



Economic and Social Council

COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on Economic, Social and Cultural Rights

MEXICO

The Committee on Economic, Social and Cultural Rights considered the fourth periodic report of Mexico on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/4/Add.16) at its 13th, 14th and 15th meetings, held on 9 and 10 May 2006 (E/C.12/2006/SR.13-15), and adopted, at its 29th meeting, held on 19 May 2006, the following concluding observations.

A. Introduction

The Committee welcomes the submission of the fourth periodic report of Mexico, which was prepared in general conformity with the Committee's guidelines and includes a section on follow-up to the Committee's concluding observations in relation to the third periodic report of Mexico (E/C.12/1/Add.41), as well as the written replies to its list of issues.

The Committee welcomes the constructive dialogue with the delegation of the State party, which included a number of representatives from various government departments, as well as the delegation's answers to the questions asked by the Committee.

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B. Positive aspects

The Committee appreciates the State party's support for the elaboration of an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

The Committee notes with appreciation the State party's cooperation with the country office of the Office of the High Commissioner for Human Rights, which was established in 2002 in the State party and has elaborated a "Diagnosis on the human rights situation in Mexico" covering also economic, social and cultural rights.

The Committee welcomes the establishment in 2001 of the National Institute for Women (*Inmujeres*) mandated to create a culture free from violence and discrimination against women and to promote the equal enjoyment of all rights by men and women.

The Committee welcomes the establishment in 2001 of a Technical Committee for the Measurement of Poverty in Mexico, which has defined thresholds for measuring trends in the proportion of the population below certain poverty levels, i.e. the "nutritional poverty threshold", the "capacities development threshold" and the "patrimony development threshold".

The Committee notes with appreciation that since 2003, antiretroviral medicines are accessible free of charge for all HIV/AIDS patients in the State party.

C. Factors and difficulties impeding the implementation of the Covenant

The Committee notes the absence of any major factors or difficulties impeding the effective implementation of the Covenant in the State party.

D. Principal subjects of concern

The Committee is concerned about reports that members of indigenous and local communities opposing the construction of the La Parota hydroelectric dam or other projects under the Plan Puebla-Panama are not properly consulted and are sometimes forcefully prevented from participating in local assemblies concerning the implementation of these projects. It is also concerned that the construction of the La Parota dam would cause the flooding of 17,000 hectares of land inhabited or cultivated by indigenous and local farming communities, that it would lead to environmental depletion and reportedly displace 25,000 people. It would also, according to the Latin American Water Tribunal, violate the communal land rights of the affected communities, as well as their economic, social and cultural rights.

The Committee regrets the absence of a federal gender equality act and of laws on sexual harassment in 14 of the 32 federated states of the State party. The Committee expresses its concern about discriminatory provisions in the civil codes of a number of states, such as provisions requiring the consent of the husband for a woman to work or authorizing the husband to decide about his wife's abode.

The Committee notes with concern that approximately 40 per cent of the active working population are reportedly employed in the informal sector.

The Committee is concerned about the low minimum wages in the State party, especially as regards women and indigenous workers.

The Committee is deeply concerned about the poor working conditions of indigenous workers, who are frequently underpaid or not paid at all, receive no social security benefits or paid vacations, and often work on daily contracts or as unpaid family members.

The Committee reiterates its concern about the practice of employers in the *maquiladora* (textile) industry to require women to present non-pregnancy certificates in order to be hired or to avoid being dismissed.

The Committee expresses its concern about the severe restrictions in the Federal Labour Law and in the Federal Law for State Workers on the right to form and join trade unions, such as trade union monopolies, exclusionary clauses, minimum age and membership requirements and provisions on the cancellation of trade unions in the public sector. The Committee is also concerned about restrictions on the right of trade unions to establish national federations or confederations and on the right to strike.

The Committee is concerned that the State party's unemployment benefit scheme only covers cessation of employment at an "advanced age".

The Committee notes with concern that, in spite of the "Seguro Popular" programme, approximately half of the population of the State party is not entitled to social security or social assistance.

The Committee, while acknowledging the various legislative projects and policies that are currently under adoption in the State party to combat domestic violence, remains deeply concerned about the high rate of domestic violence against women and children and about the fact that the definition of incest in the laws of a number of federated states does not adequately protect victims of incest, especially children.

The Committee notes the absence of disaggregated information in the State party's report concerning the incidence of trafficking of women and children in Mexico.

The Committee notes with concern that the minimum age for marriage in many states of the State party is 14 years for girls and 16 years for boys, subject to the parents' consent, and that the age of sexual consent is only 12 years for girls and boys.

The Committee is concerned about the high percentage of children below the age of 16 who are engaged in child labour, primarily in the agricultural and industrial sectors where they reportedly often work under poor and hazardous conditions.

