the pregnancy would endanger the health of the mother. It might also perhaps clarify whether the Federal Supreme Court had

made a ruling concerning the possibility of terminating a pregnancy if the foetus was affected by a serious disease.

43. It would seem that the State party was not very committed to the fight against smoking, since it had still not banned smoking in public places or cigarette advertising, and young people still had access to tobacco. Was there any reason to hope that the situation would change soon and that the State party would implement effective measures to fight the scourge?

44. With regard to deforestation, he considered that the credibility of the Government of Mr. Lula, who had campaigned on the conservation of the Amazon ecosystem, might be undermined by the fact that nothing had changed since his election, and he invited the Brazilian delegation to comment.

45. **Mr. Dasgupta** asked what specific measures the Brazilian Government had taken to protect and defend the rights of street children, and whether there were any plans to gather statistics on maternal mortality in remote areas, which were lacking, since it was precisely in the remote areas of Brazil that the mortality rate was particularly high and intervention would be appropriate.

46. **Ms. Bras Gomes** said that she understood that the population groups that needed the family grant programme most — such as indigenous peoples — were not always covered and she regretted the fact that 21 per cent of the population still lived with food insecurity. She asked whether the State party had set any time-bound targets to ensure that the 2.2 million needy families still excluded from the programme would be covered. Lastly, she enquired whether the Brazilian Government was considering introducing a minimum wage at some point.

47. **Mr. Atangana** asked whether, since the adoption in 2006 of the *Maria da Penha Law* on domestic violence, named as a tribute to a woman who had been the victim of two murder attempts by her husband, the phenomenon of domestic violence had diminished, and how the special courts established under the law were working.

48. The Brazilian delegation could perhaps indicate who was authorized to judge the “reasonableness” of the corporal punishment inflicted on prisoners in detention centres and whether it was true, as a number of reliable sources had reported, that State officials were involved in organizing trafficking in women. If that were so, the delegation might like to explain what the State party had done to curb the phenomenon.

49. **Ms. Barahona Riera** said that the concept of the family had evolved significantly, since legislation and jurisprudence had admitted certain rights — in particular the possibility of receiving social benefits — for cohabiting couples, whether same-sex or not. She regretted that the information in the documents provided no evidence as to whether acts of domestic violence — which could be described as extremely serious — came under criminal law or civil law and whether they were punishable by fines or prison sentences. In the latter case, it would be useful to know the length of sentences. In spite of the Program for Integrated Reference Initiatives for Combating Sexual Violence against Children and Adolescents (PAIR), it would seem that the perpetrators of acts of that nature were neither prosecuted nor punished. The Brazilian delegation could perhaps clarify the issue and in particular indicate what prevented prosecutions being brought against the perpetrators of such acts.

50. The Brazilian delegation might also perhaps indicate what proportion of the State budget was spent on health and what resources were available to the universal and free single health system. It could also perhaps clarify whether the State party had a sexual and reproductive health programme that was accessible to all and free, or whether one was planned. In addition, the State party should seriously consider the issue of decriminalizing

abortion, given that banning the practice represented a restriction on the fundamental rights of women.

Articles 13–15 of the Covenant

51. **Mr. Kerdoun**, noting the high school dropout rate among poor children, *mestizo* children, children of African descent, indigenous children and children living in remote areas, asked what explained that only white children were spared by the phenomenon, and whether the State party intended to take steps to improve the situation, and more specifically, to develop a strategy to put an end to the dichotomy. Since he had read in information provided by the State party that despite the nearly universal access to education for children aged 7 to 14 years, the average schooling level of the population remained very low because of the high rate of repetition, he would like to know whether the State party was intending to ensure that all pupils, regardless of their ethnic, social or geographic origin, remained in the school system during the eight years of primary education. Lastly, he regretted that access to the labour market was easier for young whites than for young people from other ethnic groups, and invited the State party to remedy the situation.

52. **Ms. Barahona Riera** asked whether the State party had implemented programmes to enable teenage mothers to continue their studies — both in secondary and higher education, as well as in continuing and adult education programmes — and, if so, what the budget of those programmes was; and, lastly, whether there was a scholarship system for indigenous peoples to undertake free university studies.

53. **Mr. Abdel-Moneim** said that it was regrettable that the exercise of cultural rights was proportional to the level of education and income, and that given the current socio-economic situation, the central Government should intervene by setting up a more efficient public financing system to ensure that everyone could enjoy cultural activities, such as visits to the cinema, theatre or museums.

54. **Mr. Sa'di** asked how religious education was organized in Brazil, both for majority religions and so-called minority religions.

55. **The Chairperson**, speaking as a Committee member, asked to what extent Brazil intended to incorporate the provisions of the United Nations Declaration on the Rights of Indigenous Peoples into domestic legislation, particularly with respect to the cultural identity of indigenous peoples and the use of their language. He would also like to know whether the State party was intending to develop a law authorizing indigenous peoples to establish their own intellectual property regime, under which they would themselves manage income generated by their literary, artistic or cultural output or even their expertise, particularly in the health field.

The meeting rose at 12.50 p.m.