



Economic and Social Council

Distr.: General
11 October 2021

Original: English

Committee on Economic, Social and Cultural Rights Seventieth session

Summary record of the 41st meeting*

Held at the Palais Wilson, Geneva, on Tuesday, 5 October 2021, at 3 p.m.

Chair: Mr. Abdel-Moneim

Contents

Consideration of reports (*continued*)

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

Third periodic report of the Plurinational State of Bolivia

* No summary records were issued for the 39th and 40th meetings.

This record is subject to correction. Corrections 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 the present record to the Documents Management Section (DMS-DCM@un.org).

Any corrected records of the public meetings of the Committee at this session will be reissued for technical reasons after the end of the session.



The meeting was called to order at 3.20 p.m.

Consideration of reports *(continued)*

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

Third periodic report of the Plurinational State of Bolivia (E/C.12/BOL/3; E/C.12/BOL/Q/3; E/C.12/BOL/RQ/3)

1. *At the invitation of the Chair, the delegation of the Plurinational State of Bolivia took places at the Committee table.*
2. **Mr. Lima Magne** (Plurinational State of Bolivia), speaking via video link, said that, following his country's transition to a plurinational State, its form of governance combined the cultural values of indigenous and aboriginal communities with liberal principles. The State's official languages included all 36 indigenous languages spoken in the country, and its Constitution, deemed among the most progressive in the region, guaranteed fundamental and constitutional rights, along with specific rights for certain groups, such as children and persons with disabilities. The country's system of autonomous entities allowed for the full enjoyment of rights by its aboriginal communities.
3. The country's economy was also pluralistic, bringing together different economic structures and balancing individual interests against collective well-being. The State's plurinational nature had resulted from a process of decolonization and provided a constitutional framework for the nationalization and recovery of natural resources, a model that had been cited as an example for other States. The legal framework was based on a social and egalitarian approach, incorporating the Constitution into public policies and development plans.
4. The Patriotic Agenda for the 2025 Bicentennial, the subject of a law adopted by the Plurinational Legislative Assembly, was included in the budgets approved annually by the Ministry of Economic Affairs and Public Finance, illustrating its importance. All levels of Government shared responsibility for implementing the Agenda, under which concrete action would be taken to combat all forms of discrimination, eradicate extreme poverty, significantly reduce moderate poverty and build communitarian socialism. Extreme poverty mainly affected indigenous women and children, and the Government's planned measures to address the issue included the promotion of community values over individualism. The State had implemented various initiatives aimed at traditionally vulnerable groups, such as the Afro-Bolivian community and older adults. It was party to all the international human rights instruments, which formed part of the constitutional body of law if the rights enshrined therein were more favourable than those set out in the Constitution.
5. The country's unique economic model, which upheld social, community, productive and sustainable values and was accompanied by social and productive policies, had led to some of the highest growth rates in the region, brought about by income distribution that had closed the significant gaps between rich and poor and reduced poverty and inequality. However, that positive trend had not continued during the coup d'état of 2019 and 2020. Nevertheless, the country's currency had since appreciated, and almost all credit and the majority of financial savings were now in bolivianos, in strong contrast to the neoliberal period.
6. Measures and regulations had been adopted to reduce gender inequality and to protect the lesbian, gay, bisexual, transgender and intersex community, the Afro-Bolivian population, indigenous peoples, persons with disabilities, young people and children. The Ministry of Cultures, Decolonization and Depatriarchalization had been created to promote cultural policies that addressed inequality based on nationality and gender.
7. Despite those positive results, the transformation process had been hindered by several obstacles, including the de facto Government that had been in power for 11 months in 2019 and 2020, during which it had triggered an economic, social, educational and cultural crisis, causing economic hardship for Bolivian households and companies in the midst of the COVID-19 pandemic. The country's net international reserves had fallen, the State

Treasury's internal debt had increased significantly and the de facto Government's actions in relation to the economy and health care had led to a decline in tax revenues. Social indicators, including in relation to unemployment, poverty and inequality, had also experienced substantial setbacks.

