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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Sixteenth session

SUMMARY RECORD OF THE 5th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 30 April 1997, at 10 a.m.

Chairperson: Mr. ALSTON

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The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS (agenda item 7)

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

Initial report of Guyana (E/1990/5/Add.27; HRI/CORE.1/Add.61; E/C.12/Q/GUY/1; E/C.12/CA/28)

1. At the invitation of the Chairperson, Mr. Brewster (Guyana) took a place at the Committee table.
2. Mr. BREWSTER (Guyana) reminded members that Guyana had not been able to submit its initial report until 1995, despite the numerous efforts made by the Guyanese authorities to submit it earlier. He welcomed the opportunity which his Government had been given to send written replies to the questions raised by the Committee's pre-sessional working group to supplement the report. His Government had committed itself to ensuring observance of the human rights of the people of Guyana and, since the submission of its report in 1995, had unremittingly striven to improve living and working conditions.
3. The minimum daily wage had been regularly increased in 1996 and 1997. With regard to the family, the Government had established a policy aimed at improving the status of women and strengthening family links. Several laws had been enacted on that question, notably the 1995 Abortion Act which was designed to ensure the greater well-being of women, and the 1996 Act relating to domestic violence. In the area of housing, the Government was endeavouring to find solutions to facilitate home ownership by persons with low incomes. In the area of health, a new mobile health unit had been set up in 1995, thanks to the assistance of the international community, but its effectiveness was being impeded by the lack of qualifications of staff. For that reason the Ministry of Health had recently set up training programmes for specialized health workers.
4. Despite the difficulties entailed by economic globalization for small countries, which were still affected by the debt problem, his Government remained committed to fulfilment of the international obligations it had assumed, and in particular to the realization of economic, social and cultural rights.
5. In reply to Mr. Kouznetsov, who wished to know the rate of the Guyanese dollar to the United States dollar so as to be able to understand the value of the financial indicators given in the report, he said that one United States dollar was worth approximately 140 Guyanese dollars.
6. Mr. WIMER said that the documents received did not contain replies to all the questions asked by the Committee. He observed that it was preferable not to ask States parties to provide further statistics while their report was being considered.
7. Mr. SADI said he was sure that the Guyanese Government was taking its obligations under the Covenant seriously but would like to know why it had not

sent experts to assist Mr. Brewster in answering the Committee's questions. He would also welcome clarification of the status of the Covenant in Guyanese legislation.

8. Mrs. BONOAN-DANDAN thanked Mr. Brewster for updating the information provided to the Committee, notably with regard to the situation of women. She would like to know what measures had been taken by the Government to publicize the Covenant, since the report contained no information on that point. According to the core document, workshops and seminars were organized by the Government and NGOs in order to make the rights of the child better known, but no mention was made of economic, social and cultural rights. She would therefore like clarification of what Mr. Brewster meant when he stated that Guyana was taking its obligations under the Covenant seriously.

9. Mr. TEXIER, reverting to a question already asked in the written questions on paragraph 8 of the report, wondered whether, since the time when Guyana had ratified the Covenant, national legislation had been reviewed in order to bring it into line with the Covenant's provisions if such had not been the case. He would also like to know how the report of Guyana had been prepared, and more particularly whether the NGOs participating in the work of the Inter-Agency Permanent Committee on Human Rights set up by the Government had been genuinely associated with the drafting of the report and whether Guyana intended to take steps to make the Committee's work better known.

10. Mr. AHMED asked the representative of Guyana to what extent the measures to alleviate his country's public debt granted by the United Kingdom and by the Paris Club creditors (see secretariat note E/C.12/CA/28) had facilitated the restructuring of the national economy.

11. Mr. THAPALIA said he would welcome statistics on trends in the main demographic and socio-economic indicators over the past five years and on the share of the national budget allocated to health, education and culture.

12. Mr. RATTRAY, noting that articles 138 to 151 of the Constitution mentioned in paragraph 8 of the initial report (E/1995/Add.27) concerned only civil and political rights, asked whether some of the economic, social and cultural rights established in articles 122 to 129 of the Constitution had been invoked in the courts and been the subject of court decisions. He would also like the Guyanese Government to answer the question concerning the drafting of an optional protocol asked in question 5 of the list of issues (E/C.12/Q/GUY/1). Lastly, he asked whether the Government had prepared a short- or long-term plan, or a timetable, with a view to the realization of those rights.

