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# COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

A defence of religious and cultural traditions seen in reviews of Mauritania, Equatorial Guinea, Ecuador and Tanzania



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**G**ender equality and sexual violence, disability, and the treatment of indigenous peoples and minorities were amongst the key themes discussed at the 49<sup>th</sup> Session of the Committee on Economic, Social and Cultural Rights (the Committee). The States under review between 12 – 30 November 2012 were Iceland, Bulgaria, Mauritania, Equatorial Guinea, Tanzania, Ecuador and the Republic of the Congo.

Some obstructive and defensive attitudes were seen from a number of States regarding religion and equality. Additionally, Equatorial Guinea and the Congo failed to submit reports, leading to dissatisfaction amongst the Committee members over State compliance with the process. While reticence to comply with universalist notions of equality is not a new phenomenon, it was noted by Committee members that the responses of Mauritania and Equatorial Guinea to questions of women's equality, religious freedom and the rights of persons with disabilities were particularly vehement.

However, a number of NGOs made submissions regarding States' human rights records, and in many cases these submissions informed open and valuable discussion with States.

## NGO SUBMISSIONS

The International Disability Alliance (IDA) submitted reports on every country under review, and was the only non-governmental organisation (NGO) to give submissions on the two non-reporting States, Congo and Equatorial Guinea. Amnesty International, the Centre for Reproductive Rights, Minority Rights Group International, and Anti-Slavery International also submitted information.

While all submissions called for States to better implement all aspects of the Conventions, a number of issues were clearly of particular concern. Submissions on Tanzania and Ecuador highlighted the need to address sexual violence against women and girls, the provision of sexual and reproductive health education and services, and the full involvement of indigenous peoples in development decisions affecting their property and rights. Amnesty International's submission also underlined Ecuador's repression of the right to peaceful protest by its indigenous population.

The intervention by the Centre for Reproductive Rights, the only oral intervention made at the meeting that the Committee held with NGOs at the opening of the session, focused on the damaging phenomenon of forced pregnancy tests in schools. The NGO alleged that girls found to be pregnant were then expelled from school, harming their educational and career opportunities.

Unsurprisingly, reports on Mauritania focused on the country's ingrained cultural practice of slavery. It was noted that slavery impacts upon a wide range of other ECSR rights – it denies education, health and sanitation, adequate food, cultural and social participation, makes women and girls vulnerable to sexual abuse, and forces young girls into marriages.

NGO submissions for Iceland and Bulgaria focused largely on the States' provision of services for persons with disabilities and those suffering from mental health difficulties. The report for Bulgaria also emphasised problems with discrimination against the Roma communities and their children with regards to social security, housing, and education.

## STATE ENGAGEMENT

The session was notable for the extreme non-compliance of two States: the Republic of Congo, and Equatorial Guinea. Due to the Republic of Congo's failure to submit a report, they did not engage in dialogue with the Committee.

Equatorial Guinea's delegation appeared for the review despite having submitted no report, but the Committee was dissatisfied with the results of the dialogue. The Chairman of the Committee, Mr Ariranga Govindasamy Pillay, noted that the State's review was 22 years late. The delegation was evasive when the Committee asked questions regarding polygamy and corruption, and denied the existence of forced labour, as well as the validity of UNESCO reports on literacy rates in the country.

The rich oil fields of Equatorial Guinea and the boost to GDP the resources create stand in stark contrast with the poverty of the population, who subsist on less than \$1 a day.<sup>1</sup> Ms Rocío Barahona Riera and Mr Chandrachekhar Dasgupta questioned the Ambassador on the State's failure to address this discrepancy; the Ambassador, however, expressed disbelief that the poverty was as extreme as suggested, and stated that funds were being spent on necessary infrastructure.

Recommendations that the State ratify the Optional Protocol to the Convention, allowing individuals to submit complaints to the Committee, were met with hostility. Mr Phillippe Texier was highly critical of this reticence, and questioned the State's commitment to either the treaty or to human rights more generally.

Mauritania's review also demonstrated a wide divergence between the efforts of the Committee to engage in a constructive dialogue, and the delegation's willingness to critically reflect on its human rights record. While Mauritania appeared open and willing to communicate, the delegation evaded many questions pertaining to the rights of women and sexual violence on the grounds of the prevalence of Islam in the country's cultural and political priorities.

While slavery was abolished in Mauritania in 1981,<sup>2</sup> the practice persists; and despite well-documented allegations from

NGOs such as Anti-Slavery International,<sup>3</sup> the Mauritanian delegation bluntly denied the existence of slaves in the country, with the Ambassador insisting that the issue had been 'politicised out of all proportion'. Mr Pillay requested Mauritania a number of times to delineate State policies on progressive measures being taken to eradicate the practice, but the delegation continued to evade the topic on the grounds of 'political sensitivity.'

