



# Economic and Social Council

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## Committee on Economic, Social and Cultural Rights

### Fifty-fifth session

#### Summary record of the 25th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 3 June 2015, at 10 a.m.

*Chairperson:* Mr. Sadi

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*The meeting was called to order at 10.05 a.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 Bolivarian Republic of Venezuela (continued)* (E/C.12/VEN/3; E/C.12/VEN/Q/3 and Add.1)

1. *At the invitation of the Chairperson, the delegation of the Bolivarian Republic of Venezuela took places at the Committee table.*

2. **Mr. Menéndez** (Bolivarian Republic of Venezuela) said that the National Assembly was currently working on the formulation of enabling acts that would contribute to the State's unwavering efforts to fight corruption. The two main bodies responsible for tackling the problem were the Office of the Comptroller-General of the Republic, which had imposed administrative disciplinary measures in over 900 cases, and the Office of the Attorney General, which dealt with corruption at all levels of government. The absence of any partisan or political bias in the battle against corruption was demonstrated by the fact that a number of prominent government figures had been prosecuted on corruption charges.

3. **Mr. Mojica** (Bolivarian Republic of Venezuela) said that he would begin by responding to five specific questions that had been asked during the previous day's meeting. First, regarding the independence of the judiciary, it should be noted that the Supreme Court and the rest of the judiciary had been working unceasingly to shape a justice system that conformed to the requirements set forth in article 26 of the Constitution. Articles 254 and 255 of the Constitution provided the framework for the objective, independent, merit-based and impartial appointment and promotion of members of the judiciary. The agency responsible for administering the competitive examination and performance evaluation procedures was the National Directorate for the Magistrature.

4. The second question had focused on whether the rights set forth in the International Covenant on Economic, Social and Cultural Rights had been invoked and applied in Venezuelan courts. The answer was "yes". The Covenant had indeed been invoked, and the Committee had been apprised of that fact in due course, in a total of 39 Supreme Court judgements; 25 of those decisions had been issued by the Political-Administrative Chamber of the Supreme Court, 12 by the Constitutional Chamber of the Supreme Court and 2 by the Social Court of Cassation of the Supreme Court.

5. As to the question relating to a judgement of the Constitutional Chamber of the Supreme Court in which it had stated that social rights, unlike civil rights, were not inherent to the individual, which had been coupled with a request for an explanation of how the concept of social rights was interpreted in the Bolivarian Republic of Venezuela, the Committee member concerned had not provided specific details that would have made it possible to identify the case in point. However, the delegation had brought with it information on the judgement handed down by the Constitutional Chamber in Case No. 051471, of 5 August 2005 (*Yamilex Coromoto Núñez de Godoy v. Grupo Médico de Fertilidad, C.A. del Centro Medico Docente la Trinidad*), whereby protective measures had been granted in response to an *amparo* appeal concerning constitutional rights relating to artificial insemination. That decision had been taken in the light of the rights set forth in various international instruments to which Venezuela was party. The delegation would provide the information on that judgement to the Committee in writing.

6. As to the question regarding a possible inconsistency between the State party's adherence to the Covenant and its withdrawal from the American Convention on Human Rights, he could assure the Committee that the judiciary was perfectly aware of the

indivisibility and interdependence of the human rights enshrined in international law. That awareness was attested to in Judgement No. 2020 of 2003 in the case of *Industrias Metalúrgicas Ofanto S.R.L.*, in which the Constitutional Chamber had stated that the general principles of law constituted a part of the constitutional system and provided guidance for the interpretation and application of the law by all of the nation's judges.

7. As to the question regarding the implementation of the Committee's recommendations, decisions and observations by Venezuelan courts, the Committee would recall that, as noted earlier, the Covenant was of constitutional rank in the legal hierarchy, and the provisions of the Covenant were indeed applied by the nation's courts. One specific example was the judgement of 9 May 2013 of the Second Court of First Instance in Civil, Commercial and Transport Matters in the Judicial District of Mérida (Case file No. 10553 concerning an *amparo* appeal for the protection of constitutional rights), which had been based in part on recommendations made by the Committee on the right to health.