13. Mr. BREWSTER (Guyana) expressed regret that his Government had been unable to send to Geneva a delegation of experts to help him to reply to the Committee's questions. Sending such a delegation would have been very expensive, and he suggested that it might be more economical to use video-conferencing or audio-conferencing techniques. As to the status of the Covenant within the domestic legal order (E/C.12/Q/GUY/1, para. 2), he requested the Committee to refer to the appendix relating to that question in the written replies (document without a symbol distributed at the meeting). All international treaties must be translated into national legislation by

Parliament. Some rights such as the right to employment, health care, etc. were not fundamental rights that could be invoked in the courts, but merely statements of principle or ideals. On the question whether some of the rights referred to by Mr. Rattray had been invoked in the courts, he would have to seek details from the authorities. He would also have to inquire about his Government's position on the drafting of an optional protocol.

14. Although there was no plan geared to the realization of economic, social and cultural rights, his Government was currently working on an economic development strategy which would define targets in various social areas (health care, employment and equality). He would seek fuller information on the subject from his Government if the Committee so wished. He would also inquire whether the legislation in force or under preparation was systematically vetted in the light of the provisions of the Covenant. As to the participation of NGOs in the Inter-Agency Permanent Committee on Human Rights, the publicity given to economic, social and cultural rights, and the demographic and socio-economic statistics requested, he referred members of the Committee to the appendices of the written response.

15. On the question of debt alleviation, he said that 13 bilateral creditors had recently granted his country a debt reduction. It was partly through those alleviation measures that Guyana had been able to increase substantially the share of social expenditure, notably on health and education. However, even though part of the debt had been written off, the country still had to repay the interest on the remaining debt. The international economic environment reduced the Government's room for manoeuvre in relation to the realization of economic, social and cultural rights, but those rights were in no way being called in question.

16. The CHAIRPERSON requested the secretariat to distribute the relevant statistics and to supplement them, if necessary, with the data contained in UNDP's Human Development Report.

Implementation of articles 1 to 5

17. Mrs. BONOAN-DANDAN said she would like to receive precise replies to questions 10 (rights of the Amerindian population) and 11 (situation of non-nationals) on the list of issues (E/C.12/Q/GUY/1).

18. Mr. MARCHAN ROMERO said he too considered that the reply to the question about the rights of the Amerindian population was unsatisfactory. The Committee wished to know what the actual situation of that minority was, particularly in view of the disturbing information on the Amerindian Act contained in the note by the secretariat (E/C.12/CA/28). He would also welcome details on the parliamentary committee appointed to recommend revisions to that Act.

19. Mr. GRISSA observed that the statistical tables contained in the appendix were of little use to the Committee.

20. The CHAIRPERSON said he had asked the secretariat to distribute statistics produced by the Inter-American Development Bank (IDB), which were interesting but did not contain data on poverty and health.

21. Mr. ADEKUOYE asked whether it was true that the provisions of the Amerindian Act were not generally implemented and how it was that that Act had not been considered unconstitutional. Did the Amerindians have the right to exploit their own natural resources? And did they receive appropriate compensation from the companies to which concessions had been awarded?

22. Mr. TEXIER observed that the initial report and written replies of the Guyanese Government did not contain specific data, notably on the situation of the Amerindians, their rights, their access to economic wealth, the use of their language, education, etc. He also wished to know whether, in practice, equality between men and women existed with regard to not only remuneration, but also access to senior posts. He drew the delegation's attention to the need to provide specific details on the questions concerning each article of the Covenant and, if necessary, on the difficulties encountered in implementing it.

23. Mr. WIMER considered that the problem derived from the fact that the replies given in the initial report (E/1990/5/Add.27) were brief and insufficient, and cited paragraphs 10 and 12 of that report by way of example. Which rights were not enjoyed by foreigners? Which rights were duly protected by the Covenant and which were not?

24. Mr. CEAUSU shared Mr. Wimer's concern about paragraph 12 of the initial report. In that connection, he noted that the written reply to question 11 of the list of issues (E/C.12/Q/GUY/1) referred only to the specific regime covering nationals of certain countries with which Guyana had special relations (CARICOM, Commonwealth). The Government should have given details concerning the general regime applicable to foreigners lawfully resident in Guyana, notably concerning the right to work, social security and trade union freedom. It was important to know whether non-nationals benefited from the laws and enjoyed the freedoms proclaimed in the Covenant.

25. Mr. BREWSTER (Guyana) said that, after having heard the questions asked and the observations made by members of the Committee, he had a better understanding of what they expected. He would ask his Government to give a more detailed response to the questions concerning the Amerindian population - including statistical data and specific facts, the ethnic minorities and non-nationals in Guyana. The latter did not constitute a significant proportion of the population; most non-nationals worked for regional or other organizations established in Guyana. It should not be difficult to provide updated statistical data on subjects such as poverty, health, etc.