8. Once democracy had been restored with the elections of October 2020, the Government had begun to rebuild the State, for example by distributing food vouchers and increasing pension benefits. The Government provided free, timely COVID-19 testing and free COVID-19 vaccines and was on schedule to vaccinate 90 per cent of adults by December 2021. Access to COVID-19 vaccination was a right. Following the suspension of the academic year in 2020 because of the ineptitude of the de facto Government, stakeholders in the education system had met to identify strategies to provide education to children efficiently and safely via several teaching modalities.

9. The Government was working tirelessly to further its economic model, and progress was being seen with an emergency employment plan intended to create decent work. The Legislative Assembly had approved the establishment of a trust to support public investment and tax incentives for the importation of equipment for various sectors to stimulate, inter alia, the industrialization of the country and the creation of industries. The Earth's natural resources were a gift to humanity, and their appropriation and related conflict must be avoided.

10. **Mr. Zerbini Ribeiro Leão** (Country Rapporteur), noting the significant delay to the submission of the State party's report and its appearance before the Committee, said that the Committee would be prepared to offer assistance to help it avoid similar issues in future. He wished to know whether the Covenant was directly applicable in all four forms of autonomous entity in the State party, and he would welcome examples of jurisprudence based on the Covenant, as well as information on whether citizens could lodge complaints of violations of the Covenant directly with the courts. Information on the results of measures taken to address climate change would be appreciated, including examples of the country's contributions under the Paris Agreement and of structural measures taken in relation to the water, energy, forestry and agricultural sectors. He asked how income from the energy and hydrocarbon sector was distributed to support public investment in health, education and basic services.

11. He would welcome statistics on the impact of the Government's response to the COVID-19 pandemic and on the effects of the distributive tax system on equality. He would like to know how human rights defenders were protected and would appreciate specific examples of policies to combat racism, particularly in relation to members of indigenous and Afrodescendent communities. Lastly, noting that the updated legal framework did not align fully with international human rights standards or exhaustively address infrastructure projects that could have considerable consequences for human rights, particularly those of indigenous peoples, he would like to hear how communities were being consulted in that process. The Government should consider adopting legislation to allow a full assessment of all infrastructure projects in terms of their impact on human rights and true consultation with the communities affected.

12. **Mr. Lima Magne** (Plurinational State of Bolivia), speaking via video link, said that rights could be exercised directly in both the ordinary justice system and the indigenous and aboriginal justice system, which were recognized equally, and in all autonomous entities. Any conflicts between the two justice systems were resolved by the Plurinational Constitutional Court, and complaints could be lodged by citizens directly. The Court, which included a chamber of indigenous and aboriginal justice, had reaffirmed that all human rights instruments ratified by the State party were directly applicable and that the rights contained therein could be defended at all levels by a range of actions, such as constitutional *amparo*, that could be accessed directly by citizens.

13. **Mr. Siles Bazán** (Plurinational State of Bolivia), speaking via video link, said that the jurisprudence of the Plurinational Constitutional Court was legally binding on all State bodies, public officials and individuals in the country. The Court had clearly established that all international human rights instruments, including the Covenant, were legally binding and of equal rank with the Constitution, and that rulings and opinions issued under the universal and

inter-American human rights systems were binding. Citizens could submit complaints of violations of the Constitution and of international human rights instruments.

14. **Mr. Lima Magne** (Plurinational State of Bolivia), speaking via video link, said that, under the country's Economic Inclusion Programme for Families and Rural Communities, the Ministry of Rural Development and Land was implementing a range of activities to build climate change resilience among particularly vulnerable communities. The Programme had co-financed more than 2,000 productive rural enterprises, helped farmers improve their production, processing and marketing capacities and facilitated training and information exchange. It had thus far benefited over 3,500 families in 52 municipalities. A regional learning initiative on climate change adaptation strategies and tools for sustainable rural development had provided an opportunity to exchange experiences with other countries.