8. **Ms. del Valle Requena** (Bolivarian Republic of Venezuela) said that the 2015 budget for policies targeting women's issues was almost 10 times larger than the budget allocation for women's affairs in 2009. The State Council for Gender Equality and Equity had recently been set up and tasked with assessing and monitoring public policies on issues of concern to women. An interministerial plan entitled the *Mamá Rosa* National Plan for Gender Equality and Equity 2013–2019 had been developed to ensure that gender policies were cross-cutting and were properly funded.

9. A major family-centred social protection project entitled *Gran Misión Hogares de la Patria* had been launched under which more than 350,000 homes had already been registered. Work would focus on identifying and addressing reproductive and sexual health issues, pinpointing areas where technical assistance was required and leveraging the productive potential of disadvantaged communities. The National Plan for Social Harmony and Peace that had been adopted in 2014 included a police protection and surveillance system. In addition, a plan for the collection of firearms had been put in place, the legal protection programme entitled *Gran Misión A Toda Vida Venezuela* was being strengthened and centres designed to make the justice system more accessible to the public had been set up in 79 municipalities with high violent crime rates. Staff were on hand at those centres to provide violence-prevention services as well.

10. **Ms. Martínez** (Bolivarian Republic of Venezuela) said that the Act on Women's Right to a Life Free from Violence had recently been amended to cover femicide and incitement to commit suicide. Work was moving ahead on the development of a stronger system for the prevention and eradication of violence against women. The Ministry of People's Power for Women and Gender Equality had been established, along with the National Institute for Women and the Office of the National Ombudsman for Women's Rights, which had provided advice and legal aid to over 100,000 women victims of violence. Temporary shelters for women at risk and their children had been set up, along with comprehensive assistance and training centres for women. Those centres conducted violence prevention activities and provided women with access to legal aid, psychological support, and sexual and reproductive health care. In 2014, the centres had received US\$ 73 million in funding and provided services to 120,000 women. A free, nationwide, confidential 24-hour telephone hotline had also been set up that had served over 100,000 women. Large-scale training and awareness-raising campaigns on violence against women had been carried out for a target audience consisting of over 230,000 judicial and law enforcement officials. Women's institutes had been set up in 20 states and over 140 municipalities, along with 17,000 community-level offices of the Ombudsman for Women's Rights. In 2014, a media campaign on the right of women to a violence-free life had been launched in schools.

11. As part of the effort to reduce the early and teenage pregnancy rate, the National Institute of Statistics had set up a subcommittee to coordinate and harmonize up-to-date statistics on the subject and to make sure that those data were provided promptly to the relevant decision-making bodies. The Independent Institute of the National Council for the Rights of Children and Teenagers and the Inter-American Development Bank (IDB) had signed an agreement under which a qualitative study on the main factors behind early and teenage pregnancy had been conducted. The study had highlighted the need to change the prevailing cultural attitudes which underlay the belief that women's main value resided in their childbearing potential. One of its recommendations had been to carry out information campaigns on sexuality and sexual and reproductive rights. The Government had launched a national plan for the promotion of women's sexual and reproductive rights, with special emphasis on women living in extreme poverty. The plan provided for action to halt the spread of AIDS and other sexually transmitted infections among women, to combat discrimination relating to the sexual and reproductive rights of members of the lesbian, gay, bisexual, transsexual and intersex community, and to promote family planning and access to emergency contraceptives. A number of textbooks containing material aimed at preventing early and teenage pregnancy and promoting a responsible attitude towards sex among teenagers had been published. An interministerial programme for the prevention of early and teenage pregnancy had been implemented in over 2,400 schools. Under that programme there were also plans to train 10,000 young persons as outreach workers and to provide teachers with training on sexuality and sexual and reproductive rights. A programme was also being developed to extend family planning coverage to poor areas, reduce maternal mortality and morbidity rates, and promote natural childbirth.