Ecuador and Tanzania both submitted their reports late and were asked to rectify this in the future. However, both States were commended on very positive steps made with regards to economic, social and cultural rights, particularly in the fields of education and the Millennium Development Goals.

Continuing discrimination against the Roma people constituted the core of the Committee's questions for the Bulgarian delegation. This discrimination impacts upon all aspects of the enjoyment of economic, social and cultural rights for Roma and their children: education, health care, social services and housing allocation. The delegation emphasised that the government has been working under tight budgetary restrictions in the current financial crisis.

## THEMES

### Persons with Disabilities

The Committee focused on the intersection of economic, social, and cultural rights, and the rights of persons with disabilities. All the States under review have ratified the Convention on the Rights of Persons with Disabilities (CRPD), and the Committee was concerned that not enough was being done to align domestic legislation with the terms of CRPD, resulting in the continued economic, social, and cultural ostracisation of persons with disabilities.

The Committee's inquiries focused on measures being taken to secure the rights of persons with disabilities in three economic, social and cultural areas:

- Education for children with disabilities
- Employment
- Participation in cultural life

Mauritania's answers were typically obstructive; the delegate stated that as only 4% of the population are classified as having disabilities, service provision for the group was not a priority.

However, Bulgaria and Ecuador were able to provide details of positive steps being made. Bulgaria described the State's initiation of a quota policy for employers, while Ecuador's measures included free provision of artificial limbs, and the

1 *Equatorial Guinea: Resource Cursed*. Human Rights Watch. <http://www.hrw.org/news/2009/08/28/equatorial-guinea-resource-cursed>

2 *Slavery still shackles Mauritania, 31 years after its abolition*. The Guardian <http://www.guardian.co.uk/world/2012/aug/14/slavery-still-shackles-mauritania>

3 [http://www2.ohchr.org/english/bodies/cescr/docs/ngos/MRG\\_Mauritania\\_CESCR49.pdf](http://www2.ohchr.org/english/bodies/cescr/docs/ngos/MRG_Mauritania_CESCR49.pdf)

creation of a nationwide awareness-raising programme to end the stigmatisation of persons with disabilities. Iceland's response was less specific, citing only generally that vulnerable groups had been protected during austerity by higher taxation of high-income citizens. Nonetheless, Iceland was able to announce its recent ratification of the CRPD, which was seen as a very positive step.

Equatorial Guinea was unable to provide any evidence as to its policies regarding its disabled citizens. When questioned on measures taken to include disabled children in education, the delegation was evasive and merely stated that education was improving for persons with disabilities as provided for within the State budget.

### Minorities and discrimination

The subject of educational, political and social discrimination against national and indigenous minorities was of particular concern to the Committee, particularly with regards to the indigenous peoples of Tanzania and Ecuador. The Mauritanian slave group known as the Haratine<sup>4</sup> also face extreme social ostracisation, as do the Roma of Bulgaria.

Ecuador was heavily criticised by the Committee for its suppression of indigenous protests. Ecuador's State report described its policies towards the indigenous peoples in a positive light, stating that Ecuador 'recognises indigenous jurisdiction as an ancestral right of indigenous peoples and nations and grants them freedom and sovereignty in decision-making, provided that any such decisions uphold human rights'.<sup>5</sup> However, Mr Kedzia of the Committee was concerned that this claim to full-decision making rights was 'too good to be true', given the continued protests of these communities over the appropriation of their lands for development and industrial projects, over which they had little or no control, and no participation in the decision making process.<sup>6</sup> The delegation claimed more was being done to increase inclusion in decision-making, cultural involvement and information for indigenous groups, but admitted that these policies were still in development.

Tanzania faced similar criticism over its treatment of ethnic minorities. Large-scale development projects have seen tribal and hunter-gatherer communities removed from their land, without due sensitivity to their cultural needs. The delegation, however, denied the Committee's claims that this constituted discrimination against indigenous groups,

positing instead that in Tanzania, all peoples are indigenous, and thus no discrimination occurs against such a group. It was claimed that there are no illegal evictions of hunter-gatherer communities from their ancestral land; only persons living on land illegally in the first place can be removed, and all are given adequate compensation.

Bulgaria described efforts to improve integration of Roma communities through the National Council on Ethnic Integration. This Council privileges equal access to education for Roma children: policies included free school buses for Roma communities, as well as various in-school social inclusion programmes for children up to 7 years of age.

### Women's equality and empowerment

The rights of women were frequently mentioned in the NGO submissions, and the Committee appeared to take note of the prevalence of the issue in questioning States' policies. The 'feminisation of poverty' was also a concern, particularly in the face of the current financial crisis.<sup>7</sup>

Iceland's record on gender equality in education was commended; however, a number of Committee members were adamant that more must be done to close the gender wage gap, and the review focused largely on improving gender equality. While the country's citizens enjoy a high standard of living, there is still a significant discrepancy between the wages of men and women. The delegation admitted the prevalence of the wage gap; women's responsibility in the home remains higher than that of men, preventing women from progressing as fast or as far as their male counterparts in the workplace. The delegation articulated the State's intention to establish a national action plan on gender equality in this issue.

