

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Discrimination against women a common obstacle to enjoyment of economic and social rights



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Girls participate in classes being held at an all-girls school in Afghanistan, one of the five States examined by the Committee in May 2010.

The Committee on Economic, Social and Cultural Rights (the Committee) held its 44th session in Geneva from 3 to 21 May 2010. It reviewed reports from five State parties to the *International Covenant on Economic, Social and Cultural Rights* (the Covenant), namely Afghanistan, Algeria, Colombia, Kazakhstan, and Mauritius. The Committee focused on: the legal status of the Covenant in the domestic legal system, women's human rights, the right to work, the right to an adequate standard of living, and the right to health.

While all States seemed to approach the dialogue with the Committee in a spirit of co-operation, the delegation of Colombia, and to some extent Kazakhstan, seemed to lack the necessary expertise to provide the Committee with pertinent information and specific answers to its questions. While delegations were all high-level, Kazakhstan had the largest delegation (18 members) and Colombia had the highest representation of women (eight out of 12).

NGO PARTICIPATION

On the first day of the session, and prior to consideration of State reports, the Committee was briefed by NGOs in relation to all of the countries examined.¹ The briefing was somewhat dominated by Colombian NGOs² (six of them took the floor), who took up two thirds of the time allocated to NGOs. In a very well organised and comprehensive briefing, they highlighted a range of concerns including discrimination against women in society and in the job market; the situation of indigenous peoples, people of African descent, and people living with HIV/AIDS; and problems of internally displaced persons.

The topic receiving most attention during the NGO briefing was the increase in drug abuse, and related HIV/AIDS infections and growing crime and corruption. The International Harm Reduction Association, in association with local NGOs, presented information on drug abuse in all States being examined. While Committee member Mr Sa'di commented that too much focus was given to drug issues, the Committee highlighted these issues in all the countries but Algeria.

Several NGOs made valuable written submissions, some of which were taken up by Committee members during the reviews. The International Disability Alliance submitted information on all of the countries examined but the Committee only took up disability issues in Afghanistan, Kazakhstan, and Mauritius. The issue of corporal punishment only received attention in the cases of Afghanistan, Algeria, and Mauritius, although it had been highlighted in relation to all countries.

1 The NGOs were: International Harm Reduction Association, Colombian Coalition for Human Rights, Colombian Commission of Jurists, FIAN International, Coordinacion Regional del Pacifico Colombiano, Wayuu de Wepiapaa Indigenous Community, Seeds Group, Tamazgha, Collectif Urgence Toxida, Global Health Research Centre, International Disability Alliance and Afghan Council for Reconstruction and Development.

2 Also the number of NGO reports submitted to the Committee was highest for Colombia (eight reports), with six reports for Kazakhstan, four for Algeria and two for both Afghanistan and Mauritius.

THEMES

Status of the Covenant in domestic legal systems

A theme raised with every State being examined was the legal status of the Covenant in the domestic legal system. The Committee was particularly concerned with the lack of incorporation of the Covenant into domestic laws in several States and the fact that Covenant rights have not been invoked before domestic courts in Afghanistan, Algeria, Kazakhstan or Mauritius. It recommended that Afghanistan and Kazakhstan provide detailed information on relevant court decisions in their next reports. The Committee consistently referred to its General Comment No. 9 (1998) on the domestic application of the Covenant. The Committee also criticised Mauritius for not including economic, social and cultural rights in its Constitution. In the case of Colombia, the Committee requested that the State, in its next periodic report, provide information on the practical application of the Covenant as well as disaggregated data and relevant statistics on a comparative annual basis regarding measures taken to implement the rights enshrined in the Covenant.

Women's human rights

Issues relating to women's human rights and discrimination against women were brought up systematically by the Committee in each State examination, and particularly in that of Afghanistan. While noting Afghanistan's efforts to promote gender equality (e.g. a new law criminalising violence against women, a new minister for women's affairs, and an increase in the number of women in parliament to 28%), Committee members were critical of the inadequate realisation of economic, social and cultural rights for women. They were concerned about reports of violence against girls and female teachers, 'honour killings', and low representation of women in decision-making positions.