12. **Mr. Devoe** (Bolivarian Republic of Venezuela) said that the Ministry of People's Power for Indigenous Peoples had provided around US\$ 70 million for 1,280 projects directly benefiting some 300,000 persons in 2008–2014. The Ministry of People's Power for Culture was working to protect sites held to be sacred by indigenous communities and had successfully campaigned for the inclusion of the oral tradition of the Mapoyo people and of their symbolic points of reference within their ancestral territory on the List of Intangible Cultural Heritage in Need of Urgent Safeguarding of the United Nations Educational, Scientific and Cultural Organization (UNESCO). The Ministry had also been urging the Government of Germany to return the sacred "Kueka Stone", and he hoped that the Committee would help to resolve that situation. In 2015, the Ministry of People's Power for Indigenous Peoples had allocated US\$ 2 million for efforts to support traditional indigenous practices. Centres for the promotion of indigenous crafts and customs had been set up, and a network of over 40 galleries provided an opportunity to view indigenous cultural arts and crafts.

13. **Mr. Molina** (Bolivarian Republic of Venezuela) said that NGOs and civil society organizations were free to participate fully in political affairs, to criticize government policies and to put forward policy proposals.

14. **Mr. Menéndez** (Bolivarian Republic of Venezuela), responding to a question raised earlier about how the cost of the basic food basket and the minimum wage compared with one another, said that the minimum wage had been higher than the cost of that basket ever since 1999, since it was set in such a way as to cover other living costs, such as transportation, housing and health care, as well as food. In spite of attempts to sabotage the country's oil industry, a coup and a war of economic aggression against the Bolivarian Republic of Venezuela, wages had risen steadily. The Government had introduced the concept of minimum legal income, which was different from that of the legal minimum wage. Figures had been published that indicated that the food basket was not affordable, but that was not true. Statistics had to be compiled in a rigorous and scientific way, not simply used as a ploy in a political soccer game.

15. **Mr. Colmenares** (Bolivarian Republic of Venezuela) said that, by law, all workers in the formal and informal sectors had equal rights. It was not permissible to dismiss workers without good cause; workers had the right to due process and to lodge appeals. In 2014, about 2,000 workers who had been fired illegally had been reinstated. Programmes were in place to help job-seekers join the workforce; training was offered to provide people with the skills required to work in a wide range of fields, including the oil industry. The Constitution guaranteed the right to form trade unions and the right to bargain collectively, and it expanded upon the rights set out in the International Labour Organization (ILO) Freedom of Association and Protection of the Right to Organise Convention (No. 87) and the ILO Right to Organise and Collective Bargaining Convention (No. 98). The right to strike was freely exercised, although it was subject to some limitations. No strikes had been prohibited in recent years; in fact, there had been 19 legal strikes in 2014. Trade unions were fully protected. In the last 15 years, not a single person had been prosecuted in connection with trade union activities.

16. Workers in the construction sector were highly paid, and many of them were migrant workers. Unfortunately, there was also a high rate of workplace violence. Investigations had shown, however, that the violence was unrelated to trade union activities. The victims of the 28 murders in 2014 that had been mentioned at the previous meeting had been unionized workers, but not union leaders.

17. The Constitution guaranteed a legal minimum wage, which was adjusted periodically. In fact, it had been adjusted 30 times in the last 15 years. Occupational health and safety committees had been carrying out workplace inspections since 2005. The Constitution established the universal right to social security, and arrangements had been made to provide pensions to people, such as some farmers, fishery workers and women who worked in the home, who could not afford to pay social security taxes and to workers whose employers had not paid their contributions.

18. The issue of street children was a problem created by parental abandonment, rather than a child labour issue. For children under the age of 14, child labour was completely prohibited except during the harvest, and, even then, prior authorization was required. Assistance was provided to families in order to allow children to stay in school. In fact, according to the United Nations Children's Fund (UNICEF), Venezuela had the lowest incidence of child labour in the region.

19. **Mr. Menéndez** (Bolivarian Republic of Venezuela) said that the number of persons who had been receiving pensions had held steady in the 1990s but since then, pensions had steadily grown and the number of pensioners had also climbed. In the past, pensions had been less than the minimum wage; they were now equal to the minimum wage, and the possibility of an additional health bonus was being considered. In the past, over half of the working population had earned the minimum wage; that figure was now closer to one third, and many people now earned two or three times that amount. Overall household income had risen, greater numbers of people were working, and studies showed that people were healthier and were living longer.

