

## DOMINICAN REPUBLIC

### CESCR E/1991/23

213. The Committee considered the initial report of the Dominican Republic concerning articles 1 to 15 of the Covenant (E/1990/5/Add.4) at its 43<sup>rd</sup> to 45<sup>th</sup> and 47<sup>th</sup> meetings, held on 7, 10 and 11 December 1990. (E/C.12/1990/SR.43-45 and 47).

214. The representative of the State party introduced the report and stated that it reflected legal and institutional measures taken by the Government to insure the proper implementation of the provisions of the Covenant in the Dominican Republic. Those provisions, which were implemented to the greatest possible extent, were however very difficult to apply in some areas because of the weakness of the relevant government institutions.

#### General matters

215. As to the general framework within which the Covenant was implemented, members of the Committee asked for detailed information on how the Covenant had been incorporated into domestic legislation, the forms taken by international co-operation and its amount as a percentage of GNP, the programmes using ODA or international co-operation to promote the exercise of the rights covered by the Covenant, and the means by which the rights set out in articles 6 to 15 of the Covenant were guaranteed to foreigners.

216. Information was also requested on the possible impact of the external debt on the enjoyment of economic, social and cultural rights in the Dominican Republic. It was asked what the percentage of the coloured population of mixed race was in the Dominican Republic, to what extent those population groups enjoyed the same rights as did white Dominicans and whether they could obtain important posts in the country's economic life. Clarification was particularly requested on the situation of Haitian workers on the sugar plantations in the Dominican Republic, who, according to various sources, were recruited by force and even compelled to work during the sugar-cane harvest season, and on the subject of the activities carried out in that connection by an official body known as the Consejo Estatal del Azúcar (CEA). In the absence of figures on the implementation of a number of rights safeguarded by the Covenant, information was asked on the way in which the Dominican Republic's statistical system was organized.

217. The representative of ILO referred to articles 6 to 10 of the Covenant and informed the Committee of the Dominican Republic's ratification of ILO conventions and of the relevant conclusions and recommendations of the ILO Committee of Experts on the Application of Conventions and Recommendations. In particular, he drew the Committee's attention to the serious problem of illegal entry by Haitian workers who had been rounded up by force on the plantations and compelled to work on them under bad conditions. In that connection, the International Labour Office had recently urged the Dominican Secretariat of State for Foreign Affairs to send a mission to the plantations in January 1991 to look into the living conditions of the persons concerned.

218. In his reply, the representative of the State party explained that the Covenant had been incorporated into domestic legislation and had, consequently, become an integral part of the Constitution. The Dominican Republic recognized and enforced all standards of international law, in particular those of international human rights instruments at the inter-American level. Thus, measures had recently been taken to ensure that the Labour Code and the Constitution were brought into line with international instruments acceded to by the country, such as the Covenant. He added that foreigners enjoyed the same rights and privileges as citizens and that xenophobia as well as discrimination based on race, colour or religion did not exist in the Dominican Republic, which had always been a country of voluntary exile.

#### Articles 1 to 5

219. Members of the Committee requested more information on the situation of women in Dominican society, in particular on their participation in the nation's political and social life, in the trade unions and in employment, on the measures adopted, on the difficulties encountered, and on the progress achieved in promoting equality between men and women in regard to the rights set out in articles 6 to 9 of the Covenant.

220. In his reply, the representative of the State party emphasized that women did not suffer from discrimination and that they played an active role in the economic life of the country.

#### Article 6: Right to work

221. Members of the Committee asked for information on the measures adopted to prevent discrimination in labour matters, on the cases in which wages were supplemented by social benefits, on the nature and terms for granting State social welfare to the poor sectors of the population, on the amount of the minimum wage, on the way in which unemployment had developed over the past five years, on the system of protection against unemployment, on whether there were unemployment allowances, on the judicial bodies available to workers engaged on a temporary basis to the detriment of their labour rights, and on the length of the working day established by law. Moreover, it was asked whether vocational guidance and training programmes had been devised, what results had been achieved by the Technical and Vocational Training Institute in its activities to improve productive employment, and on the amount of financial resources available for it to achieve its objectives.