26. As to the place occupied in the national legal order by the international human rights instruments in general and the International Covenant on Economic, Social and Cultural Rights in particular, reference should be made to the relevant appendix which had been sent to the secretariat.

27. The CHAIRPERSON said that a detailed note on that point would be distributed to members of the Committee.

28. Mr. GRISSA asked what was meant by a significant proportion of the population. In any event, the realization of rights was not measured in

quantitative terms. And on the basis of what criteria was a person deemed undesirable under the Expulsion of Undesirables Act, mentioned in paragraph 11 of the report (E/1990/5/Add.27)?

29. Mrs. BONOAN-DANDAN said she would like to have fuller information on the attention given to economic, social and cultural rights compared, for example, with other categories of rights, such as civil and political rights and the rights of the child.

30. In connection with questions 9 to 12 relating to article 2 of the Covenant, the information contained in the written response was too brief and did not give members of the Committee a precise idea of the legislative provisions in force on non-discrimination, particularly in relation to women, elderly persons, minors, disabled persons and persons suffering from AIDS.

31. She would also welcome details of the recommendations referred to on page 2 of the written response.

32. Mr. SADI asked whether affirmative-action measures were or would be taken to promote equality between men and women. Was Guyana in favour of the establishment of a quota system for achieving that objective?

33. Mr. CEVILLE noted that neither the report of Guyana nor the written response contained specific information showing that the primary education, secondary education, higher education and basic education provided in Guyana were consistent with the requirements of the Covenant.

34. Mr. BREWSTER (Guyana) replied that the rights of non-nationals were guaranteed on the same basis as those of the population as a whole. The question of the dissemination of the Covenant had been dealt with in general terms but, if the Committee so wished, fuller information could be provided in due course. No affirmative action was taken to promote equality between men and women, and there was no quota system.

35. Good progress was being made in the realization of the right to education: primary education and secondary education were free of charge. Higher education was no longer free, but students were eligible for scholarships. In primary education, 8 per cent of children were not enrolled; the percentage was higher in secondary education.

36. Mr. SADI asked whether economic planning officials in Guyana endeavoured to prepare their plans in the light of the principles set out in the Covenant.

37. Mr. ADEKUOYE, referring to the equal enjoyment of economic, social and cultural rights by men and women, asked whether measures were taken to ensure that women received equal pay for equal work. On another point, what was the situation of battered women?

38. Mrs. BONOAN-DANDAN said it was important that an answer should be given to question 9 on the list of issues. She asked whether the publication on the development of the situation of women in Guyana from 1980 to 1993 could be made available to members of the Committee.

39. Mr. PILLAY asked whether article 29 of the Constitution, which prohibited any form of discrimination against women on grounds of sex, could be invoked in the courts, and more precisely whether the Guyanese High Court and Court of Appeal had established any case law on the question. Were there also provisions guaranteeing the rights of children born out of wedlock?

40. Mr. BREWSTER (Guyana) replied that to his knowledge no cases relating to the rights of women or the rights of children born out of wedlock had come before the courts. Fuller information on the question would be sent to the Committee shortly. And as far as he knew, there were no similar provisions concerning disabled persons or the other categories mentioned in question 9.

41. On the other hand, account was taken of economic, social and cultural rights in the formulation of economic strategy. The problem which arose was not that of the recognition of those rights, but that of their specific realization: how, for example, to make full employment or access to decent health care available to all.

42. On the question of violence against women, statistics could be communicated to members of the Committee.

43. Mrs. JIMENEZ BUTRAGUEÑO asked how, in the absence of a constitutional court, the Guyanese Government could guarantee that the Constitution was respected. She also wished to know whether there was any legislation that discriminated against women. Lastly, the Committee would like to receive the clarification requested in question 14 of the list of issues.

44. Mr. GRISSA said he was anxious to know whether the questions to which no immediate answer could be given would be answered in due course.

45. Mrs. BONOAN-DANDAN asked what measures the Government was taking to deal with the problems of violence against women and children and, in general, violence within the family?

Implementation of articles 6 and 7

46. Mrs. JIMENEZ BUTRAGUEÑO said that the appendices mentioned by Mr. Brewster did not constitute replies to the Committee's questions.

47. The CHAIRPERSON agreed and asked to what extent the data contained in appendix 2, for example, constituted replies to the questions on employment and unemployment.

