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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Twenty-ninth session

SUMMARY RECORD OF THE 38th MEETING*

Held at the Palais Wilson, Geneva,

on Monday, 18 November 2002, at 10.20 a.m.

Chairperson: Ms. BONOAN-DANDAN

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The meeting was called to order at 10.20 a.m.

CONSIDERATION OF REPORTS (agenda item 6) (continued)

(a)REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH

ARTICLES 16 AND 17 OF THE COVENANT (continued) (E/1990/5/Add.50;

E/C.12/1/Add.33; E/C.12/Q/SOL/1; CERD/C/60/CO/12)

Initial report of Solomon Islands (E/1990/5/Add.50)

Mr. TIKHONOV (Secretary of the Committee) said that the Secretariat had been informed by the Permanent Mission of Solomon Islands in New York that, owing to financial constraints, the delegation would not be able to attend the session at which the Committee considered the State party's initial country report.

The CHAIRPERSON said that, as the Committee had not been informed by the Permanent Mission of Solomon Islands within the time frame established in its methods of work, the best course would be to consider the situation in that country in the absence of the delegation. The Committee had sent the Permanent Mission the list of issues, but there had been no reply. She suggested holding a preliminary discussion based on the information available to the Committee and taking up the list of issues (E/C.12/Q/SOL/1) one by one with a view to producing concluding observations.

Mr. RIEDEL said that the Committee should review the list of issues very briefly, then meet in closed session to formulate questions and come back with them in written form in the afternoon, in public session. He took it that the Committee did not want to postpone the consideration of the report of Solomon Islands to a subsequent session.

Mr. MARCHAN ROMERO (Country Rapporteur) said that he agreed with Mr. Riedel and the Chairperson on how to proceed. The discussion should be held on the basis of the report and the concluding observations produced, the aim being to help the State party deal with obstacles encountered in connection with the implementation of the Covenant.

Mr. KOLOSOV said that, five years earlier, during his work on the Committee on the Rights of the Child, he and two colleagues had visited Solomon Islands, where they had met with government officials and representatives of non-governmental organizations

(NGOs). His impression had been that society in Solomon Islands was open, but very naïve. The Government had not known how to produce the initial report for the Committee on the Rights of the Child, which had been due by 2000. He and his colleagues had explained in depth why the report was needed, but the government officials had failed to grasp what had been expected of them. The first report had then been produced not by local officials alone, but with the help of experts from the United Kingdom. The governmental structures were very weak. It had been impossible to obtain any of the statistics needed. The qualifications of national NGOs were such that they would not be of any help even if they had studied the concluding observations. The Committee must ask donor States or international financial institutions to fund the appearance of a

delegation or, even better, to help the Committee send two of its members to Solomon Islands to discuss the issues concerned with officials on the spot. Otherwise, the current discussion was pointless.

The CHAIRPERSON, recalling the history of the reporting of Solomon Islands, said that the Centre on Housing Rights and Evictions (COHRE) had been the first NGO to visit Solomon Islands on mission. It had alerted the Committee to the urgent situation there and provided it with a preliminary report, on the basis of which a representative of Solomon Islands had appeared in the Committee in the presence of a COHRE delegation for a preliminary discussion. Subsequently, the Office of the High Commissioner for Human Rights had set up a technical assistance group that had gone to Solomon Islands to assist in the reporting process. That was why the State party had been able to submit its initial report. She drew attention to the COHRE report of January 2000 on the status of social and economic rights in Solomon Islands. It was unfortunate that no delegation could be present, but the Committee must proceed in the spirit of the constructive relationship that it wanted to maintain with States such as Solomon Islands, which had real financial problems and for which it might be able to suggest ways of improving the implementation of the Covenant. One way might be with international assistance. There should also be a follow-up to earlier technical assistance to ensure that the Committee's past and future recommendations were implemented. Far from being pointless, that would send a message to Solomon Islands and other States in a similar situation that the Office of the High Commissioner was willing to extend a helping hand and that the Committee was not there solely to criticize, but to make constructive suggestions. The Committee's concluding observations took on added importance in making Solomon Islands feel that it belonged to the international community.