20. **Ms. Villegas** (Bolivarian Republic of Venezuela) said that health was a fundamental social right in Venezuela and was one facet of the right to life. The main thrust of health policy was to improve the quality of life and collective well-being. Priority objectives included ensuring timely, free access to health services, reducing child mortality, combating illness, preventing accidents and providing treatment to drug addicts. The comprehensive health-care system had three components: community care, emergency services and hospitalization. In recent years, new hospitals, including a children's cardiac unit and an obstetric clinic, had been built throughout the country. In 2003, the *Misión Barrio Adentro* programme had been launched to provide comprehensive health care to persons living in poor or remote areas. Many doctors and dentists had been trained and

recruited. The social security system and the armed forces also had hospitals. The intercultural, comprehensive care model championed by the Government of the Bolivarian Republic of Venezuela took the well-being of the individual, the family and the community into consideration, incorporated the gender perspective, and focused on the role of communities and communal committees as the basis for social life. One of the challenges that lay ahead was to increase hospital supplies of medicines; the Government was striving to ensure that its citizens' health was not jeopardized by efforts to destabilize the country and was working with Latin American integration organizations such as the Union of South American Nations (UNASUR), the Community of Latin American and Caribbean States (CELAC) and the Southern Common Market (MERCOSUR) to acquire the necessary medical supplies.

21. The life expectancy of women had climbed in recent years from approximately 73 to almost 78 years. In 2014, the main cause of maternal mortality had been hypertensive disorders during pregnancy, with over 40 per cent of such cases involving women under the age of 20. It was clear that maternal mortality was an indicator of unequal access to proper health care. Providing such care to expectant mothers was of the highest priority. Between 1990 and 2014, the rate of maternal mortality had fluctuated considerably. Almost all births took place in clinics or hospitals, most of which were public hospitals, where care was provided absolutely free of charge. Health standards for comprehensive reproductive health care had been developed, and committees had been set up to study the problem of maternal mortality.

22. **Mr. Menéndez** (Bolivarian Republic of Venezuela) said that prevention and nutrition were other essential aspects of the health-care model.

23. **Ms. Ruiz** (Bolivarian Republic of Venezuela) said that the right to food was protected under the Constitution; according to the Food and Agriculture Organization of the United Nations (FAO), Venezuela had been the fifth country in the world to accord explicit legal recognition to the fundamental right to food. It had also become party to a large number of international treaties dealing with economic cooperation and food imports and exports in the context of Latin American and Caribbean integration.

24. Since 2001, large parcels of land had been reclaimed from hacienda owners who had illegally taken over the land for their private enrichment. The Land and Agricultural Development Act ensured that reclaimed lands would be turned over to the original occupants whenever possible and, in any event, to farmers. The goal was the attainment of agricultural and food sovereignty. Food was considered to be an element of State security, as well as a right and a social benefit; it was not merchandise. The cross-sectoral institutional policy framework was designed to guarantee the production, supply and equitable distribution of sufficient quantities of food to satisfy the nutritional needs of the population. In addition, the Venezuelan people had organized food and consumer defence committees, a movement to support breastfeeding, and people's supply and production councils.

25. A humanitarian food policy had been devised to address the lack of a secure food supply, and more than 25 million tons of staple foods had been distributed in 2014 at subsidized prices for low-income households and regulated prices for the rest of the population. The school meals programme, which used to provide children with little more than a glass of milk, now supplied 4 million children with between one and three varied, nutritionally balanced meals each day. In addition, the *Gran Misión AgroVenezuela* programme had almost 700,000 participants who received assistance in working their land and in diversifying their output. A number of production alliances had also been established to improve food distribution. Government food policies had resulted in the reduction of the extreme poverty rate to just 5 per cent, an increase in breastfeeding and in the number of times Venezuelans ate per day, a higher per capita caloric intake and a reduction in infant

malnutrition, and an increase in the average height of Venezuelan children. In fact, FAO had recognized the food security and nutrition policy of the Bolivarian Republic of Venezuela as an exemplary one in the campaign to eradicate hunger.