Committee member Ms Barahona Riera focused on women's human rights in many of the reviews. She was particularly concerned about the lack of specific provisions criminalising violence against women, domestic violence, and marital rape in Mauritius, Algeria, and Kazakhstan. In the review of Colombia, she focused on the alarming rate of sexual violence against women and girls by both members of the armed forces and illegal armed groups, and violence against women forcibly displaced by the conflict. The Committee also expressed concern that perpetrators of violence against women remain unpunished (Colombia, Afghanistan, Kazakhstan), and that traditional justice mechanisms in Afghanistan are not compatible with international human rights standards for protecting women.

In the cases of Afghanistan, Mauritius, and Algeria, the Committee highlighted laws which discriminate against women such as in relation to guardianship, inheritance, underage marriage and restrictions on movement outside the home (Afghanistan); discrimination in the areas of adoption, marriage, divorce, burial or devolution of property on death (Mauritius); and the prohibition

of marriage of Muslim women to non-Muslims, legal polygamy, and inheritance laws which unfairly favour men (Algeria).

Other issues discussed were lower literacy rates of women and low numbers of women in public and political life (Mauritius, Colombia, Algeria); sexual harassment in the workplace (Mauritius); human trafficking (Afghanistan, Kazakhstan) and sexual exploitation (Afghanistan, Mauritius); and low marriage age (Afghanistan, Colombia).

The right to work

Unemployment was a recurrent issue in all reviews, especially high levels of youth unemployment. Afghanistan was unable to quantify its unemployment rates due to lack of relevant and reliable labour statistics. With regard to Colombia, the high unemployment among indigenous communities was a concern. The Committee was skeptical that minimum wages ensure an adequate standard of living (Afghanistan, Algeria, Kazakhstan), and was concerned by the absence of a minimum wage in Mauritius. Another issue of concern was the disparity between wages of men and women (Afghanistan, Algeria, Colombia, Mauritius) and the concentration of women in low-wage and unskilled labour sectors (Kazakhstan, Mauritius).

The Committee expressed concern regarding the limitations on the right to strike (Algeria, Colombia, Kazakhstan) and the absence of a right to strike in the Labour Code of Afghanistan. Forced or compulsory labour was brought up with respect to Afghanistan, where persons have been subjected to forced or compulsory labour as punishment for holding or expressing political or ideological views, and Kazakhstan, where courts can sentence someone to forced labour.

Protection of migrant workers was exposed in the case of Mauritius, where migrant workers face difficult living and working conditions and risk deportation if they go on strike. The Committee was concerned that in Kazakhstan migrant workers in some sectors are often forced to work long hours for little or no remuneration and have their passports taken away to prevent them from seeking other work or leaving the country. The Committee also noted with concern the issue of child labour in several States and asked what they were doing to combat it (Afghanistan, Algeria, Colombia, Kazakhstan).

The right to an adequate standard of living

The Committee devoted significant attention to access to adequate housing, focusing on persons displaced due to internal conflicts who live in informal settlements with no running water or electricity or access to educational facilities (Afghanistan, Algeria, Colombia), and persons facing forced evictions without adequate compensation or alternative accommodation (Afghanistan, Kazakhstan, Algeria, Colombia). The issue of forced evictions came up the most with Colombia, where indigenous communities and people of African descent face forced evictions due to use of land for production of bio fuels and mining. In the case of Algeria, the Committee was

seriously concerned about housing shortage and the State's disproportionately low budget for housing (in 2010, it was 40 times smaller than that for national defence).

Poverty was an issue common to all State reviews, particularly in rural areas where people lack access to basic services such as drinking water, waste removal, sanitary facilities, and electricity (Afghanistan, Algeria, Kazakhstan, Colombia, Mauritius). Committee member Ms Bras Gomes was particularly concerned with high poverty rates among Mauritian Creoles, and the fact that the poverty rate among Colombians of African descent and indigenous peoples in Colombia is double that of the general population.