Mr. CEASU said that he agreed entirely with the Chairperson's remarks. The Committee was in a better position to discuss the implementation of the Covenant in Solomon Islands than three years previously because a country report had been prepared by persons who had understood the Committee's concerns and working methods. The report was well-structured and in parts better drafted than those produced by some developed countries which submitted a great quantity of information on plans of action and projects without explaining how economic, social and cultural rights were actually ensured in practice. A discussion on the basis of the report would be useful in identifying legislation with lacunae, legal provisions contrary to the Covenant and misunderstandings as to the State party's obligations.

With regard to the implementation of article 2 of the Covenant, paragraph 26 of the report contended that it would be unwise to have right to work legislation when the formal economy could not absorb the ever-increasing labour force. That statement was based on the misconception that the right to work related only to wage employment. In actual fact, the provisions of the Covenant were much broader because they protected the right to earn a living by a freely chosen activity. Thus, legislation on the right to work must also cover the informal sector and the self-employed rural population. For example, if legislation was adopted, following which land was sold to foreign companies and the rural population was no longer able to engage in traditional activities to earn a living, the right to work and earn a living would be adversely affected.

He noted that citizens who were not indigenous Solomon Islanders did not have the right to hold or acquire perpetual title in land (para. 35) and that a Solomon Islander was defined as a person born in Solomon Islands who had two grandparents who had been indigenous to Solomon Islands (para. 36). That discriminated against Solomon Islanders who were not of indigenous origin, i.e. whose parents had been born abroad; those legal provisions were contrary to the Covenant and needed to be amended.

Turning to the implementation of article 7, he noted that, according to paragraph 63, members of non-unionized labour organizations did not know their rights and, in some instances where they did, they did not know who to turn to for assistance when an employer broke the law. The State party must ensure that such persons were informed of their rights and that a service in the Government was available to provide the necessary information. With regard to trade union rights, some legislation lent itself to a restrictive interpretation. For example, the Trade Union Act empowered the Registrar to suspend or cancel the registration of a trade union for breaches of provisions of the Act or its regulations (para. 91). The fact that registered trade unions were not permitted to amalgamate as one union without the approval of the Registrar (para. 94) was also contrary to the provisions of the Covenant. Likewise, he did not see why non-nationals employed on contract should not be allowed to join trade unions, as stated in paragraph 95. The reference to "the development of responsible unionism" (para. 99) suggested that there was some apprehension about trade union activities.

As to the implementation of article 9 of the Covenant, the Committee was pleased that medical care provided by the Government was accessible and free of charge to all Solomon Islands residents regardless of their economic or social status (para. 112). If that was true, it was a praiseworthy state of affairs that should be noted in the concluding observations.

Concerning the implementation of article 13 of the Covenant, the Committee should reiterate its recommendation of three years earlier that the State party should make primary education compulsory, especially since it was estimated that 95 per cent of children were already enrolled in primary schools. Paragraph 223 stated that, at the end of standard 6, all pupils sat the secondary school entrance examination and that they all applied for places in secondary schools of their choice, but, owing to the shortage of places, selectors made the final decision. That seemed arbitrary and unfair. If all children applied for places in secondary school, there should be a competitive examination and pupils who scored highest should be admitted.

The same applied to the situation in higher education. He was aware that a poor country was not in a position to finance the studies of all, but, according to paragraph 233, access to higher education was dictated by the fact that not all persons were endowed to cope with higher education. Such an assertion could not be made from the outset. Once again, there should be a competitive examination

to decide who was best prepared for higher education. Enrolment should depend not on an arbitrary decision, but on equality of treatment and opportunity and the qualities of the applicants.

According to paragraph 254 of the report, the use of local languages in schools was not discouraged, but no education materials were written in the local languages. Such a lack was a matter of concern, since a local language was essential to the maintenance of cultural identity

and must be supported by appropriate means, including the provision of teaching materials. If necessary, international financial assistance should be requested for that purpose; the Committee should make the appropriate recommendations to the State party.

Mr. AHMED said it could be seen, from the concluding observations of the Committee on the Elimination of Racial Discrimination, that it faced the same problems as the Committee with regard to reporting by Solomon Islands, which should nevertheless not be treated as a non-reporting State party. He agreed that the Committee should prepare concluding observations, such as those adopted by the Committee on the Elimination of Racial Discrimination, using all the available information including its previous concluding observations and the country profile available at the current session. Perhaps the desk officer for that country could also be invited to provide a quick review of the current situation. In addition, he suggested that the country rapporteur should head a small group to prepare a draft comparing the latest information with the State party's initial report.