The Committee reiterates its deep concern that, despite the State party's efforts to reduce poverty, more than 40 million people continue to live in poverty, in particular members of indigenous communities and other disadvantaged and marginalized individuals and groups, such as indigenous women, agricultural workers, workers in the informal sector, and older persons. The Committee is equally concerned about the unequal distribution of wealth between the northern and southern states of the State party and between rural and urban areas.

The Committee notes with concern that existing housing programmes do not adequately address the housing needs of the poor. It reiterates its concern about the absence in the State party's report of any statistical information on the number of forced evictions and on the extent of homelessness in the country.

The Committee is concerned about the high rate of maternal mortality caused by unsafe abortions, in particular as regards girls and young women, about reports on obstruction of access to legal abortion after rape, e.g. by misinformation, lack of clear guidelines, abusive behaviour directed at pregnant rape victims by public prosecutors and health personnel, and legal impediments in cases of incest, and about the lack of access to reproductive health services and education, especially in rural areas and in indigenous communities.

The Committee expresses its concern about the lack of teachers in primary and secondary schools, especially in indigenous and remote areas, the low school attendance by indigenous children, their comparatively poor school performance, the high illiteracy rate among the indigenous population and the limited access to education for, in particular, indigenous and migrant children and agricultural workers under the age of completion of compulsory education. The Committee is also concerned about the reduction in the budget allocated to intercultural and bilingual education.

The Committee notes with concern that the collective authorship of indigenous peoples of their traditional knowledge and cultural

heritage is not protected by the Federal Copyright Act or in other legislation of the State party.

E. Suggestions and recommendations

The Committee urges the State party to ensure that the indigenous and local communities affected by the La Parota hydroelectric dam project or other large-scale projects on the lands and territories which they own or traditionally occupy or use are duly consulted, and that their prior informed consent is sought, in any decision-making processes related to these projects affecting their rights and interests under the Covenant, in line with ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries. The Committee also urges the State party to recognize the rights of ownership and possession of indigenous communities to the lands traditionally occupied by them, to ensure that adequate compensation and/or alternative accommodation and land for cultivation are provided to the indigenous communities and local farmers affected by the construction of the La Parota dam or other construction projects under the Plan PueblaPanama, and that their economic, social and cultural rights are safeguarded. In this regard, the State party is referred to the Committee's general comments Nos. 14 and 15 on the right to the highest attainable standard of health and on the right to water.

The Committee encourages the State party to consider adopting legislation on gender equality at the federal and state levels. It calls on the State party to ensure that all federated states adopt and effectively implement laws on sexual harassment and that any provisions contrary to article 3 of the Covenant are repealed in federal and state legislation.

The Committee recommends that the State party gradually regularize the situation of workers employed in the informal sector and to continue and intensify its job placement programmes and financial support for persons seeking employment.

The Committee recommends that the State party ensure that wages fixed by the National Wages Commission or negotiated between workers and employers secure for all workers and employees, in particular women and indigenous workers, a decent living for themselves and their families, in accordance with article 7 (a) (ii) of the Covenant.

The Committee urges the State party to take effective measures to improve the working conditions of indigenous workers by, inter alia, adopting and/or implementing relevant legislation, enforcing the Federal Act for the Prevention and Elimination of Discrimination and corresponding state legislation, increasing the number and effectiveness of labour inspections in indigenous communities, and by sanctioning employers who violate minimum labour standards.

The Committee urges the State party to amend the Federal Labour Act or other legislation, with a view to prohibiting the practice of requiring non-pregnancy certificates from women as a condition of employment and to sanction employers who fail to comply with these provisions.

The Committee recommends that the State party review its labour legislation with a view to removing any restrictions on trade union rights other than those necessary in a democratic society in the interest of national security or public order or for the protection of the rights and freedoms of others. It reiterates its request that the State party consider withdrawing its interpretative statement to article 8 of the Covenant and ratifying ILO Convention No. 98 (1949) on the Right to Organize and Collective Bargaining. The Committee urges the State party to implement the judgements of the Supreme Court of Mexico declaring illegal the imposition of a trade union monopoly in the public sector and the "exclusionary clause" providing that only members of the existing union at the workplace may be hired by public or private employers. It also recommends that the State party extend the competence of the National and State Human Rights Commissions to include considering alleged violations of labour rights, and to implement the recommendations concerning trade union freedom contained in the "Diagnosis on the human rights situation in Mexico" elaborated by the office of the United Nations High Commissioner for Human Rights in Mexico.

The Committee recommends that the State party undertake a careful evaluation of the modifications proposed to the current retirement system through the Act concerning the Social Security and Services Institute for State Workers and of future modifications to other social security systems. This should ensure that such modifications do not lead to job insecurity for future pensioners nor to a decrease in the amount of their future pensions that would preclude them from enjoying an adequate standard of living.