48. Mr. PILLAY suggested that, in lieu of appendices, the drafters of reports should provide precise data in a single paragraph. He drew attention to the obligation on countries to endeavour to give precise replies to the Committee's questions.

49. The CHAIRPERSON said that, in his view, it was pointless to continue consideration of the implementation of articles 6 and 7, since there were no precise replies to the relevant questions.

50. Mr. GRISSA said he wished to emphasize two problems relating to articles 6 and 7. The first concerned the vague and incomplete nature of the data relating to employment and unemployment. And the second concerned working conditions, notably in the bauxite and gold mines. What was the state of health of the workers concerned? And what measures were taken to protect them?

51. Mr. CEAUSU, reverting to paragraph 30 of the report relating to the Occupational Safety and Health Division, one of whose tasks was to inspect workplaces, asked for details on the powers of inspectors from that Division. Were they authorized to impose fines and to order the closure of a work site which was considered dangerous or had been the scene of accidents? The Government should have given statistics on the frequency of such inspections and the effectiveness of the systems set up to protect workers.

52. The CHAIRPERSON said that two courses were open to the Committee. It could continue to ask questions indicating the areas where the replies given were inadequate and see whether Mr. Brewster could supply details the next day. Or it could terminate consideration of the report, adopt preliminary observations and seek to obtain further information in due course. The documentation available could not enhance the dialogue between the Committee and the representative of Guyana.

53. Mr. WIMER favoured the second solution. Asking further questions would not advance the work of the Committee and would amount to putting Mr. Brewster through a kind of torture session. Although the documentation provided was unquestionably insufficient, the Committee did have sufficient information to take stock of the situation, after which it could turn to another subject.

54. Mr. CEAUSU considered that the Committee should continue to ask questions and make observations on the paragraphs of the report. Mr. Brewster would thus be able to take note of the Committee's concerns and either respond to them or inform the authorities in his country.

55. Mr. BREWSTER (Guyana) said that the replies to some questions could be obtained quickly. He considered that the exchange of views with the members of the Committee had been useful, since he was now in a position to inform his Government of the nature of the replies expected by the Committee. In his opinion, the persons responsible for the preparation of the report should have had consultations with the secretariat, so as to be able to give the replies expected by the Committee.

56. Mr. TEXIER pointed out that a lengthy document had been prepared, stating what was expected of Governments, namely, information on the state of legislation, a modicum of statistical information, and a description of the actual situation with regard to economic, social and cultural rights. The Committee was in an impasse, for lack of satisfactory replies on several important points, notably employment, unemployment and purchasing power. In his view, further written information was essential in order to ascertain the actual status of economic, social and cultural rights and their implementation vis-à-vis the most vulnerable sectors of the population.

57. Mrs. BONOAN-DANDAN said she appreciated Mr. Brewster's difficulties but nonetheless considered it unnecessary to give Governments any assistance since the questions asked were straightforward and direct. Giving the answers was simply a question of political will. She proposed that the Committee should adhere to its usual practice.

58. Mr. GRISSA expressed regret at the incompetence or complete irresponsibility of the persons who had drafted the replies before the Committee. He proposed that the dialogue with Mr. Brewster should be continued pending the receipt of more complete replies.

59. Mr. ADEKUOYE shared the view of members who wanted the dialogue to continue and the representative of Guyana to be given time to obtain further information.

60. Mr. WIMER suggested that Mr. Brewster should request his Ministry of Foreign Affairs to transmit to the Committee a new document containing more precise replies to the questions asked and describing the actual status of economic, social and cultural rights in Guyana.

61. Mr. BREWSTER (Guyana) said he doubted that the replies to such complex questions could be obtained overnight. Although replies could be obtained to the questions of a statistical nature, the answers to the others would take longer to prepare and necessitate consultations with different ministries.

62. The CHAIRPERSON, summarizing the deliberations, considered it pointless to continue the dialogue and expressed serious doubt that replies could be obtained from one day to the next. The State party had nevertheless displayed a measure of goodwill and the Committee could expect to receive additional information. He proposed that the Committee should send to the Government of Guyana a letter containing a list of matters pending and, possibly, additional questions and a detailed description of its working methods. The Government would be invited to send a delegation to the Committee's next session and to prepare written replies well in advance, failing which the Committee would adopt stringent and detailed concluding observations.

63. Mr. BREWSTER (Guyana), endorsing that action, said he would like to know the shortcomings which the Committee had found in the replies given, so as to be able to inform his Government.

64. The CHAIRPERSON requested the country rapporteur to go through the list of issues, identify the shortcomings and indicate what additional information was needed.

The meeting rose at 1.05 p.m.