The right to health

The Committee was generally concerned about women's access to health services. It noted Afghanistan's and Colombia's high maternal mortality and morbidity as a result of lack of female health workers and access to health services in rural areas. The Committee found that provision of sexual health services were severely lacking in Colombia, Kazakhstan, Mauritius,³ and Afghanistan. It recommended that such health services be made more widely available and that sexual and reproductive education be provided in schools. The Committee also recommended that Mauritius de-criminalise abortion when the mother's life is at risk and where the pregnancy is a result of rape. It also requested Algeria, Mauritius, and Kazakhstan to provide additional information on sexual and reproductive health services in their next reports.

The Committee, presumably because of substantial written information from NGOs on drug issues, examined the negative effect of drug use on health in all States but Algeria (where no NGO submission had been made). It was particularly alarmed at the high level of drug consumption in Colombia and Mauritius and widespread drug production and drug trafficking in Kazakhstan,⁴ Colombia, Mauritius, and Afghanistan. The Committee also addressed related problems such as HIV/AIDS, corruption, violence, and internal displacement. The Committee relied heavily on the very specific recommendations made in the written submission of the International Harm Reduction Association with regard to Mauritius, which resulted in specific concluding observations on this topic.

Other issues touched upon were malnutrition (Colombia, Afghanistan), general access to health services (Colombia, Algeria); inadequacy of mental health services in Afghanistan; and Kazakhstan's forcible internment of psychiatric patients.

Other thematic issues

Throughout the review of States, the Committee focused on vulnerable groups. Issues relating to children, women, the dis-

³ The Committee was disappointed with the lack of information provided by Mauritius on this subject, as well as on strategies to combat chronic diseases.

⁴ Kazakhstan did not supply the Committee with enough information and was requested to provide more information in its next report.

abled, indigenous peoples, migrant workers, minorities, refugees and asylum seekers, and internally displaced persons were addressed in all of the reviews.

Other important issues raised by the Committee included high numbers of orphaned and street children (Afghanistan, Kazakhstan, Colombia), corruption (Kazakhstan, Mauritius), access to education (Afghanistan, Algeria, Colombia, Algeria), poverty (Afghanistan, Mauritius, Kazakhstan, Colombia), environmental issues (Kazakhstan), social security (Kazakhstan), and cultural heritage (Afghanistan).

Committee members

While most of the Committee members were active in the dialogue, particularly Mr Sa'di, Mr Kedzia, Mr Pillay, and Ms Bonoan-Dandan, others were less involved, and some could even be seen taking short naps during sessions. Some Committee members showed strong interest in particular themes. For example, Ms Barahona Riera focused on a wide range of women's issues while Ms Bras Gomes tackled social security. Mr Riedel was among the very active Committee members seeking information on concrete results of laws, policies, and programmes. Some Committee members seemed very deferential to States, while others only made infrequent interventions, which were cursory and added little to the dialogue.

OTHER DEVELOPMENTS

Mr Aslan Khuseinovich Abashidze (Russian Federation) replaced Mr Yuri Kolosov (also Russian Federation), who resigned in August 2009, as a member of the Committee. Mr Abashidze, a professor in international law, seemed reticent to speak during his first session as Committee member.

The session was hampered by the fact that translations of the replies to the lists of issues were not available (except Kazakhstan's translated from Russian to English).

During closed sessions, the Committee discussed the draft General Comment on sexual and reproductive health rights and a new General Comment on protection of the family and children (Article 10 of the Covenant).

The Committee also began preliminary discussions on the draft rules of procedure for its new complaint procedure under the Optional Protocol to the Covenant and looked at improving its working methods.

Finally, the Committee adopted lists of issues on Moldova, the Russian Federation, Sri Lanka, Turkey, and Yemen. Sri Lanka will be examined during the Committee's upcoming session in November, while the other countries will be examined at subsequent sessions. ■