The CHAIRPERSON said that the desk officer was currently in Solomon Islands, but the secretariat had requested the assistance of another adviser.

Mr. TEXIER said that, although concluding observations could be prepared in the way mentioned, dialogue was clearly of much greater value. In such situations, assistance should be provided to enable a delegation to attend or arrangements made for some of the Committee to visit the country concerned. An exchange of views was particularly important in the case of such a small, poor country, for the reasons cogently stated by previous speakers. With regard to the right to work, for example, the provisions of articles 6, 7 and 8 of the Covenant might not be entirely relevant to the situation in that country, especially in respect of unpaid work. On education, too, it would not do simply to criticize the lack of free primary education in disregard of the country's inability to support a school system. The right approach was to urge cooperation not only with the Office of the High Commissioner, but with UNESCO and other relevant international agencies that could provide assistance.

The report was indeed frank and well drafted, but meetings with the State party's representatives were essential if cooperation was to be enhanced in order to promote the implementation of the Covenant's provisions, including the enactment of legislation.

Mr. MALINVERNI said he was shocked that the Committee had been informed so late that no delegation from Solomon Islands would be present. He realized that many small island developing countries were prevented by lack of resources from following international treaty procedures, despite good intentions, and the Committee was not alone among treaty bodies in being faced with that problem. In view of the general concern about the situation, perhaps the Office of the High Commissioner should look into the provision of adequate technical services and funding, since, although the Committee could prepare concluding observations based on the report and other documentation, there was no substitute for dialogue.

He hoped that the country rapporteur would stress the situation of women in Solomon Islands, since women were not only under-represented in economic, social and political life, but discriminated against in many areas such as marriage arrangements and land transfer.

Mr. SADI said that the reality of a poor country with a small population dispersed over many islands must be borne in mind, as stressed in the introduction to the COHRE report. Indeed, as noted in that report, although the issue of equality of rights covered by the Covenant was not dependent on resources, the extent to which those rights were enjoyed did depend, in certain important respects, on the country's available resources and socio-economic systems. With regard to the status of women, for example, the latter in particular could be socially, economically and culturally dispossessed if, in the course of growth and development, the fabric that had previously sustained many people was damaged.

The CHAIRPERSON said that she fully supported that view.

Ms. BARAHONA RIERA said that the report was well prepared. She was surprised that no earlier measures, including budgetary provisions, had been taken to enable representatives of Solomon Islands to attend the current session, since there was much more that the Committee needed to know. For example, it was clear that the ethnic and cultural diversity enjoyed by the country was being marred by certain conflicts, but the Committee was unaware of the further course of events in the provinces of Malaita and Guadalcanal, for example. Questions needed to be asked about the high illiteracy rate among women and about land transfer transactions, in which women seemingly had no say, and the Committee also needed to know about the incidence and extent of problems relating to health and nutrition, for example, as a result of poverty, because some 80 per cent of the population was apparently living at subsistence level. Up-to-date information was lacking on programmes such as the anti-malaria campaign, as well as on labour problems, particularly since foreign corporations exploited a great deal of the country's natural resources.

Mr. RATTRAY said he agreed that, in considering the implementation of the Covenant's provisions, the Committee had to take account of the realities in Solomon Islands, and that made the establishment of benchmarks difficult. Some rights were indeed unconditional, but others must be seen in context. For example, recognition of the right to work could not be interpreted simply as an obligation to provide employment; in the case of a country such as Solomon Islands, realities such as the effectiveness of the informal system and social infrastructure should be taken into account. For example, according to paragraph 168 of the report, there was no hunger and, according to paragraph 172, everyone had adequate access to shelter.

It was admittedly not easy to decide how the Committee should react. It might deplore the absence of a delegation, which deprived the Committee of an opportunity to exchange views and obtain further information and clarification on which to base its conclusions.