222. In his reply, the representative of the State party explained that the minimum monthly wage was 1,120 pesos, i.e. \$97.40 and that unemployment had changed from 28.5 per cent in 1986 to 20.8 per cent in 1988. Reliable statistics by sex and age-group were difficult to obtain in view of the large amount of employment in the underground economy and in the informal economic sector. The working day, regardless of sex, was set out in the labour contract and could not exceed 8 hours a day and 44 hours a week, it being understood that the working week must end at noon on Saturday. Moreover, temporary workers who considered that their labour rights were infringed upon could refer to the Secretariat of State for Labour, a ministerial body for settling labour conflicts between workers and employers.

#### Article 7: Right to just and favourable conditions of work

223. Members of the Committee asked for information on the machinery for establishing minimum wages, the role of that machinery in the collective bargaining process, the minimum wages according to economic branch of activity, the percentage of the active population in receipt of a wage lower than the minimum wage, and the proportion of the wages assessed for retirement purposes. In addition, clarification was requested on the restrictions imposed on the rights of women under articles 210 to 218 of the Labour Code and the situation of women with a low income and little education as far as the rights guaranteed by article 7 of the Covenant were concerned. Additional information was also requested on the situation of unmarried, widowed or divorced women and men raising their children on their own and on the legislation and practice in regard to paid holidays.

224. In his reply, the representative of the State party said that the minimum salary was established by the National Wages Committee, consisting of representatives of the administration, employers and workers. The amounts of the minimum wage were reviewed by the Committee at least once every three years, on the understanding that they could not be altered before one full year had passed. While no distinction was drawn in that regard between the various branches of economic activity, the Committee was free to determine the minimum wages for urban areas compared with rural areas, in the light of the country's needs. Moreover, the proportion of wages assessed for retirement purposes was determined by the law on social welfare and disablement and old age pensions and consisted of a base amount equivalent to 40 per cent of the average monthly wage increased in terms of the number of paid-up weekly contributions.

225. Concerning the situation of women in the Dominican economy, the representative explained that any restriction on the rights mentioned in articles 210 to 218 of the Labour Code was considered by law as a breach of the articles in question and complaints in that regard were brought before the Secretariat of State for Labour. Women had the same access as did men to vocational training centres. Nevertheless, in the Dominican Republic, as in any developing society, women with a low income and little education were, compared with men of the same social background, generally disadvantaged in regard to training opportunities. However, women who were better off were able to obtain training and therefore suffered no discrimination and benefited from the principle of equal pay for equal work.

#### Article 8: Trade union rights

226. Members of the Committee asked for additional information on trade union activities and the role of trade unions in collective bargaining, on the provisions governing the right to form trade unions (arts. 293 to 361 of Book V of the Labour Code), on the right of civil servants to form trade unions, on the lawful reasons for holding strikes, and on restrictions on the right to strike in the civil service. In this connection, clarification was requested on the subject of public services or services of public utility in which staff were not authorized to strike. Furthermore, it was asked whether the procedure whereby a strike could be declared only after it had been voted for by more than 60 per cent of the workers concerned was in keeping with the relevant provisions of the ILO conventions and with article 8 of the Covenant.

227. In his reply the representative of the State party said that there were many trade unions and trade union organizations in the Dominican Republic and they freely exercised their activities and

that workers could make use of the right to strike whenever they thought fit, provided they observed the relevant provisions of the Labour Code. Civil servants had no right to strike in cases where it is considered that a strike would prevent the operation of essential State services.

#### Article 9: Right to social security

228. Members of the Committee asked for further details on the extent of social protection and the social security system in the case of sickness, industrial accidents, death of a spouse, and retirement. In addition, it was asked why social security expenditure accounted for a very low proportion (0.5 per cent) of GNP in the Dominican Republic and whether rural workers benefited, as did urban workers, from a system of social protection.

#### Article 10: Protection of the family, mothers and children

229. Members of the Committee asked for additional information on the provisions of the Constitution which guarantee the right to freely enter into marriage; on the percentage of pregnant women in receipt of benefits from the Social Security Office and women receiving benefits from other public bodies; on the social security benefits to which pregnant women were entitled, the situation in that regard of self-employed women; on the regulations applicable to domestic servants, the situation regarding abortion, government policy on retirement pensions, and any difference between men and women in that connection. Moreover, information was requested on the employment of children and adolescents and, in particular, the kind of work in which they could be employed, the percentage of minors under legal age who were in employment; special measures taken to cut down the number of abandoned minors and to protect minors against economic exploitation and ill-treatment; the sanctions imposed in the event of a breach of the provisions governing the conditions of employment for women and minors; special measures to ensure the protection and education of handicapped children or delinquent minors and, lastly, the extent of the problem of drug addiction among the young and the programmes implemented by the Government for juvenile drug addicts.

