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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Forty-second session

SUMMARY RECORD OF THE 6th MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 6 May 2009, at 3 p.m.

Chairperson: Mr. MARCHÁN ROMERO

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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 periodic report of Brazil (E/C.12/BRA/2; E/C.12/BRA/Q/2 and Add. 1; HRI/CORE/1/Add.53/Rev.1)

1. At the invitation of the Chairperson, the members of the delegation of Brazil took places at the Committee table.
2. Mr. VANNUCHI (Brazil) said that Brazil was a country of paradoxes: it was running a determined drive for democratization against the background of the violent legacy of slavery, of the extermination of indigenous peoples and of the despotism of large landowners in rural areas. The consolidation of democracy and the economic, social and cultural dimensions of democracy after the end of the dictatorship had been a challenge requiring energy, perseverance and hard-won political consensus. It had also meant overcoming the crises that regularly engulfed developing countries as a result of misguided economic policies, irresponsible government and crimes committed in financial institutions in the rich countries.
3. The Brazilian Government shared the opinion of the civil society organizations that there was still a long way to go to ensure the full observance of economic, social and cultural rights in Brazil. It recognized that violations of rights continued to occur, that Brazil had serious regional inequalities, and that promoting rights and formulating public policies did not automatically result in a more just society with a culture of peace and full respect for human dignity.
4. In that spirit, his Government therefore accepted the representation made to the Committee by civil society. The role of civil society associations was to monitor and criticize the State, thereby helping to enhance democracy. Many of their complaints about violence in Brazil and the criminalization of social movements were highly relevant, and spurred the authorities to take corrective action.
5. Brazil was an emerging economy and a major producer of food and renewable energy resources. It was taking positive action on economic, social and cultural rights. One example was the Zero Hunger Programme, which had yielded excellent results. In addition, the number of people living in poverty had fallen, in part owing to the consistent rise in the purchasing power of the minimum wage.
6. Brazil had in recent years organized several national conferences on human rights in general and on economic, social and cultural rights. The outcomes of a conference on democracy, development and human rights, entitled "Overcoming Inequalities", were to form the basis of Brazil's third National Programme on Human Rights, to be launched in 2009. At the international level, Brazil had hosted the third World Congress against Sexual Exploitation of Children and Adolescents, which was the biggest conference ever held on that subject.

7. The top priority for 2009 was to develop a wide-ranging programme on human rights education, which was the most effective route to a culture of peace and respect for diversity and plurality.
8. Mr. RIEDEL asked what the Government had done and what it intended to do to reduce the ratio of inhabitants to public defenders. He asked for information on progress in that regard, including disaggregated annual data, to be provided in the State party's next periodic report.
9. Mr. TEXIER asked whether Brazil's system of special rapporteurs on the various economic, social and cultural rights continued to operate and whether the State continued to help them. What were the results of their work?
10. He asked what concrete measures were being taken to defend and protect human rights defenders from NGOs, peasant and workers' movements and trade unions and what was being done to prosecute and punish those who committed offences against them.
11. Mr. PILLAY said that he was perturbed at the apparent culture of impunity for human rights violations. He asked why the Government had not taken responsibility for prosecuting such offences at the federal level and wondered what steps were being taken to provide remedies for human rights violations. He thought it possible that a lack of adequate human rights training might be a factor in creating a culture of impunity and asked if judges, law enforcement officials and prosecutors were well informed about human rights law.
12. Mr. SADI asked for information about the work of the Minister in Chief of the Special Secretariat for Human Rights in the President's Office. Brazil's approach in establishing high-ranking human rights officials could serve as a model for other countries.
13. He requested clarification as to the status of the Covenant in Brazil. The assertion that it had supralegal status was a cause for some concern. He asked how the Covenant had been applied, in court decisions for example.
14. Did the Council on the Defence of the Rights of the Human Person comply with the Paris Principles? He wondered if its decisions were binding. He would like some information on cases resolved by the Council. He noted that bodies had been set up to address food and environmental issues, and asked whether there were bodies covering any other areas relevant to the Covenant.
15. On the "No homophobia" programme, he asked why Brazil placed such an emphasis on that issue.
16. He asked whether the Racial Equality Act had been approved.
17. Mr. DASGUPTA said that, in general, the Government's written replies to the list of issues (E/C.12/BRA/Q/2/Add.1) had been supported by impressive statistics, except with regard to indigenous people. He asked why the estimates of the size of the indigenous population varied so widely when the sources used the same definition of "indigenous". Was the term "Indian", as used in the State party report, synonymous with "indigenous"?