26. The challenges that lay ahead included achieving food sovereignty, fully realizing the nation's potential in agricultural production, changing consumption patterns to promote healthy, sustainable eating habits, and eradicating hunger and child malnutrition once and for all.

*The meeting was suspended at 11.30 a.m. and resumed at 11.45 a.m.*

27. **Ms. Ruiz** (Bolivarian Republic of Venezuela) said that her country was the only one in the world to have an entire government ministry devoted specifically to foodstuffs. It also had one of the largest food supplies, highest levels of protein availability and lowest levels of child malnutrition in Latin America.

28. **Ms. Villegas** (Bolivarian Republic of Venezuela) said that, in 2014, more than 42,000 persons infected with HIV had received antiretroviral drugs at a cost of US\$ 39 million. In total, 5 classes of antiretroviral drugs and 12 courses of therapy were available, as were free medicines for a range of rare conditions. In the framework of the Vaccination Week in the Americas, programmes that had previously covered only children under the age of 5 had been extended to cover all persons, with a particular focus on pregnant women and older adults.

29. **Ms. Rengifo** (Bolivarian Republic of Venezuela) said that anyone could file a complaint regarding forced evictions with a number of different offices, including the Ombudsman's Office and the Public Defender Service.

30. **Mr. Menéndez** (Bolivarian Republic of Venezuela) said that the key idea behind the *Gran Misión Vivienda Venezuela* programme was to treat housing as a social good rather than as a commodity. It was hoped that, by 2019, 40 per cent of the population would be living in dwellings provided under that programme, which would bring about a significant increase in the average floor area per person and ensure that households were equipped with appropriate cooking and food storage facilities. Settlements established under the programme would be in areas that offered occupational and cultural opportunities.

31. **Ms. Bras Gomes** said that, according to figures from the Venezuelan National Institute of Statistics, the monthly minimum wage had been set at 4,889.11 bolívares in 2014, while the cost of the basic monthly food basket had risen to 6,382.62 bolívares. She invited the delegation to comment on the matter and to indicate who was involved in the broad-ranging consultations that served as a basis for setting the minimum wage. The Committee would also like to know what the minimum amount of the old-age pension provided by the State was.

32. **Mr. Kedzia**, drawing the delegation's attention to the 2014 Corruption Perceptions Index compiled by Transparency International, in which the Bolivarian Republic of Venezuela had been ranked 161st out of 175 countries, said that the results suggested that much more needed to be done in that area. He wished to know how independent the public prosecutor's office was and invited the delegation to comment on reports that guarantees of tenure were afforded only to prosecutors who were appointed on the basis of their results on a competitive examination. He asked whether it was true that, up to January 2014, only four prosecutors had been appointed by that means and that none of the remaining prosecutors enjoyed security of tenure or were bound by the judicial code of ethics of 2009. The Committee would appreciate learning what measures to rectify the situation were planned.

33. He had not heard a response to his question on the protection given to whistle-blowers, witnesses, victims and journalists in cases of corruption, nor had he received

clarification on the procedural and institutional tools available to human rights defenders and anti-corruption activists.

34. **Mr. Uprimny Yepes** said that we was concerned at the fact that, when the State party did not agree with the findings of international bodies such as the Committee or the Inter-American Court of Human Rights, it had a tendency to disregard them or dismiss them as mere suggestions.

35. He had not received a satisfactory response to his question on the right of indigenous peoples to prior consultation, particularly in relation to Decree No. 841 and the development of Las Cristinas gold mine. He would have appreciated a more detailed explanation of how plans to foster socialist values in teacher-training courses were compatible with the right to educational freedom as defined in the Committee's general comment No. 13 on the right to education. He would like to know whether the State party intended to review its stance on abortion and to draw up a long-term strategy to reduce maternal mortality. The Committee had received reports that requests for information from a number of NGOs had not been granted, and he would like to know what the Government was doing to guarantee the right of access to public information. He would appreciate clarification on the delegation's interpretation of the term "economic warfare", which had been cited as a cause of various problems, such as medical supply shortages.

