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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Thirty-ninth session

SUMMARY RECORD OF THE 33rd MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 6 November 2007, at 10 a.m.

Chairperson: Mr. TEXIER

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6)

Second to fourth periodic reports of Costa Rica (E/C.12/CRI/4; E/C.12/CRI/Q/4 and Add.1; HRI/CORE/1/Add.104)

1. At the invitation of the Chairperson, the members of the delegation of Costa Rica took places at the Committee table.

2. The CHAIRPERSON welcomed the delegation of Costa Rica and invited it to introduce the State party's second to fourth periodic reports.

3. Ms. UBEDA (Costa Rica) said that the report under consideration, which covered the period 1990-2004, had been prepared in two stages: during the first, an inter-agency committee had been established to gather the most objective possible information on implementation of the Covenant in the country, and during the second, consultations had been held with organizations of civil society which were active in the area of economic, social and cultural rights and worked with vulnerable groups. Costa Rica had also received assistance from the United Nations Development Programme (UNDP). Whereas the initial report had essentially covered the legislation adopted by Costa Rica to give effect to the provisions of the Covenant, the report under consideration took account of the Committee's previous concluding observations and focused more heavily on the implementation of legislation, public economic, social and cultural policies, and specific programmes for vulnerable groups.

4. It must be recognized that the situation had evolved considerably since 1990 and that Costa Rica had undergone profound changes. Its population had increased from 3.2 million to 4.2 million inhabitants. Infant mortality and birth rates had declined. With regard to population distribution, many more people now lived in towns and cities than in the countryside, and rural-urban migration was as strong as ever. As to the economy, the industrial and service sectors were more important than in 1990, whereas the agricultural sector was in decline. The formal sector had seen strong growth, albeit less than that of the informal sector. The percentage of working women had increased substantially, from 30 per cent in 1990 to approximately 39 per cent in 2003. Tourism was the principal source of foreign currency. The economy was much more open, with very diversified production. The efforts made to overcome the severe economic crisis of the 1980s had been successful and had helped reduce poverty. In 2000, it had been estimated that 20 per cent of the population lived in poverty, as against 16.7 per cent according to the latest figures. The Government had continued to increase its investments in the public sector in order to improve the living conditions of Costa Ricans and help those most in need. Education, social security and health care accounted for 30 per cent of public expenditure. Housing was the most buoyant sector, some 400,000 units having been built during the period under consideration. Among other positive developments, Costa Rica had put an end to the uncontrolled deforestation of the 1970s, and protection measures were in place for nearly 26 per cent of the national territory. Politically speaking, the country had gone from a two-party to a multi-party system.

5. Despite the overall improvement in the situation, much still remained to be done. Economic growth was not strong enough, but Costa Rica had an important asset, namely its young population, which would help give fresh impetus to the economy. Referring to a number of measures to be taken, she said that in the education sector, investments would have to be further increased to eight per cent of public expenditure (from a current six per cent), better-quality education was needed, and repeater and drop-out rates must be reduced. In the health care sector, infrastructure and the quality of services provided must be improved. Broadly speaking, the State would need to work more closely with vulnerable groups to combat poverty, which affected them disproportionately, promote gender equality at the workplace in order to close the wage gap between men and women, and fight social inequalities between regions.

Articles 1 to 5 of the Covenant

6. Mr. ATANGANA, noting that in its written reply to question 2 of the list of issues, the Government had cited only two rulings of the Constitutional Court without giving any examples of cases in which the provisions of the Covenant had been invoked, urged the delegation to provide the information requested.

7. Mr. MARCHAN ROMERO observing that in October 2007, Costa Ricans had voted in favour of the Central America Free Trade Agreement (CAFTA), asked what the consequences of the Agreement would be for the population in general and needy groups in particular. He would like to know more about the provisions of the Agreement relating to intellectual property, given that Costa Rica produced many generic medicines for the health care sector.