18. He asked why life expectancy statistics were not available for indigenous people. The reason given in the written replies was that figures on mortality were not available; however, precise infant mortality figures were provided, so why were there none for other age groups? In non-monetary societies, life expectancy was the best indicator of improvements in standards of living.

19. Turning to non-discrimination, he said that the information on the affirmative action programmes for Afro-descendants and indigenous people included some statistics on their impact on Afro-descendants, but nothing on how indigenous people had benefited. Were any figures available and, if not, why not?

20. Only 12 per cent of public education institutions had adopted affirmative action policies; what measures had been taken to increase that figure, which was rather low? Were compulsory measures being considered, rather than mere incentives?

21. According to the written replies, for purposes of policy implementation, the agencies that executed the national indigenous policy considered as indigenous only those living in settlements, which gave a total population of 480,000. As the national census had recorded an indigenous population of 551,462, many people were not covered by the services of those agencies. Why were they being excluded from the benefits of affirmative action policies?

22. Ms. BRAS GOMES said that the Government had recognized that poverty, income disparities and regional gender and race inequalities were problems in Brazil and asked how it had taken such problems into account in the Growth Acceleration Programme. In many countries, growth had not necessarily led to an improvement in living conditions, especially for low-income groups. In its concluding observations on the initial report of Brazil, the Committee had noted the persistent and extreme inequalities and the social injustice prevailing in the State party, a situation that had also been recognized in the concluding observations of the Committee on the Rights of the Child on the initial report of Brazil. What had been done to tackle social injustice? What positive results had the Government obtained and what difficulties had it encountered?

23. It was not possible to assess the impact of the affirmative action programmes from the information provided. Had they been effective? Had the Government considered a more ambitious anti-discrimination framework than the Racial Equality Act in order to cover all aspects of article 2?

24. As an emerging economy, Brazil was increasingly a provider of foreign aid, particularly in the context of South-South cooperation. What was the role of the Covenant in that regard and how was the Government taking human rights concerns into account in the framework of that cooperation?

25. Mr. ZHAN Daode said that the State party report was relatively complete: it demonstrated a positive attitude and gave examples of measures that had been adopted and implemented. It also recognized areas of weakness and suggested measures to overcome them. He requested information on the work of the Special Secretariat for Human Rights in the President's Office.

26. Mr. ATANGANA said that the judicial system was often criticized because its independence was compromised in many ways, including by corruption. Had the reforms to the judiciary outlined in the State party report been implemented?
27. Mr. TIRADO MEJÍA said that it was pleasing to see from the statistics provided that progress was being made in some areas. The Government's recognition of human rights violations that needed to be addressed was laudable.
28. In the area of non-discrimination, the building of walls between rich and poor areas in Rio de Janeiro went against the spirit of the Covenant. What measures were being taken in that regard?
29. Could the delegation confirm that the discriminatory provision of the Criminal Code requiring women to prove their "respectability" in cases of sexual abuse had been removed?
30. Some efforts had already been made to increase the representation of women in public office and the judiciary, but it was particularly low for Afro-Brazilian and indigenous women, and he asked what further measures were being taken.
31. He requested statistics on the penalties imposed for offences under anti-racism legislation. It was not enough simply to promote a change of attitudes, legal action was also required.
32. He would like clarification on the measures taken to protect indigenous lands and on the implications of the classification of land into different categories, as mentioned in the written replies.
33. Ms. BARAHONA RIERA praised the success of the Zero Hunger Programme to date and asked what difficulties had been encountered in its implementation. What were the Government's plans for the future of the programme?
34. While the Council on the Defence of the Rights of the Human Person had carried out valuable work, it was nonetheless a Government body. It was important for countries also to have independent human rights bodies.
35. She said that, despite the efforts that had been made, women's involvement in politics was low. What affirmative action was being taken to encourage women to participate in local and federal government?
36. Mr. KOLOSOV asked for additional data on the scale of corruption in the State party and the measures being taken to reduce it.
37. Mr. FAVRETO (Brazil) said that public defender's offices had been established in 24 states. Another one was to be set up in 2009, leaving only two states where people on a low income could not obtain free legal assistance. The system had been restructured in 2004 and two studies had since been carried out to evaluate the work of the public defender's offices. Improvements had been made based on those evaluations. In 2008 special public defence centres for prison inmates had been set up in 19 states, and centres for women victims of domestic violence had been established in 26 states. The centres would help an estimated 500,000 people in 2009.

