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DAY OF GENERAL DISCUSSION

Tenth Session, 16 May 1994

The role of social safety nets as a means of protecting economic, social and cultural rights, with particular reference to situations involving major structural adjustment and/or transition to a free market economy

Introduction

363. During the past four years there had been a rising number of States parties to the Covenant that were in transition from a planned to a free-market economy and States parties that had embarked on a structural adjustment programme (SAP). Those States parties often pointed out when they presented their reports on the implementation of the rights covered by the Covenant that the full protection of economic, social and cultural rights was hampered by the effects of these SAPs or by the transition process itself.

364. The question posed was whether major structural changes in a country could be used as an excuse for the non-fulfilment of the obligations contained in the Covenant and whether there should not be some kind of minimum standard of social protection, a social safety net (SN), below which a State could not fall.

Opening remarks

365. In his opening remarks, Mr. Philip Alston, Chairperson of the Committee, explained the difficulties faced by a supervisory organ charged with the observance of human rights, in establishing the degree of flexibility that was appropriate in regard to the fulfilment of international human rights obligations by States parties. He stated that the process of transition, as a result of the progressing globalization of the economy, applied not only to the States of Eastern Europe but to most States. In order to cope with the new challenges and with a lack of alternatives, many Governments introduced SAPs.

366. Those programmes had a strong impact on human rights in general and on economic, social and cultural rights in particular. Mr. Alston underlined that there could not be a trade-off of fundamental human rights as a result of the transition process.

367. Concerning the international recognition of economic, social and cultural rights as human rights, he stated that most of the international institutions never made use of the term economic, social and cultural rights and that they continued to resist its use. Even at human rights forums such as the World Conference on Human Rights, held in Vienna in June 1993, and in the Preparatory Committee for the World Summit for Social Development to be held in Copenhagen in 1995, the fundamental concept of economic, social and cultural rights was neglected.

Main issues covered by speakers

368. The first speaker was Mr. R. van der Hoeven (ILO). He stated that technical revolution, changes in world production and labour globalization resulted in, amongst other things, a high rate of unemployment in many countries. SAPs were installed in order to cope with

these changes. Mr. van der Hoeven pointed out that these programmes were only successful in countries in which (a) a broad consensus on the measures existed and (b) the possible social effects had been taken into consideration.

369. Social safety nets, as Mr. van der Hoeven pointed out, had turned out to be necessary to mitigate the adverse effects of the adjustment measures. Their purpose was to reach the poor and they had been installed in an informal ad hoc manner. They were not meant to have a strong impact on poverty alleviation in general. In answering a question from Mr. Wimer Zambrano on statistical material concerning the effects of SAPs, Mr. van der Hoeven said that statistics could be made available to the Committee but that it was difficult to separate the consequences of SAPs from the general economic development, so that the question could not be clearly answered.

370. With reference to the preceding speaker, Mr. Ariel François (UNDP) underlined the focus on employment as being the most important topic in dealing with the "fall-out" of SAPs and said that these programmes were necessary to mitigate economic distortions. In his view, the problems of adjustment could be solved by economic growth. However, he made it clear that there was no fixed order of priorities whether rights should be implemented irrespective of economic development or as a product of the latter. In response to a question from Ms. Taya as to whether structural adjustment should be neglected because of its negative side-effects, Mr. François emphasized that adjustment measures were a means of achieving human development.

Social funds in developing countries

371. Ms. Jessica Vivian (UNRISD) enumerated three goals of social funds, as one example of a safety net, in developing countries. These were (a) to alleviate poverty in the context of adjustment, (b) to improve the acceptance of SAPs in society and (c) to reconstitute social services. The outcome of her research so far was the following: Social funds were mostly externally financed; they were ad hoc funds; they had a "saving-the-face" component; they were male-biased; they reached only a very small proportion of the poor; they were demand-based; they suffered from a lack of impact evaluation on the side of the donor; they tended to become institutionalized; and they revived the perception of development as a "gift" rather than as a "right".