8. According to information provided by the State party, indigenous people accounted for about 1.2 per cent of the population. He asked for details on the 22 reservations on which they lived and noted in passing that the word “reservation” had a negative connotation. He would like to know in particular how indigenous people could exercise the right to their ancestral lands. Referring to other ethnic minorities, he said that, according to a number of sources, the Costa Rican population of African origin was the target of discrimination, and no measures had been taken to address the situation. He sought the delegation’s point of view on that subject, and he also enquired why indigenous people and ethnic minorities were not represented in the Government or Parliament.

9. Mr. PILLAY was pleased that the Covenant took precedence over national legislation and the Constitution and could be directly invoked in the courts. It would be interesting to learn whether cases involving racial discrimination, in particular against Costa Ricans of African origin and other ethnic minorities, had already been brought before the courts. He also asked whether corrective measures had been taken to make the punishment fit the crime in such cases. Lastly, he would like to know whether the State party had implemented the recommendation of the Office of the Ombudsman to conduct a survey on existing forms of discrimination and to train judges, court officials and members of the prosecuting authorities about all types of discrimination.

10. Mr. SADI said it was unfortunate that Costa Rica had been so late in submitting its report. He asked about the extent to which the Committee’s recommendations had reached all levels of Government and whether they had been taken into account.

11. Mr. TIRADO MEJIA sought concrete information on efforts to combat discrimination against women in the working world. For example, what resources had been allocated in the budget to promote gender equality, and what plans or programmes addressed the issue? He also asked what progress had been made with the State party's constitutional reform bill, in which Costa Rica was described as a "multiethnic State".

12. With regard to immigration and asylum, he was concerned about the statements reportedly made in the press by the Minister for Public Security against refugees, especially Nicaraguans and above all Colombians, thereby contributing to xenophobic attitudes in some quarters. He had also heard that an act on immigrants and asylum-seekers passed in 2006 had proved counterproductive and that the new authorities of the country had submitted a new bill to Congress; he wondered whether the delegation could provide more information on that subject.

13. Ms. WILSON, noting that Costa Rica had ratified the Additional Protocol to the American Convention on Human Rights (Protocol of San Salvador) of 1988, asked whether any persons living in Costa Rica had submitted an application to the Inter-American Court of Human Rights or to its Commission under article 8 (Trade Union Rights) or article 13 (Right to Education). She would also like to know whether the State party intended to ratify the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families and to bring its Constitution into line with the provisions of that instrument. She enquired whether the general constitutional guarantee and the specific guarantee of gender equality could be directly invoked in the courts – which should be the case, because they formed part of the State's obligations, and their implementation should not depend on the passage of national legislation. Referring to double discrimination against women of foreign or indigenous origin, and in particular Nicaraguan domestic workers, she asked what concrete measures had been taken to address the situation and whether it was planned to pass legislation to protect that very vulnerable group.

14. With regard to immigrant workers and refugees, there was a contradiction between the Constitution, which authorized a form of discrimination between national and other workers, and the Labour Code, which prohibited all forms of work-related discrimination. She would like to know whether the contradiction persisted and, if so, why the Constitution allowed such discrimination. She also noted that, according to paragraph 323 of the report under consideration, the 1977 Indigenous Act had recognized the right of indigenous people not only to their own organization, but also to a series of other rights not expressly recognized in the rest of national legislation at the time. She asked what exactly those rights were and whether the phrase "their own organization" meant that indigenous people had the right to set up their own local administration.

15. Mr. Daode ZHAN commended Costa Rica on the strong increase in per capita income. In his view, the State party had taken account of the recommendations formulated with regard to the initial report and took its obligations seriously. The Government had chosen not to ignore difficulties but to focus on the measures taken to address them.

16. Ms. BONOAN-DANDAN said it was regrettable that the concerns expressed in the Committee's previous concluding observations were still relevant. With regard to the Government's written reply to question 4 of the list of issues and the decision of the Office of the National Control of Propaganda, she would like to know what kind of education campaign, for

example, had been put into place to heighten the awareness of the general public of problems of discrimination of which black women in particular were victims. She also asked what progress had been made in the State party towards achieving the principle of equal pay for equal work and gender equality in wages, and she enquired what the Government meant by the promotion of high-quality employment for women and the creation of new sources of income for women.