The Committee urges the State party to extend the eligibility criteria for access to unemployment benefits in order to include all unemployed persons.

The Committee urges the State party to take all necessary measures to provide social assistance to those who are presently without any protection, with a view to enabling persons and families in need, including informal sector workers and other disadvantaged and marginalized individuals and families, to live a life in dignity.

The Committee urges the State party to proceed with the adoption of the General Act establishing a National System for Prevention, Protection, Assistance and Eradication of Violence against Women and Girls, of the envisaged amendments to the Constitution, the Federal Criminal Code, the Federal Civil Code, the Federal Act for the Prevention and Elimination of Discrimination and the Social Assistance Act and of other legislative projects, with a view to (a) providing adequate counselling and medical, psychological, as well as legal assistance to victims of domestic violence; (b) defining the offences of domestic violence and incest, as well as the sentences for perpetrators of such acts; and (c) providing for banning orders against perpetrators, as well as for compensation and alimony payments to victims, of domestic violence. The Committee also calls on the State party to ensure the harmonization and promulgation of legislation on domestic violence and incest in all its States, to strengthen and upgrade shelters for battered women and children and to intensify its awareness-raising campaigns and training of judges, prosecutors, police and medical personnel on the criminal nature of such acts. The Committee invites the State party to include information on the results of these measures and on the number of victims, perpetrators, convictions, the types of sanctions imposed and the assistance provided to victims in its next periodic report.

The Committee requests the State party to include, in its fifth periodic report, statistical information on the number of victims of trafficking, disaggregated on an annual basis by sex, age and national or ethnic origin, as well as on perpetrators, convictions, the

types of sanctions imposed and the assistance provided to victims.

The Committee recommends that the State party raise and equalize the minimum age for marriage for boys and girls, as well as the age of sexual consent, at the federal and state levels.

The Committee recommends that the State party consider ratifying ILO Convention No. 138 (1973) concerning Minimum Age for Admission to Employment and that it accordingly raise the minimum working age from 14 years to the age of completion of compulsory schooling and, in any case, to no less than 15 years. The Committee also recommends that the State party invite representatives of Mexican civil society sector to participate in this evaluation process.

The Committee recommends that the State party ensure the full integration of economic, social and cultural rights in its social development and poverty reduction strategies, specifically address the needs of disadvantaged and marginalized individuals and groups, and allocate sufficient funds for the implementation of these strategies. In this regard, the State party is referred to the Committee's statement on "Poverty and the International Covenant on Economic, Social and Cultural Rights" (E/C.12/2001/10). The Committee recommends that the State party intensify its efforts to address the wide disparities between rich and poor, North and South, and between rural and urban areas. The Committee also recommends that the State party further develop indicators and benchmarks, disaggregated by sex, age, urban/rural population and social and ethnic group, for monitoring the progress achieved in combating poverty, and that it report on such progress in its next report.

The Committee recommends that the State party adopt comprehensive national housing legislation, including legislation on rent control, and that it promote affordable rental housing and invest in social housing in order to meet the needs of the poor and of low-paid workers. It reiterates its request for detailed information in the State party's next periodic report on the number of forced evictions, the manner in which these are carried out and on the remedial measures, legislative and otherwise, taken by the State party in relation to forced evictions, in line with the Committee's general comment No. 7. The Committee also requests the State party to include statistical information on the extent of homelessness in the State party, disaggregated by age, sex, urban/rural population and ethnic group, in its next report.

The Committee recommends to the State party to ensure and monitor the full access of rape victims to legal abortion, to implement the Equal Start in Life Programme in all of its states, to ensure full access by everyone, especially by girls and young women, to reproductive health services and education, especially in rural areas and in indigenous communities, and to allocate sufficient resources for these purposes.

The Committee urges the State party to increase the number of primary and secondary school teachers, especially in indigenous and remote areas, as well as the budget for education, in particular for intercultural and bilingual education, to strengthen and upgrade schooling programmes for indigenous and migrant children, child workers and children belonging to other disadvantaged and marginalized groups, in particular girls, and to report on the progress made in achieving universal access to compulsory primary and secondary education in its next report.

The Committee recommends that the State party consider the adoption of legislation to recognize, register and protect the collective authorship of indigenous peoples of their traditional knowledge and cultural heritage and to prevent the unauthorized use of scientific, literary and artistic productions of indigenous peoples by third parties, in line with the Committee's general comment No. 17.

The Committee requests the State party to disseminate the present concluding observations widely among all levels of society, particularly among government officials and judicial authorities, and to inform the Committee on all steps taken to implement them in its next periodic report. It also encourages the State party to engage non-governmental organizations and other members of civil society in the process of discussion at the national level prior to the submission of its next periodic report.

The Committee requests the State party to submit its combined fifth and sixth periodic reports by 30 June 2012.