15. The National Watershed Plan, which included locally managed projects, was expected to enable a shift to integrated water management and laid the foundation for a new approach to water in the country. As Bolivia would be one of the countries most affected by climate change, mitigation and adaptation measures were crucial, particularly because of the potential of water shortages, floods, desertification and other effects of climate change to lead to conflict. Multidisciplinary actions were implemented in partnership with the affected communities, harnessing the country's economic, social and cultural assets.

16. Beyond the Government's firm commitment to the Paris Agreement and other relevant international agreements, there was deep concern for Mother Earth, which was the basis for the well-being of all living beings. Environmental justice was high on the Government's agenda and the rights of Mother Earth had been enshrined in legislation; the rights of nature were thus justiciable in Bolivian courts, leading the way to a new vision of the world.

17. Measures were also taken to promote the efficient use of natural resources and a shift in the energy matrix towards more sustainable, nature-friendly energy production. Bolivia was home to the world's largest lithium reserve and other natural resources which, combined with the strong political commitment to sustainability, provided a solid basis for diversification of the energy sector to focus on thermoelectric, wind and geothermal energy production. The transition to electromobility in public transport was also under way.

18. **Mr. Quelca Tarqui** (Plurinational State of Bolivia), speaking via video link, providing a brief overview of developments since the adoption of Act No. 3058 on Hydrocarbons (2005) and the subsequent nationalization of the hydrocarbons sector in 2006, said that 50 per cent of hydrocarbon revenues were redistributed equally among the subnational authorities, municipalities and universities. More detailed information could be provided in writing.

19. **Mr. Uprimny** (Country Task Force) said that he would be interested to hear what steps were planned to strengthen judicial independence, which had been identified as an area of concern by the interdisciplinary group of independent experts set up by the Inter-American Commission on Human Rights to support investigations into human rights violations in the State party.

20. While it was commendable that the State party had ratified the Indigenous and Tribal Peoples Convention, 1989 (No. 169), the Committee had received reports of failures to implement its provisions, for example in the context of a road-building project in Isiboro Sécure National Park and Indigenous Territory. Moreover, a bill on consultation and free, prior and informed consent had been under consideration by the Plurinational Legislative Assembly since 2014. An explanation of how those two issues were being addressed would be welcome.

21. He wished to know what mechanisms were in place to combat racism, in particular through the effective implementation of Act No. 45 of 8 October 2010. According to information at the Committee's disposal, the National Committee against Racism and All Forms of Discrimination was not providing an adequate response to individual complaints.

22. He would appreciate an indication of the Government's thoughts on reports of de facto discrimination against lesbian, gay, bisexual, transgender and intersex persons and the lack of a legal framework to ensure equal rights for same-sex couples. An explanation of why

there was no national policy on the care economy, which he viewed as fundamental to overcoming patriarchal systems of domination, would also be welcome.

23. According to an article published in the scientific journal *eLife* on 31 May 2021, when the official coronavirus disease (COVID-19) death toll in the State party had stood at roughly 14,000, the number of excess deaths, based on figures from the previous five years, had been 36,000, suggesting that the State party had undercounted deaths resulting from COVID-19 and that the number of such deaths per capita was in fact among the highest in the world. He wished to know the reasons for the alleged undercount and what was being done to rectify it.

24. **Mr. Hennebel** said that it would be helpful to know whether the Protocol of San Salvador and the jurisprudence of the Inter-American Court of Human Rights and the human rights treaty bodies had constitutional standing and what legal status was granted to interim measures. He also wished to know how efforts to protect the rights of Mother Earth were compatible with the promotion of human rights, which tended to rely on an anthropocentric approach, and whether the former could in fact serve as a catalyst for the latter.

25. **Mr. Emuze** asked how the State party was implementing its National Strategy for Agricultural Risk Management and Adaptation to Climate Change in the face of the deep recession that it was experiencing.