17. Ms. UBEDA (Costa Rica) noted that progress had been made since 1989-1990, for example in the fight against poverty. The many months devoted to drafting the report had helped to highlight the major challenges ahead which, although present, were perhaps not as great as the Committee seemed to think. Putting matters in context, she said that the fight against gender discrimination was part of a gradual approach which must take sociocultural conditions into account. Similarly, on the subject of migrants and refugees, it was important to see things in their proper perspective; it was an exaggeration to speak of discrimination or xenophobia. To be sure, in 2006 an act had been passed containing provisions unfavourable for migrants and refugees, but in May of that year the Government had met with international organizations such as the Office of the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM), non-governmental organizations (NGOs) and organizations of civil society in order to amend it. However, it must be said that the statements by the new Minister for Public Security had been particularly unfortunate, given Costa Rica's asylum tradition. An initiative in conjunction with university circles, NGOs, organizations of civil society and international organizations was being carried out to address the waves of immigration. Costa Rica had recognized the scale of the problem, and current figures showed a refugee admission rate of between 56 and 57 per cent, one of the world's highest. Procedures for granting refugee status had been sped up, and legal, social and occupational measures had been adopted. A brochure, which the members of the Committee could consult at their leisure, summarized on 25 pages Costa Rica's experience in that area. Cooperative efforts had been undertaken with Ecuador to provide legal assistance. There was no discrimination or xenophobia in Costa Rica, but much still remained to be done to achieve a cultural and social integration of migrants, who accounted for 11 per cent of the population. Progress must also be made in pursuing the cultural integration of persons of African origin, but that population group was not discriminated against in any particular way.

18. With regard to the CAFTA, since the 1990s the State party had opted for an open economy as its development model. Its biggest trade partner was the United States, and it had concluded trade agreements with Canada, Mexico and Chile, among others. Costa Rica was also in the process of negotiating a free-trade agreement with the European Union. The CAFTA negotiation was thus part of a natural process, but it was nevertheless true that the State party was concerned that the agreement had a heavier impact on some sectors than on others. Hence the need to consider how to compensate, with social measures, the adverse effects for less dynamic sectors (agriculture), whereas the CAFTA favoured the most dynamic ones, such as the service sector. Following the referendum on the CAFTA, the Minister of the Executive Offices, the President and the leaders of the main political parties, namely the Citizen Action Party and the Christian Unity Party, had met to discuss the passage of a number of bills (13 were in preparation) and also the negotiation of social measures. In 2006, measures had been taken to reduce the poverty rate by 3.2 per cent, as well as unemployment and underemployment, in order to prevent the most vulnerable sectors from being the ones hardest hit by the entry into force of the CAFTA. Among the various crises which Costa Rica had experienced over the past 60 years, notably in the 1980s,

had been the ongoing crisis of national identity, which the Government was seeking to overcome through economic growth, together with human development and social measures.

19. As to cases in which the provisions of the Covenant had been invoked, she said that the Constitutional Chamber of the Supreme Court of Justice, established in 1989, ruled on appeals concerning the protection of human rights, such as *habeas corpus* and *amparo* applications. The Constitutional Chamber was the highest judicial body of the country, and its rulings were binding for everyone, including for the State and public bodies. Three examples of case law in which the provisions of the Covenant had been directly invoked were mentioned in the Government's written replies, but there were many others. The provisions of the Covenant took precedence over national law and the Constitution.

20. A bill on indigenous people, which should give rise to major changes in that area, was well under way to passage. It provided that indigenous persons were entitled to participate to a greater degree in the elaboration of policies in the fields of education and health care and to have greater autonomy in the administration of their civil organizations. Pursuant to the case law of the Constitutional Chamber, indigenous people could already have their own civil organizations and live on reservations (a word that should be taken to mean "protected area"), which was their own territory and which they administered on the principle of collective property. There were conflicts between the various ethnic groups, and the leaders of the Indigenous Council were perhaps not entirely representative of the country's ethnic diversity. An effort was being made in the framework of the bill on indigenous people so as to ensure that the Council's composition was more equitable. With regard to the representation of indigenous people in Parliament, there had not been any debate on the subject, because it was not considered that there was any discrimination in that regard. The situation was evolving naturally towards a better representation of the various ethnic groups in Parliament, and representatives of mixed, African and Caribbean origin had been elected.