But it should perhaps beware, for that reason, of reaching conclusions that might not reflect the true situation. The commendably frank report did refer to a number of matters of concern, such as the lack of legislation on the right to work, as mentioned in paragraph 26, and the fact that according to paragraph 35, the Constitution denied certain rights to non-nationals. With regard to education, however, although primary schooling was not obligatory - a matter raised in the Committee's list of issues - it should be noted that, according to the report, 75 per cent of the relevant age group was enrolled in primary school. Given the scattered nature of the territory, that figure was surely a benchmark in itself.

Mr. RIEDEL said that while he agreed that it was important to focus on the problems in Solomon Islands at the macro level, the Committee should also take into consideration the fact that Solomon Islands had been a party to the Covenant for some time and had had ample opportunity to fulfil some of the Covenant's basic provisions. The State party's failure to guarantee certain fundamental economic, social and cultural rights had been highlighted in a constructive and compassionate way in the Committee's previous concluding observations (E/C.12/1/Add.33) and in the COHRE report. He was not suggesting that the Committee should depart from that attitude, but it should refer specifically to certain fundamental issues, the first being the right to an adequate standard of living. The State party had indicated that, because of the traditional wantok system, which linked people speaking the same dialect together in a very tight network of cooperation and reciprocity, there was no real need for a well-defined external social security system because the community was supposed to provide a strong support network. However, that traditional system was deteriorating, as many young people were leaving their communities to work in the towns. The Committee should urge the Government to seek international assistance and to address the growing need for a social security system.

Another issue that should be raised in the concluding observations was that of housing. Many homes in both rural and urban areas did not have access to running potable water, and that posed a serious health risk. Something should be done to improve the situation, perhaps with international assistance. On the issue of health, he said that the problem of malaria could not be overlooked, as approximately one third of the population was suffering from the disease and all attempts to address the problem, even with the expert advice of the World Health Organization (WHO) had changed very little. The issue of domestic violence against women also warranted attention, as it had serious consequences for women's physical and mental health. Efforts should be made to raise awareness of the problem.

It was remarkable that overall spending on education had decreased. Solomon Islands had the worst educational record in the South East Asian region. Almost 30 per cent of the population was illiterate and primary education was neither completely free nor compulsory and was unaffordable for many people in a society that was dependent on subsistence agriculture. Girls suffered more than boys as a result. COHRE had indicated that it would be surprised if the Committee did not conclude that the lack of free and compulsory primary education was a clear violation of article 13, paragraph 2 (a), of the Covenant. The Committee should acknowledge the difficulties of the situation in its concluding observations, but should not gloss over the fact that fundamental rights were being violated.

Mr. MALINVERNI said that he agreed with Mr. Riedel and Mr. Ceausu and cautioned the Committee against taking a more lenient attitude towards countries that were poor or very small, as there was a risk of setting a dangerous precedent. The same principles should be applied to rich and poor countries alike.

Ms. BARAHONA RIERA said she agreed with Mr. Riedel that the Committee should refer to certain specific issues that posed serious problems in Solomon Islands, such as health, education, labour relations and poverty.

Mr. MARTYNOV said that he had been struck by the absence of any information on the activities of international financial institutions in Solomon Islands, despite the fact that 13 per cent of the country's GNP was provided by outside donors. For a country as small as Solomon Islands with such a low level of development, the international financial institutions should be taking a more proactive role, particularly with regard to developing infrastructure and providing micro-credit for self-employed persons, small and medium-sized enterprises and vocational training. The Committee should urge the Government to be more active in seeking help from such institutions.

The CHAIRPERSON said that she agreed with Mr. Martynov. She pointed out, however, that the World Bank was already implementing a programme in the area and that the Government was considering the introduction of a poverty reduction strategy paper at the World Bank's request. In addition, Australia and New Zealand were important donor partners. The COHRE report indicated that the Government was on the verge of implementing its Medium Term Development Strategy. She suggested that the Committee could ask to be invited to send a mission to Solomon Islands.

The Committee had received at very late notice the news that a delegation would not be appearing before it. Although it was no excuse, she acknowledged that the single member of the Permanent Mission of Solomon Islands to the United Nations in New York had been having difficulties in communicating with the Government in Honiara and did not dispose of the financial resources to travel to Geneva. In the past, the Government had indicated that it would prefer to spend money on alleviating the country's poverty rather than on sending a delegation to Geneva. The Committee should consider how it would phrase a statement about the absence of a delegation at the meeting, in view of the situation. She also noted that, although the people of Solomon Islands did not go hungry, the quality of food available to them was very poor.