230. In addition, more information was requested on the situation of illegitimate children, including those with one parent being a member of a diplomatic mission; on the legal system of divorce and the proportion of marriages which had ended in divorce; on any measures on births and family planning; on legislation on abortion; and on any trafficking in children and child prostitution and measures taken to combat them. Lastly, it was asked whether the provisions of the Labour Code whereby the minimum age of employment was 14 were consistent with international standards.

231. In his reply, the representative of the State party pointed out that marriage was considered to be the legal basis of the family and that it could be entered into in complete freedom. Any pregnant woman employed by the State or its agencies was entitled to compulsory leave for the six weeks preceding the anticipated date of birth and the six weeks following that date. For the duration of that leave, she drew her full salary and maintained her employment, with all the rights and advantages deriving from it. The minimum age for retirement was set at 60 years of age and no distinction was made in that respect between men and women. With regard to the situation of self-employed women and domestic servants, it had to be acknowledged that the changing and non-institutionalized nature of professions of that kind made their social security cover difficult. Those questions were among

the issues taken up in the ongoing review of the Labour Code.

232. The representative also stressed that there were 94,165 children aged between 10 and 14 who were engaged in productive work and who accounted for approximately 17 per cent of the economically active population. Such a percentage might seem high but should be looked at in the context of the very high unemployment rate in the Dominican Republic. Legislative measures had been enacted to reduce the number of abandoned children and to protect minors from exploitation. Under the legislation relating to compulsory assistance to persons under 18, parents were required to look after their minor children in the interest of society. Any parent who failed in that obligation or refused to conform to it was liable to a two-year prison sentence. Special measures had been taken to guarantee the protection and education of handicapped children and of delinquent minors through public centres set up to help those categories of persons. The penalties imposed for violations of the provisions governing the working condition of women and children were laid down in the Labour Code and corresponded to those applied for violations of the rights of adult males.

#### Article 11: Right to an adequate standard of living

233. Members of the Committee asked for detailed information about the right to adequate food and the right to housing. In particular they requested information on the implementation and results of food programmes and projects carried out with the assistance of international organizations, the percentage of the population which benefited from national food programmes, the assistance given to peasants in the form of loans and technical assistance, the percentage of the population currently without housing or living in substandard housing, the loans provided for purchasing materials for self-help housing, the guarantees provided in Dominican legislation for the protection of tenants, and the percentage of the urban and rural population lacking essential services such as drinking water, sewerage and electricity.

234. Members also referred to information to the effect that 15,000 families had been expelled from their dwellings in the context of programmes intended to remodel urban housing estates in connection with the ceremonies to mark the 500<sup>th</sup> anniversary of the landing by Christopher Columbus. These expulsions had been ordered without respect for the relevant legal procedures and the families were living in extremely difficult economic and social conditions. Consequently, explanations were requested about the Dominican Government's respect for the rights contained in article 11 of the Covenant.

235. In his reply, the representative of the State party said that the right to housing and the right to adequate food were guaranteed by the Constitution. There remained, however, a gap between the constitutional affirmation of those rights and their practical implementation and the Government was making every effort to guarantee the realization of the rights in question. The rate of house-building for low-income households had thus progressed considerably although the Dominican Republic was facing a very high demographic growth rate. Rent control legislation had been adopted in 1959 in order to protect tenants who could be expelled from their dwellings only when all the conditions laid down by the law had been met.

236. With regard to the right to adequate food, various United Nations agencies, including FAO, provided assistance in agriculture aimed mainly at promoting the production of basic foodstuffs.

At the national level there was an institute in charge of price stabilization which distributed foodstuffs to low-income families and also acted as a financing agency. The Agriculture Bank of the Dominican Republic provided appropriate aid to farmers in the form of soft loans and purchases of crops at sufficiently remunerative prices. Efforts were also being made to provide electricity and drinking water supplies to the entire country.

#### Article 12: Right to physical and mental health

237. Members of the Committee wished to have information on the proportion of the population covered by the social security scheme as compared with the proportion of the population receiving benefits under other social insurance systems. They also asked for information, including statistical information, on the health care system, the number of health centres in urban and rural areas, the measures taken by the Government to facilitate the purchase of medicines by the most disadvantaged sectors, the institutions responsible for providing medical care to children, and immunization and re-immunization coverage against child disease in addition to measles.