21. As to racial discrimination in Costa Rica, the country was undergoing rapid change and was striving to ensure the full and complete participation of the various racial communities. Racial discrimination was not systematic, but improvements still needed to be made. There was no specific sanction for racial discrimination, but there were ways of punishing persons guilty of that offence. For example, cases had been referred to the Constitutional Chamber concerning problems of discrimination and equality, and everyone had access to that body, regardless of race or origin. In the event of failure to comply with a ruling of the Constitutional Chamber, criminal proceedings could be instituted to enforce it. Costa Rica had introduced mechanisms for the protection of human rights in 1989. The bill to amend article 1 of the Constitution in order to set forth the pluralistic and multiethnic nature of the Costa Rican State had not yet been considered by the Legislative Assembly, but in a ruling, the Constitutional Chamber had recognized the principle of non-discrimination and equality of all before the law.

22. With regard to the action taken on the concluding observations formulated by the Committee on Costa Rica's initial report, it had been noted that the report had been too formal and legalistic and that the Committee would like more information on the measures taken to ensure respect for economic, social and cultural rights. That had been taken into account in the report under consideration, which, although not exhaustive, described many laws and measures, as well as government policies to promote respect for those rights. Much greater attention had been given to religion, because questions had been asked about Catholicism, the country's

official religion. There had not been any constitutional changes in that area, but the country's various religions were now recognized by the administration and were guaranteed rights which they had not traditionally enjoyed.

23. On the subject of gender equality, the most important task ahead was to formulate a national policy for the promotion of equality which defined a governmental programme for the next ten years. The national policy focused on six strategic objectives and was to be implemented in a cross-sectional manner by incorporating gender equality in all other areas of political action. The establishment of the National Institute for Women (INAMU) was one of the great recent achievements in that context. The act on women's equality and the act punishing violence against women also constituted notable progress in the area of equality. Costa Rica had ratified all international instruments on the elimination of discrimination against women, and concrete measures had been taken, including a reform of the Labour Code with regard to domestic workers, whose working conditions were particularly unfavourable. A unit responsible for gender equality had been set up under the Ministry of Labour to combat gender discrimination. Services to promote gender equality and the protection of women had been put into place at local level, and a decision had been taken to increase wages for unskilled work, for example for domestic workers. The Supreme Court had introduced a vulnerable populations unit, and training had been provided to judges to improve their understanding of the question of parity in society.

24. Poor women received assistance from the Joint Social Welfare Institute, which had set up programmes to combat poverty, the latter having diminished by 3.2 per cent in 2006. Some 26 projects had been launched for rural women, indigenous people and pregnant women. One of the biggest difficulties encountered in many programmes, notably with regard to positive discrimination, was how to change mentalities. Changes at the level of education and the family were essential and should begin in childhood. School curricula must also be revised. However, the situation had improved, and many representatives of Costa Rica abroad were women, including in diplomacy (40 per cent of ambassadors were women). Four members of the delegation to the current meeting were women. Thus, women were gradually acquiring a greater role in professional life and a more equal place in society. Programmes to promote gender equality had been implemented in a cross-sectional manner by a number of ministries, including the Ministry of Labour, Education and Social Security, and by the INAMU; the ministries concerned and the INAMU had shared the relevant budget.

25. In 1989, Costa Rica had legalized 152,000 migrants from countries in Central America, mainly Nicaragua, who had been in an irregular situation on the national territory. Foreigners, who accounted for three per cent of the country's population, had the same rights as Costa Rican nationals, apart from the right to vote or to be elected. Thus, they had equal access to health care services and education.

26. Mr. RZEPLINSKI asked whether the State party had set up a national plan of action to combat corruption, given that the phenomenon often had an impact on the enjoyment of economic, social and cultural rights.