36. **Mr. Abdel-Moneim** said that, although he could understand the reason for the policy on regular wage adjustments, the high inflation rate in the State party limited its effectiveness. He would be more inclined to support the approach mentioned in paragraph 438 (c) of the State party report (E/C.12/VEN/3), which involved setting "support prices by sector or crop". As for the issue of economic warfare, he would like to draw the delegation's attention to the Committee's general comment No. 8 on the relationship between economic sanctions and respect for economic, social and cultural rights, which stipulated that, whatever the circumstances, sanctions should always take full account of the provisions of the Covenant.

37. **Ms. Shin** said that, while it was refreshing to hear references to revolutionary and feminist policies, the Committee had been sent information that pointed to the existence of a substantial gap between policy and practice. For example, the delegation had spoken about the establishment of specialized hospitals in the State party. A study by Human Rights Watch, however, had concluded that 130 public hospitals were lacking basic medicines and equipment. With that in mind, she wished to know if and how the State party gauged the success of policy implementation. In particular, it would be useful to know how regularly the Government held consultations with civil society groups, including women's organizations.

38. **Mr. De Shutter**, noting the extent of the country's reliance on food imports, asked whether policies had been introduced to support local farmers. He also wished to know whether efforts had been made to assess the impact of the Government's agrarian reform and land redistribution programme on the population's access to an adequate food supply.

39. **Mr. Mancisidor** (Country Rapporteur) asked what steps had been taken to address what was reportedly a lack of independence on the part of the Ombudsman's Office and requested further clarification on the State party's decision to withdraw from the American Convention on Human Rights. He also wished to know what efforts had been made to uphold cultural rights, such as access to information and freedom of expression, and to put an end to the militarization of schools. He also wished to know what measures had been adopted to halt the increase in cases of malaria and dengue among workers in the mining and other extractive industries.

40. **Mr. Colmenares** (Bolivarian Republic of Venezuela) said that commissions and working groups comprising employer, employee and trade union representatives held

regular meetings to discuss the minimum wage and other labour issues. Their proposals were forwarded to the President for his consideration.

41. **Ms. Martínez** (Bolivarian Republic of Venezuela) said that the country's nine maternity hospitals were responsible for reporting and compiling data on cases of maternal mortality. The Government had introduced a raft of programmes designed to improve women's sexual and reproductive health and had recently opened a new obstetrics health centre which provided personalized prenatal care to pregnant women. Efforts had also been made to improve women's childbirth and breastfeeding experiences. The Government had adopted a series of measures to boost the supply of medicines and had entered into a medical supplies trade agreement with China.

42. **Mr. Devoe** (Bolivarian Republic of Venezuela) said that the Office of the Inspector General and the Office of the Public Prosecutor were fully independent and in a strong position to combat corruption. The Government did not believe that the methods used by Transparency International to measure corruption were reliable. There were plans to introduce public-sector competitive exams in the near future to ensure that the most suitable candidates were appointed to positions of authority. Prior consultations on proposed mining projects would be held with indigenous groups once the Government had completed its mining-sector reorganization plan and had established a national mining register.

43. **Mr. Menéndez** (Bolivarian Republic of Venezuela) said that data disaggregated by sex was readily available on the website of the National Institute of Statistics and that 64 per cent of the population had access to the Internet. He urged the Committee not to pass value judgements on the situation in the country and to scrutinize its sources of information carefully to ensure that its recommendations were based on accurate data. Despite the ongoing economic war being waged against the country, the Government remained committed to fulfilling its human rights obligations under the Covenant and would continue to prioritize spending on social investment despite the sharp drop in oil prices and the extent of capital flight. The State reserved the right to ensure its sovereignty and safeguard its right to self-determination in accordance with article 1 of the Covenant.

44. **Mr. Mancisidor** said that he welcomed the complete and relevant answers provided by the delegation. He wished to stress that the Committee had approached the dialogue with the utmost respect for the State party and in line with its mandate. The Committee's comments in no way represented an attack on the State's sovereignty or its right to self-determination.

45. **The Chairperson** said that the country's situation was a unique one and the Committee had viewed the interactive dialogue as a valuable opportunity to learn more about the current state of affairs, which was why its members had posed so many penetrating questions.

*The meeting rose at 1 p.m.*