38. In April 2009 the federal Government had introduced measures to make the justice system faster, more accessible and more effective. The measures had included a directive intended to strengthen the work of the public defender's offices. In addition to providing legal aid, public defenders worked to raise awareness of human rights and to prevent human rights violations, using mediation and conflict-resolution methods.

39. Mr. VANNUCHI (Brazil) said that the Government had consulted widely with NGOs in preparing its periodic report. Brazil maintained a standing invitation to all United Nations special rapporteurs and made every effort to implement their recommendations.

40. The criminalization of social movements was in part a reflection of the problematic power balance between state and federal security authorities. However, in recent years, none of the murders of social movement leaders by vigilante groups or militias had involved members of the federal or state police.

41. Ms. CAMPOS MOTTA (Brazil) said that, in order to give effect to the United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, the National Human Rights Secretariat had established a national protection programme for human rights defenders in 2004. The Secretariat was also consulting with other countries on best practice in protecting human rights defenders. One of the challenges of the national protection programme was to build a national protection network, which required consensus between the states. The programme was currently in force in four states and plans were in place to introduce it in another three. It included human rights training for state police, with particular emphasis on protecting human rights defenders. In future, training would also be provided for the national armed forces. Draft legislation to strengthen the national policy on protecting human rights defenders was currently before Congress. Civil society organizations had participated in national consultations on protecting human rights defenders and promoting the legitimacy of their activities. The outcome of the consultations would be incorporated into the next version of the national protection programme.

42. Mr. VANNUCHI (Brazil) said that the Government was aware of the need to strengthen human rights training for the judiciary in order to ensure consistency in judicial interpretations of the Constitution.

43. The Council on the Defence of the Rights of the Human Person was currently setting up special commissions on specific human rights issues. Steps were being taken to increase the Council's independence and bring it into line with the Paris Principles.

44. The Special Secretariat for Human Rights coordinated the work of the many ministries that worked to protect human rights. It was also responsible for the National Human Rights Programme. Civil society organizations supported its work and had called for it to be strengthened.

45. Despite the fact that some religious groups continued to voice their opposition to homosexuality, the Government had taken measures to ensure that gays and lesbians did not suffer discrimination. In that regard, Brazil served as a model for other countries where homosexuality was still criminalized or socially unacceptable.