372. In addressing the first three speakers, Mr. Texier wanted to know whether the SAPs turned out to be negative only in the short or also in the long run. If so, what was the true purpose of SAPs? Mrs. Bonoan-Dandan, addressing the representative of UNRISD, asked if the funds would always be male-biased and continue to address women's issues only residually. Mr. Simma inquired whether the speakers had ever come across the Covenant in their work and whether they found it obsolete or socialistic.

Sustainable growth

373. Mr. Grant B. Taplin (IMF), stated that the Fund's main goal was to promote sustainable, high-quality growth which provided the basis for the realization of economic, social and cultural rights. As one of the four major components of growth he mentioned appropriate social policies and in particular SNs, i.e. temporary mechanisms to mitigate the adverse impact of structural adjustment on the poor and other vulnerable groups. From the Fund's

point of view, SNs should be formulated within the overall resource constraints, be temporary and be as simply structured as possible.

374. Referring to previous questions put by members of the Committee, Mr. Taplin pointed out that some countries with ambitious structural adjustment policies had shown good progress. He stated that the IMF guidelines took no explicit account of the Covenant but that the Fund devoted more and more attention to social factors and poverty alleviation.

375. The discussion then hinged mainly on Mr. Taplin's statements. The chief issue revolved around the adequacy of structural adjustment as such, with regard to the possible negative consequences for society concerning employment, food allocation, health services, etc. The question was raised by Mrs. Ahodikpe as to whether the costs of SAPs were too high and Mr. Texier wondered whether people were better or worse off after a period of structural adjustment.

376. Concerning the negative effects of SAPs, Mr. Grissa requested the other members of the Committee to attack not the financial institutions but the Governments that implemented those programmes.

377. Mr. Taplin replied that the Fund's approach to development promotion was clearly economic and financial rather than one of human rights. Even if SAPs might have severe consequences in the short run, there was no reason for radically reshaping the Fund's mandate. Referring to Ms. Ahodikpe's question, he was of the opinion the costs of SAPs were not too high because without them the situation would be even worse. As long as economic factors were considered, SAPs turned out to be positive in the long run. With regard to what Mr. Grissa had said, he confirmed that the Fund did not impose SAPs on Governments but only gave advice.

Labour rights and structural adjustment programmes

378. Dr. Virginia Leary (Professor of Law, State University of New York, Buffalo), speaking on behalf of the International Labor Rights Education and Research Fund, concentrated on the second topic of the general discussion, the implementation of economic, social and cultural rights in times of structural adjustment. She said that the concept of rights was characterized, first, by an international consensus on the matter and, secondly, by a precedence over economic circumstances. She referred indirectly to doubts mentioned before, whether rights should be implemented irrespective of the economic situation or as a product of the latter.

379. Dr. Leary stated that the people who suffered most from SAPs were unable to take part in the decision-making and that thus their fundamental right of participation was violated. She stressed the fact that there had always been a potential conflict between SAPs and labour rights in that the right to strike, to bargain or to assemble was often infringed upon. Her final comment on the aim of SAPs was that they should be designed to promote not entrepreneurs but workers.

Social safety nets relating to particular risks only

380. Mr. Roland Sigg (International Social Security Association) underlined the need to cushion the effects of SAPs but not by importing the social security models of the industrialized countries. SNs should function as a means of mitigating the worst

consequences of structural adjustment measures but people considered SNs to be an inappropriate instrument for alleviating their overall situation. The national security institutions in the majority of countries had problems with funding. He therefore raised the question whether the existing systems could function better with more funding or whether a new instrument of social protection which was more local and, for instance, more women-based should be installed. Mr. Sigg finally stated that SNs could fulfil their objectives when they related to particular risks but not to general problems like retirement and unemployment.

Social safety nets as part of wider social protection policies

381. Ms. Julia Hausermann (Rights and Humanity) put the emphasis on the fact that developing countries suffered not only from structural adjustment measures but just as much from the debt burden and the fall in commodity prices. Concerning the role of SNs in the realization of economic, social and cultural rights, Ms. Hausermann stated that, first, the term "social safety nets" was not clearly defined and therefore used in various ways. With reference to the Covenant, she pointed out that it was difficult to interpret article 9 on the right to social security: Was it limited to SNs in times of extreme need or did it call for universal social insurance? Of course, universal benefits would be the ideal, but with regard to the economic constraints of States, SNs could only be a part of a wider range of social protection policies. Finally she made three recommendations to the Committee. It should (a) hold the financial institutions accountable for the protection of human rights; (b) make its position clear at the World Social Summit to be held in 1995; and (c) encourage bilateral and multilateral donors to increase their support for SNs and social protection.