Single mothers in Bulgaria experience detrimental stigmatisation as do children born out of wedlock, in terms of access to education, employment, and housing. The delegation responded with assurances that the State was running awareness-raising campaigns on this issue.

Sexual violence was also a prominent problem in the States under review. Ecuador in particular was questioned on the prevalence of rape and sexual abuse of women and girls, which is far above the Latin American average.<sup>8</sup> Sexual abuse of students by teachers was a worrying trend; Committee members were unsatisfied with Ecuador's assurances of better reporting mechanisms for these victims; victims are encouraged to report to authority figures, yet it is often the authority figures themselves who are perpetrators of abuses.

4 *Slavery in Mauritania*. Anti-Slavery [http://www.antislavery.org/english/slavery\\_today/descent\\_based\\_slavery/slavery\\_in\\_mauritania.aspx](http://www.antislavery.org/english/slavery_today/descent_based_slavery/slavery_in_mauritania.aspx)

5 Ecuador: 3<sup>rd</sup> Periodic Report: p.10, Para. 13. <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/431/55/PDF/G1143155.pdf?OpenElement>

6 'So that no-one can demand anything' *Criminalising the right to protest in Ecuador?* Amnesty International. [http://www2.ohchr.org/english/bodies/cescr/docs/ngos/AI\\_Ecuador49.pdf](http://www2.ohchr.org/english/bodies/cescr/docs/ngos/AI_Ecuador49.pdf)

7 *Gender Perspectives*. United Nations Department of Economic and Social Affairs <http://www.un.org/esa/desa/financialcrisis/gender.html>

8 Global rape Statistics: UN statistics on Rape. [http://www.wikigender.org/index.php/Global\\_Rape\\_Statistics](http://www.wikigender.org/index.php/Global_Rape_Statistics)

Other kinds of other harmful gender-based practices, including female genital mutilation (FGM) and forced and polygamous marriage, were brought to the attention of the delegations of both Equatorial Guinea and Mauritania. In Equatorial Guinea, polygamy is widely practised – criticism from the Committee on this subject elicited the response from the delegation that changing the law would be impossible due to the overwhelming support for it amongst the women of the country.

Mauritania has made significant efforts towards the elimination of FGM, including criminalisation and the issuing of a fatwa. However, when questioned on their discriminatory social security, education and inheritance policies, the delegation again showed itself unwilling to comply with the terms of the Covenant. The Ambassador made a startling pronouncement on the subject of women's equality, stating plainly that Qur'anic law points to the 'natural authority' of men, and as such, cannot be questioned or challenged. Mr Texier expressed shock at this statement, and questioned why Mauritania has ratified the instrument if it was hesitant to comply with such a significant aspect of the Convention's obligations.

The Mauritanian Ambassador also stated that religion can be the only 'true lens' through which to see human rights, and denied the incidence of sexual violence in the country owing to its 'pure' Islamic heritage. Mr Abdel Moniem of Egypt emphasised that 'we can't close our eyes to the universality of rights', and urged the State to 'strike a balance between religion and rights'.

The Tanzanian delegation denied knowledge of enforced pregnancy tests for teenage girls; they stated that numbers of girls in education are actually climbing, rather than falling, although it was admitted that sexual health remains a taboo topic in Tanzania and sexual education therefore must be established at an appropriate pace. It was also announced that the Village Land Act enables women to inherit land on an equal footing with men.<sup>9</sup>

## CONCLUSION

States who received a large number of NGO submissions, such as Iceland and Bulgaria, were generally more human rights compliant and open to recommendations, with more civil society engagement in the human rights situation on the ground. There seemed to be a correlation between the number of NGO submissions – and therefore the space for civil society to work – and the willingness of the State under review to actively engage in the dialogue with the Committee.

Given the failure of the Congo and Equatorial Guinea, it was felt that the dialogues between NGOs, Committee and State were not as fruitful as they might otherwise have been, and the Committee expressed dissatisfaction with such non-compliance with the terms of the Covenant. The Committee reminded States that ratification of the Convention was voluntary, and should therefore represent a genuine expression of the State's commitment to human rights. As a result higher standards of compliance are expected from States.

It was clear that the Committee at times struggled to extract important or precise answers from State regarding sensitive or controversial issues. Despite reiterations of requests for information, Mauritania and Equatorial Guinea remained defensive regarding a number of issues and were unwilling to compromise. ■

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9 *Strengthening Women's Access to Land: the Tanzanian experience of the Sustainable Rangeland Management Project*. F. Carpano Land Tenure Consultant, April 2010 [http://www.ifad.org/english/land/women\\_land/WomenAndLand\\_Tanzania\\_Report\\_Eng.pdf](http://www.ifad.org/english/land/women_land/WomenAndLand_Tanzania_Report_Eng.pdf)