Mr. RIEDEL urged the Committee to address the issue with the utmost caution. Although Solomon Islands was a very small country, allowing it to use its poverty as an excuse for failing to send a delegation to appear before the Committee could set a dangerous precedent for the other 144 States parties to the Covenant.

Mr. ATANGANA said he was concerned not only about the fact that the State party had failed to appear before the Committee, but that it had failed to submit any written replies to the Committee's questions in the list of issues. He wondered why the Government could not send its written replies to the Committee using the same methods it had relied on for sending its report.

The CHAIRPERSON said that the State party had prepared its report with the assistance of the Office of the United Nations High

Commissioner for Human Rights, UNDP and various NGOs. Such assistance had not been made available for the preparation of written replies; perhaps, technically speaking, the Government did not have the capacity to produce detailed answers to the Committee's questions.

Mr. MARCHAN ROMERO (Country Rapporteur) said his personal view was less pessimistic than that of his colleagues, although the points they had raised had been very interesting. The Government should not be relieved of its obligation to provide replies to the questions in the list of issues. He suggested that the Committee could urge the State party to answer them as soon as possible in order to maintain a dialogue. He agreed with Mr. Riedel that, in its concluding observations, the Committee should highlight the fact that, although Solomon Islands was a very poor and isolated country, it was a party to the Covenant and had to meet its basic obligations under that instrument despite the financial difficulties it faced.

The State party should also be invited to establish a poverty threshold. He found it paradoxical that a country as poor as Solomon Islands had not yet established one and that no information was available on the per capita GNP of the 40 per cent of the population considered as being the poorest. All of those issues should be mentioned in the concluding observations to highlight the fact that the State party had concrete obligations under the Covenant.

Mr. RIEDEL said he agreed that it would be useful to receive written replies from the Government, but it was unrealistic to expect the State party to produce satisfactory replies at relatively short notice, particularly without external assistance. The members of the Committee had been shown a film about the situation in Honiara that had led them to believe that the Government had a very limited capacity to draft any kind of international report. Could Mr. Kolosov, who had visited the Solomon Islands, confirm that? When other States parties had failed to reply to the questions in the list of issues, the Committee had drafted its concluding observations on the basis of the available information.

Mr. KOLOSOV said that, in its mission report, COHRE had indicated that the Government should seek the Committee's assistance and guidance to ensure that it complied with its future reporting obligations under article 16 of the Covenant, because COHRE had found that the Minister of Foreign Affairs, who was responsible for submitting reports to the Committee, had known neither that the Government had an obligation to submit reports nor how to prepare them. He supposed that the same applied to the preparation of written replies. The people he had met in person had all been very amicable, but somewhat naïve about the State party's obligations under the Covenant.

The concluding observations should mention the fact that many young people in Solomon Islands suffered from psychological problems because they were becoming increasingly aware that they were isolated from and neglected by the rest of the world. A number of NGOs had complained that a growing number of young people were committing suicide as a result. The report did not reflect the reality of the situation in that respect. It did reveal, however, that the psychiatric health service was not a priority area and suffered from a lack of sufficiently qualified psychiatric staff, inadequate funding and apparent lack of moral support from the medical and nursing services. The operation of the National Psychiatric Unit was dependent on hospital physicians and nurses. The nurses had general nursing skills and had done at most a year's nursing psychiatry training in Papua New Guinea. The Committee should perhaps urge the Government to seek WHO's help in that regard.

The CHAIRPERSON thanked Mr. Kolosov for sharing his first-hand experience with the Committee. Given that Solomon Islands was the first Pacific island State to ratify the Covenant, the Committee should be very decisive about how it would proceed, in order to set a good precedent, as the Office of the United Nations High Commissioner for Human Rights had been conducting a widespread campaign for the ratification of the Covenant in the South Pacific. With the exception of Fiji, the problem of youth suicides was very common in that region, probably because of the feeling of isolation and widespread poverty. The Committee should acknowledge such impediments, but make it clear that they could not be used as an excuse for failing to implement the provisions of the Covenant.

The meeting rose at 12.15 p.m.