26. **Mr. Lima Magne** (Plurinational State of Bolivia), speaking via video link, said that article 26 of the International Covenant on Civil and Political Rights had been used as a legal basis for Constitutional Court ruling No. 76/2017 of 9 November 2017 and that the Committee had been cited in section III.2 of the ruling, along with the Human Rights Committee's general comment No. 18 (1989) on non-discrimination and the report of the United Nations High Commissioner for Human Rights on discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity (A/HRC/19/41). In its ruling No. 338/2003 of 19 March 2003, the Court had recognized respect for human dignity as a prerequisite for the exercise of human rights. The Constitution allowed the direct application of international treaties and of the jurisprudence of the Inter-American Court of Human Rights. Pursuant to article 256 of the Constitution, international human rights treaties and instruments signed, ratified or acceded to by the State took precedence over the Constitution in cases where they were found to confer more favourable rights.

27. The existence of a national consensus on the need for judicial reform offered an opportunity to strengthen the pillars of judicial independence. A key step would be to re-establish a judicial academy, as 75 per cent of the judges in the country were temporary. Following a summit held three years previously, a commission had been set up to spearhead the reform, for which there was strong political support. Discussions were taking place at the national level to identify promising initiatives, and the question of whether judges should be elected or appointed was being debated.

28. The National Committee against Racism and All Forms of Discrimination had established mechanisms to tackle structural racism. Between 2012 and 2017, half of high court judges had been women and at least seven had self-identified as native indigenous campesino. It was true, however, that impunity for racism and racial discrimination remained rife, as reflected by the low number of convictions under Act No. 45 of 8 October 2010.

29. Since the Constitutional Court was currently deliberating on a ruling of a lower court that would legalize same-sex unions, he would refrain from commenting on that matter. The Vice-Ministry for Equal Opportunities of the Ministry of Justice was working on two bills, one concerning civil partnership agreements and the other seeking to build on Constitutional Court ruling No. 76/2017.

30. **Ms. Huacani Zapana** (Plurinational State of Bolivia), speaking via video link, said that the Vice-Ministry for Equal Opportunities was developing studies on the care economy that would help to address the lack of recognition of the unpaid work performed by women. It was also developing policies to foster women's economic independence and create tools for the care of small children, older adults and persons with disabilities in urban and peri-urban areas. The actions envisaged included funding care services, providing training to

enhance care skills, developing a model for the management of care homes and promoting an international exchange of experience on the care economy.

31. **Mr. Auza Pinto** (Plurinational State of Bolivia), speaking via video link, said that the strategies adopted by the de facto Government had led to the closure of hospitals and a consequent neglect of chronic illnesses, which went some way to explaining the high number of excess deaths in 2020. The official COVID-19 death toll had been 9,297 in 2020 and stood at 9,407 in 2021. The Government had managed to reduce the case fatality ratio from 6.2 per cent in 2020 to 2.7 per cent, quadruple the number of laboratory tests conducted, bring down underreporting from an estimated 80 per cent to between 15 and 20 per cent, increase the budget for containment and mitigation from \$81.7 million to \$351.5 million and restore health-care services, in part through the prompt vaccination of health professionals. The Government had also introduced a digital contact tracing system that was being continuously improved and expedited.

32. **Mr. Lima Magne** (Plurinational State of Bolivia), speaking via video link, said that the planned road in Isiboro Sécure National Park and Indigenous Territory had not been built and that the Supreme Court of Justice had consulted the indigenous peoples affected, who, as part of a permanent dialogue with the State authorities, had raised the possibility of formulating a sustainable policy for the area. Nevertheless, a petition had been submitted to the Inter-American Commission on Human Rights alleging a failure by the State to engage in prior consultation. The Government would provide responses in connection with the Commission's report on admissibility in the coming weeks. The rights of Mother Earth were collective rights aimed at preserving the environment. Measures to protect them were compatible with and complementary to respect for the human rights of vulnerable groups and the population in general.