46. Mr. DE OLIVEIRA (Brazil) said that the rise in the number of indigenous people could be explained by the fact that more indigenous groups were being recognized. Twenty-eight separate indigenous peoples in the Amazon region had already been identified, and another 40 were being researched.
47. Mr. CARVALHO NATALINO (Brazil) said that the 2010 census would provide a more accurate figure for the country's indigenous population, which was estimated to have grown to 700,000.
48. Collecting health data on indigenous peoples was difficult and it was easier to calculate the infant mortality rate than life expectancy. Brazil had a special working group on health statistics, including statistics on indigenous peoples. Its work was complicated, however, by the fact that a high proportion of that population was under the age of 18; in addition, as blacks far outnumbered indigenous people in Brazil, proportionately less research was done on indigenous issues. Indigenous people living in settlements had their own health centres, while those living outside settlements used the same health services as the rest of the population.
49. Mr. VANNUCHI (Brazil) noted that the national census system had been modified with a view to improving the quality of information obtained, in particular on human rights issues, and to institute biennial research on the Brazilian population.
50. Mr. DE AQUINO XIMENES (Brazil) said that, while 70 per cent of the higher education system was private, the "University for All" programme provided around 400,000 scholarships to children unable to afford the fees. Children of African descent were awarded almost half the scholarships, while 961 went to indigenous people. Of the 82 State universities, 48 had quotas to promote education among Afro-descendants and indigenous people.
51. Mr. VANNUCHI (Brazil) said that civil society action had pushed the State to improve its policies on indigenous peoples and increase awareness of the right to self-determination. Of the country's population of around 190 million, some 50 per cent identified themselves as of African descent. As the country with the world's second largest black population after Nigeria, Brazil had launched a Brazil-Africa cooperation programme to promote historical reparation for the slave trade and colonialism.
52. Ms. GONÇALVES (Brazil) said that the term "respectable woman" had been removed from article 215 of the Criminal Code, on the Committee's recommendation.
53. Women's involvement in politics and decision-making had been one of the central themes of the second National Conference on Policies on Women in 2007 and the second National Plan on Policies on Women. The Special Secretariat for Policies on Women was also implementing policies to increase the number of women in public office. In 2008, the Women in Politics association had been created to empower women and a campaign had been launched to promote the election of more women to public office.
54. Ms. ROCHA (Brazil) said that the Zero Hunger programme had many components, the most important of which was Bolsa Familia, a cash-transfer family allowance programme to improve health and help families to obtain qualifications and generate more revenue. It had benefited 40 million individuals and proved cost-effective, but faced opposition from some

quarters because of the amount of money invested in it. The Government, however, considered Bolsa Familia to be essential to ensuring social welfare. It covered around 5,000 municipalities and each municipality had to apply to join the scheme. Registering low-income families on the programme enabled their needs to be recorded in detail. In order to mitigate the consequences of the economic crisis, the programme would be extended in 2009 to cover 1.3 million families, including families from vulnerable groups, and would also aim to boost purchasing power.

55. Mr. DONADON (Brazil), referring to the question of the construction of walls around favelas, said that the State was seeking to urbanize the favelas and facilitate access to housing for low-income groups. Between 2007 and 2009 the Government of Brazil had invested 490 million reais (R\$) in one favela in Rio de Janeiro alone, thus helping 30,800 families to find better accommodation. It had also invested over R\$ 18 billion between 2003 and 2009 to redress the lack of investment in sanitation over the previous 20 years; Rio de Janeiro, for example, had received R\$ 320 million for work on an integrated sewage system serving 26,000 families. During the same period, the Government had worked to improve access to transport and public services for low-income families in poorer areas, investing R\$ 2 billion since 2005 in expanding and modernizing the underground system and creating bus lanes.

56. The Government had also worked with the Urban Reform Movement to address inequalities. In 2001, the National Council for Cities had been created, bringing together State, federal and municipal representatives from urban areas. Three national conferences on cities had already been held, with the next due in 2010.

57. Mr. TIRADO MEJÍA asked for detailed figures on the numbers of women who suffered discrimination in the political system on dual grounds of sex and race. He also requested specific examples of decisions taken by the courts to punish racially motivated crimes. Lastly, he asked what was being done by the Government to halt the building of a wall reportedly being constructed around a favela in Rio de Janeiro.

58. Mr. TEXIER asked for information on the work of the national rapporteurs on human rights.

59. He would appreciate receiving statistics on access to work, disaggregated by ethnic origin, and information on the steps being taken to improve access to work for minorities.

60. He enquired how many decisions the federal courts had rendered on forced labour and what steps were being taken to curb forced labour. In the same vein, what measures had been taken to prevent child labour and encourage school attendance? He asked how many people received the minimum wage and how many worked for less than the minimum wage in the informal sector. What measures had been taken to address wage gaps between men and women and between whites and blacks? Lastly, he said he found it regrettable that a blacklist of active trade unionists appeared to have been established and that collective bargaining was possible only through trade unions registered with the Ministry of Labour.

The meeting rose at 6 p.m.