27. Mr. TIRADO MEJIA asked whether it was true that the Ministry of Parity had been disbanded, and if so, why such a decision had been taken at the very moment when the question had taken on central importance in the policies introduced by the Government.

28. Ms. UBEDA (Costa Rica) said that there had never been a Ministry of Parity as such and that the question was a matter for the INAMU, which had ministerial ranking. Thus, there had not been any policy reversal; on the contrary: many comprehensive policies were currently being implemented in an overarching manner so as to arrive at true gender equality.

29. Neither the Inter-American Court of Human Rights nor the competent national courts had considered complaints or communications under the complaints procedure pursuant to the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador).

30. Costa Rica had not yet ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, but the rights guaranteed for all migrants present on its territory were often more far-reaching than those embodied in the Convention.

31. Ms. SEGURA (Costa Rica) said that, following a complaint lodged by an individual, in 1999 the Supreme Court had declared unconstitutional a legislative provision requiring that Costa Rican nationals should account for 90 per cent of hirings by businesses. A new provision had been added to the Labour Code in 2001 prohibiting all discrimination based on gender, nationality, race and social status.

Articles 6 to 9 of the Covenant

32. Mr. Daode ZHAN asked what measures the State party had taken to close the wage gap between population groups and why the unemployment rate of women was so high.

33. Ms. WILSON asked whether it was true that the State party had not implemented any specific programme to promote access to the labour market for the indigenous and black populations, which were disadvantaged in that regard compared to the rest of the population. She requested statistical data by region on the employment of Costa Ricans of African origin.

34. It would also be useful to know whether, as planned, the State party had introduced a chapter in its Labour Code guaranteeing the right to work for asylum-seekers, and if not, whether it intended to do so soon. She also asked what measures had been taken to promote the hiring of persons with disabilities, 69 per cent of whom were without work, and of young people between 17 and 24 years of age, whose unemployment rate was twice the national average, including Costa Ricans of African origin. She also enquired whether the State party planned to conduct an in-depth survey on poor persons with disabilities, who were even harder hit by unemployment on account of the double discrimination of which they were victims, and what was being done to improve the alarming situation of domestic workers, in particular those of foreign origin.

35. Given the poor working conditions prevalent in the natural resources industry, livestock raising, fishing and construction, as well as the high risks for persons working in those sectors, she asked what measures had been taken by the General Labour Inspectorate to improve the situation, whether they had been effective and whether employers who did not respect regulations on establishing good working conditions could be prosecuted. She also sought further information on the economic exploitation of children and on forced labour in the State party.

36. Mr. RIEDEL said he failed to understand what prevented the State party from ratifying International Labour Organization (ILO) Convention No. 118 concerning Equality of Treatment of Nationals and Non-Nationals in Social Security. Referring to the Government's written reply to question 13 of the list of issues, he regretted that the statistical data on the social security coverage of the various population groups concerned were not disaggregated by year, which would have enabled the members of the Committee to have a better idea of the evolution of the situation of each group over time. He also asked whether measures had been taken to broaden the social security coverage of those groups and if so, whether they had been effective.

37. Mr. ABDEL-MONEIM asked whether the act passed on the decentralization of hospitals and clinics and the setting up of health boards to provide better care for the insured, which was discussed in paragraph 576 of the report, had produced the hoped-for results, notably in terms of quality of care and effectiveness of the services provided. Referring to paragraph 585 of the report, he wondered to what extent the Bismarck health insurance model, which was effective in Europe, could be successfully transposed to a developing country. He also drew attention to a mistake in table 10 in paragraph 586 of the report: the decline of 5.8 per cent in the uninsured proportion of the population did not seem to tally with the decline in the number of such persons in absolute terms between 1990 and 2004.

38. Mr. SADI asked what had caused the large-scale migration of the population from the countryside to the cities and wondered whether it had been due to poor working conditions in rural areas, such as non-compliance with the requirement to pay a minimum wage or with other provisions of the Covenant, for example access to housing or social security, or whether it had come about because peasants were prevented from owning the lands which they farmed.

The meeting rose at 1 p.m.