33. **Ms. Huacani Zapana** (Plurinational State of Bolivia), speaking via video link, said that the promulgation of Act No. 807 of 21 May 2016, establishing a procedure by which transsexual and transgender persons could change their name, sex and photograph in all public and private documents relating to their identity, had been a historic step forward for the lesbian, gay, bisexual, transgender and intersex community. The Vice-Ministry for Equal Opportunities was developing a legislative agenda and meeting with representative organizations to hear their ideas on matters including the registration of marriages celebrated abroad and whether minors should be authorized to change their gender identity.

34. In 2020, the Second Constitutional Chamber of the La Paz Departmental Court of Justice had struck down a September 2019 resolution of the Civil Registration Service rejecting a request to register a same-sex union. The Chamber had found that the resolution undermined human rights and that precedence should be given to the American Convention on Human Rights over domestic legislation, in accordance with the Government's policy of promoting the highest standard of human rights protection. Up to March 2019, the Service had concluded 270 gender identity change procedures. Act No. 603 of 19 November 2014 enshrined the principle of diversity and the associated right of the various forms of family recognized by national and international authorities to enjoy the same conditions as others, without any distinction.

35. **Mr. Siles Bazán** (Plurinational State of Bolivia), speaking via video link, said that one of the aims of the ongoing reform of the justice system was to achieve a more equitable and user-friendly system. Most importantly, however, it aimed to ensure the independence of the judiciary through budgetary autonomy over an enhanced and properly managed budget. Admission to the judicial academy needed to be conducted on a transparent basis, with the training followed up by continued professional development for judges throughout their career.

36. The Government was determined to improve the situation of women by challenging the patriarchal system, with a budget allocated to reflect that commitment. The 2013 Comprehensive Act aimed at ensuring that women could live a life free of violence was supported by plans and programmes at both central and municipal levels.

37. **Mr. Windfuhr** (Country Task Force), applauding the allocation of \$40 million to the implementation of the State party's job creation plan for the period 2017–2022, said that the Committee would be interested to hear about any incentives aimed at encouraging the

transition of the country's overwhelmingly informal economy, which was currently the largest by population in the Latin American region, to a formal economy. Because women took on a disproportionate amount of unpaid domestic work and care responsibilities and often lacked education and skills, they were particularly affected by the inadequate salaries, instability and insecurity of the informal sector. He would be interested to know how effective the State party's approach to dealing with those issues was and would welcome relevant disaggregated data at national and local levels, including an analysis of female employment in urban and rural areas.

38. He would like to hear the delegation's assessment of the employment situation of refugees and asylum seekers, notably those who were unregistered and undocumented and thus had no opportunity to work in the formal economy. Its views would be welcome too on the access to education, training and employment available to persons with disabilities, which was reportedly still very limited, despite the adoption of Act No. 977, under which economic support was offered to persons with serious and very serious disabilities, and the marked differences in such access between the urban and the rural contexts.

39. In the light of reports that the State had not implemented policies to improve gender equality in access to work and working conditions or to address the persistent gender pay gap, he would like to know what the State party was doing to ensure equal remuneration of men and women for work of equal value and how it was monitoring cases of inadequate or non-payment of wages.

40. He would welcome a response to reports concerning the exploitation of indigenous persons in the logging and livestock sectors and discrimination against them in employment, in general. What was being done to dismantle racial stereotypes in the formal sector and to prevent and penalize any form of violence against indigenous peoples, especially at the work place, and how were complaints of such violence addressed?

41. Lesbian, gay, bisexual, transgender, queer and intersex persons allegedly still suffered from prejudices and stereotypes which restricted their access to fair and dignified employment and forced some to engage in precarious forms of work; he would therefore like to hear what was being done to address that situation and to strengthen the National Committee against Racism and All Forms of Discrimination, which reportedly lacked both human and financial resources.