238. It was also asked whether special environmental protection measures had been found necessary in the Dominican Republic; whether measures had been taken to eradicate malaria; whether cases of AIDS had been registered and, if so, what measures had been taken to combat that disease.

239. Replying to the questions raised, the representative of the State party stressed that the Secretariat of State for Public Health and National Insurance had the dual task of monitoring the health of the population and implementing welfare programmes for people with low incomes, who could avail themselves of free medical care under the social security system. Public Hospitals were distributed throughout the country in terms of population density in the different regions. Further, a network of "popular pharmacies" had been set up in order to provide persons with low income with low-cost medicines. Excellent results had also been achieved in combatting a certain number of endemic or epidemic diseases as well as several tropical diseases. As the result of a compulsory and systematic child immunization programme, infant mortality had dropped conspicuously.

#### Article 13 and 14: Right to education

240. Members of the Committee requested information on the illiteracy rate among adults, the percentage of children completing the sixth grade, the income of a primary school teacher in the public sector, the enrolment in public and private education at the secondary and higher levels and the distribution by sex, the assistance provided in the form of scholarships and educational loans, the distribution of such assistance at the various levels of education, the subsidies given for textbooks at the primary level, the proportion of State and private universities and statistics on enrolment by sex in the universities. Furthermore, information was requested about the 136,000 children who did not attend school and, more particularly, the percentage they formed of the total number of children.

241. In his reply, the representative of the State party explained that in 1983 the illiteracy rate had been 1.33 per cent although the number of functional illiterates, in other words people who experienced problems in reading or writing, was much higher. The purchase of textbooks for

primary education was in principle subsidized by the State and salary negotiations were currently taking place with a view to upgrading the salaries of primary school teachers. The total number of students enrolled in secondary and higher education was 1,884,300 of whom there were 1,297,000 in the first cycle, 463,600 in the second cycle and 123,700 in the third cycle.

Article 15: Right to take part in cultural life and to enjoy the benefits of scientific progress and to benefit from the protection of the interests of authors

242. Noting the dearth of information on the rights established in article 15 of the Covenant, members of the Committee wished to have detailed information on the measures adopted in the Dominican Republic to give effect to those rights, and in particular, measures taken to provide access to culture for the public at large.

Other matters

243. The representative of the State party addressed a written statement to the attention of the Committee in which he pointed out that the questions posed and observations raised by members of the Committee during the consideration of the report had to be given the most careful attention and the most appropriate response. He referred, in particular, to the oral comments and questions made with regard to denunciations of illegal evictions and violations of the rights of foreigners which, on account of their gravity, had to be responded to seriously, thoroughly and with supporting evidence. In order to do so, a suitable lapse of time was needed and, therefore, the Government expressed the desire that the Committee postpone its consideration of the report to any future date it might deem appropriate.

244. The representative further expressed the wish that the future dialogue with the members of the Committee could be fruitful and, in particular, clothed with the high standards befitting the dignity of a sovereign State and the presumed high qualifications of the experts. In that latter regard, he expressed the hope that neither side would resort to improper expressions and emotional attitudes which were unbecoming of government representatives and of real experts. It was the understanding of the Dominican Government that the reports of sovereign States, who were the unique interpreters of their national interest, were not “good” or “bad” and that there could only be incompleteness and absence in the amount and scope of information submitted.

245. In response to this written statement the Committee expressed the view that it was essential that the spirit of constructive dialogue between the representatives of the States parties be maintained and that extraneous and unhelpful matters should be avoided. It noted that, in a subsequent statement, the representative had reaffirmed his desire to co-operate with the Committee and to provide the information requested.

Concluding observations

246. In concluding consideration of the initial report of the Dominican Republic, the Committee noted with satisfaction that the Government of that country was prepared to establish a dialogue. The report submitted by the State party, however, seemed to the Committee to be too juridical and lacking in information on the practical and concrete implementation of the Covenant, on case law

and on statistical data relating to the various rights recognized by articles 6 to 15 of the Covenant. The information concerning the relevant articles of the Constitution or the texts of various laws and regulations appearing in the report, had inadequately developed some articles of the Covenant, such as articles 9 and 11 or had not developed them at all in the report, such as article 15.