Refusal of the concept of structural adjustment programmes

382. Mr. Alexander Teitelbaum (American Association of Jurists) stressed the permanent adverse effects of SAPs. He strongly rejected the concept of structural adjustment as such because it resulted in the rich becoming richer and the poor even poorer. SNs had turned out to be inappropriate in easing the negative effects of SAPs. The latter violated the rights covered by the Covenant. Mr. Teitelbaum underlined the obligation of the IMF, as a member of the United Nations system, to protect economic, social and cultural rights.

The need for a conceptual reform of structural adjustment programmes

383. In the same vein as the previous speaker, Ms. Sigrin Scogly (International Human Rights Organization for the Right to Feed Oneself (FIAN) and Habitat International Coalition (HIC)) confirmed that the financial institutions had the obligation to follow the observance of human rights in the States to which they lent the money. They should not induce Governments to infringe upon economic rights. As a matter of fact, Ms. Scogly stated, food and housing conditions were often at a critical point in countries that had embarked on SAPs, which resulted in the abolition of food subsidies, health services, etc. SNs were, in her opinion, an inadequate means to alleviate poverty in the context of structural adjustment. Instead, a far-reaching conceptual reform of SAPs should be introduced in accordance with a new sustainable world economic order based on human rights.

Social safety nets no adequate answer to structural adjustment programmes

384. In the view of Ms. J. Brun (Ligue internationale des femmes pour la paix et la liberté), the primary objective of SAPs was to repay the debt. The focus on SNs as a means of alleviating

adverse effects of SAPs was displaced and would even promote the false impression that they could be a substitute for far-reaching social policies. Ms. Brun observed that, while the "painful" impact of SAPs was well known, the programmes continued to be applied. She requested the members of the Committee to monitor carefully the politics of the new World Trade Organization that would be established soon.

Need for a monitoring organ

385. Mr. M. Kothari (International Human Rights Organization for the Right to Feed Oneself (FIAN) and Habitat International Coalition (HIC)) stressed the need for a monitoring body to observe the activities of the international financial institutions with regard to the implementation of economic, social and cultural rights.

Double standard of financial institutions

386. Ms. Karen Parker (Sierra Club Legal Defence Fund) confirmed the previous speakers' statements relating to the inadequacy of SNs as a means of mitigating structural adjustment effects. Likewise, she underlined that the main consequence of structural adjustment was the deterioration of the environment and the violation of human rights. In order to illustrate the double standard the financial institutions applied when recommending SAPs, she stated that in industrialized countries the share of the national budget for social services was about 60 per cent in comparison with an average of 10-20 per cent in developing countries. As a consequence, the cutting back of money for social services had a far more serious impact on living conditions in developing countries than in industrialized countries.

387. Mr. Taplin (IMF), in response to all the previous speakers, simply drew the conclusion that somebody had to pay for the minimum security measures and he asked who should do so.

388. Mr. Grissa recommended to the members of the Committee that, when discussing State reports, they should rather concentrate on long-term development and not focus on the short-term effects of SAPs.

389. Finally, Mr. Alston, Chairperson of the Committee, concluded that it had not been the aim of the general discussion to find answers to all the questions that had been raised. The objective had been to exchange views and in this regard he confirmed that it had been a fruitful and enriching debate.

Conclusions

390. In contrast to the representatives of the intergovernmental institutions (ILO, UNDP and IMF), those of the non-governmental organizations emphasized the fact that SNs did not suffice as a means of mitigating the adverse effects of SAPs. They were considered the last resort to avoid the worst consequences and not a substitute for broad social policies. The Committee was urged to hold the international financial institutions accountable for the protection of economic, social and cultural rights and to strengthen its own role as a supervisory body.