42. The Committee would appreciate a description of the measures taken to address the situation of refugee and asylum-seeking women and girls who, because they could not access formal employment, were at a disproportionately higher risk of exposure to gender-based violence, human trafficking and labour exploitation. Noting the progress that had been made in protecting children from the worst forms of child labour, with the minimum age of work now set at 14 years, he would welcome updated official disaggregated information to reflect the real dimension of child labour in the country.

43. In the area of trade union rights, reports had been received that, despite the generally favourable legislation, policy on the registration of and election to trade union bodies was very restrictive. There were also allegedly restrictions on the right to strike in the public sector and high penalties for unauthorized strikes. The Committee would welcome an indication of how the State party intended to guarantee the right to form a trade union and the right to strike.

44. The progress achieved with the country's universal health system, which had given more than 5 million Bolivians access to health care, was laudable, as was the introduction of the family bonus and universal bonus benefits in the context of the COVID-19 pandemic; he would be interested to hear how effective the benefits had been and whether they covered the whole population. In respect of old-age pension coverage, he wished to know how the State party was planning to address the systematic gender gap that resulted from the high proportion of women working in the informal sector. What was being done for the many migrants and foreign nationals in the country who did not have access to the social security system?

45. Lastly, although coverage of improved water supplies and sanitation had expanded significantly, there were still parts of the population without access to them; what was the State party doing to address that situation?

46. **Mr. Uprimny** (Country Task Force) said that he would be interested to know why, despite the existence of the 2015–2020 plan to tackle the problem, the teenage pregnancy rate in the State party was still high; might it be down to a lack of sex education or a lack of resources? Noting that early marriages could take place with parental authorization from the age of 16, he wished to learn why that situation reportedly led to cases of girls being forced to marry often much older men who had sexually aggressed them. He would also welcome information on measures taken to end the corporal and psychological violence to which significant numbers of children were still subjected, despite the State party's commitment to the eradication of violence against children. He would like an explanation of the Government's strategy to deal with the persistently high levels of violence against women and the frequent impunity for the perpetrators of those crimes, which included many cases of femicide.

47. The country's achievements over the previous 15 years in improving social and economic inequality were impressive when considered in the regional context, although that did not set a high baseline. The use of income from the taxes on the extractive industries to fund social programmes and cash transfers was a laudable initiative, but the tax system in general was not redistributive. He recognized the sensitivity of that issue, in the light of protests in recent years, but encouraged the State party to consider redistributive taxation as a way of reducing inequality. The improvements in the poverty figures were also impressive; however, the poverty gap between indigenous peoples and other parts of the population had not changed; what was being done to reduce it?

48. He would be interested to hear about the results of the different housing programmes and whether they were helping to overcome the housing shortage in the country.

49. While the State party had made significant improvements in food-related indicators over the previous 15 years, the levels of malnutrition were still high compared to other countries in the region. He would like to know what the Government was doing to give effect to the right to nutrition.

50. Child and maternal mortality rates had fallen, which was encouraging, but remained high. He would like to know what was being done to further improve them and to address the persistent gap between the figures for indigenous and non-indigenous women in terms of access to obstetric services and to medically assisted childbirth. There was concern that the health-care system was inadequately funded, and that over half of the health-care budget was channelled into the official health insurance system, which covered only around 30 per cent of the population.

51. As unsafe abortion was reportedly still the third most important cause of maternal mortality and there were still obstacles to women obtaining safe abortions, he would like an explanation of the State party's policy on women's sexual and reproductive health, notably in respect of abortion, and to hear whether abortion would be decriminalized in line with the Committee's general comment No. 22 (2016) on the right to sexual and reproductive health.

52. The State party's Act No. 1008 on the prohibition of drug trafficking led to consumers being criminalized, tried as drug traffickers and given harsh sentences; furthermore, the country did not seem to have any drug harm reduction strategies. He would like to know what the Government intended to do to remedy that situation and whether it was proposing to legalize the medicinal use of cannabis as part of its health promotion strategy.

The meeting rose at 6 p.m.