247. Moreover, although a certain amount of information had been provided in response to the issues provided in writing for the delegation of the Dominican Republic by the Committee's pre-sessional working group, relating in particular to the minimum wage, the length of the working day, retirement, child labour, illiteracy or education, many other issues had not been broached. For instance, in addition to the issues related to article 15 of the Covenant which had not been developed, the information provided in respect of social welfare, trade union organizations, the right to strike, the benefits provided for pregnant women, abortion, the right to housing and to health had been considered to be insufficient.

248. Further, following the additional questions asked and comments made orally by the members of the Committee concerning the actual implementation of the Covenant, the Government of the Dominican Republic had transmitted a written statement to the Committee in which it asked for an additional period of time in which to reply.

249. Members of the Committee stated their deep concern at the situation of Haitian workers in the Dominican Republic and wished to obtain all relevant information on the role of the CEA in the recruitment of these workers, on the condition of Haitian workers including their freedom of movement, their wage and their working conditions and any measures taken by the Government following the report established by the Committee appointed by the President of the Dominican Republic to end forced labour. The information that had reached members of the Committee concerning the massive expulsion of nearly 15,000 families in the course of the last five years, the deplorable conditions in which the families had had to live, and the conditions in which the expulsions had taken place were deemed sufficiently serious for it to be considered that the guarantees in article 11 of the Covenant had not been respected.

250. The Committee consequently requested an additional report on those issues which called for more detailed development as well as answers to those questions which had been kept pending.

Chapter VI

CONSIDERATION OF ADDITIONAL INFORMATION SUBMITTED BY STATES PARTIES  
PURSUANT TO THE COMMITTEE'S REQUEST

...

330. At the same meeting, the Committee, having noted that the Government of the Dominican Republic had not responded to its request for the submission of additional information made at its fifth session (E/1991/23, para. 250), decided to adopt the following decision:

“The Committee on Economic, Social and Cultural Rights draws the attention of the Government of the Dominican Republic to the concluding observations which it adopted at its fifth session, which included the following statement:

‘The information that had reached members of the Committee concerning the massive expulsion of nearly 15,000 families in the course of the last five years, the deplorable conditions in which the families had had to live, and the conditions in which the expulsions had taken place were deemed sufficiently serious for it to be considered that the guarantees in article 11 of the Covenant had not been respected.

The Committee consequently requested an additional report on those issues which called for more detailed development as well as answers to those questions which had been kept pending.’

The Committee notes that its request for an additional report on those issues has not yet evoked a response from the Government. It notes that in the meantime it has received additional information from several sources, including that contained in document E/C.12/1991/NGO/1, which, if accurate, would give rise to serious concern on the part of the Committee. The Committee thus requests the State party to suspend any actions which are not clearly in conformity with the provisions of the Covenant, and requests the Government to provide additional information to it as a matter of urgency.

The Committee requests the Secretary-General of the United Nations to inform the Government of the Dominican Republic of the Committee's decision as soon as possible.”

331. In that connection, the Committee emphasized that the Government of the Dominican Republic might wish to avail itself of the advisory services available from the Centre for Human Rights to assist it in relation to efforts to promote full compliance with the Covenant in the case of the large-scale evictions referred to in the Committee's report (see also chapter I, draft decision III).

Chapter VI

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201. At the 23<sup>rd</sup> meeting, the Committee, having noted that the Government of the Dominican Republic had neither responded to its request for the submission of additional information made clearly at its fifth session (E/1991/23, para. 250) nor to its offer made at the sixth session (E/1992/23, para. 331), and subsequently endorsed by the Economic and Social Council in its decision 1992/261 of 20 July 1992, to send one or two of its members to advise the Government in relation to efforts to promote full compliance with the Covenant in case of the large-scale evictions referred to in the Committee's reports, decided to adopt the following decision:

“The Committee notes again that the additional information referred to in its report on the sixth session, if accurate, gives rise to serious concern on the part of the Committee. The Committee thus repeats its request to the State party to avoid any actions which are not clearly in conformity with the provisions of the Covenant and also repeats its request for the Government to provide additional information to it as a matter of urgency.

“The Committee requests the Secretary-General to inform the Government of its decision as soon as possible.”

## **CESCR E/1995/22**

206. At its 5<sup>th</sup> meeting on 4 May 1994, the Committee considered the request by the Government of the Dominican Republic to postpone the consideration of the situation in that country until its next session and, at its 7<sup>th</sup> meeting on 5 May 1994, adopted the following decision.

207. In view of the existence of exceptional circumstances in the case, the Committee agrees to a request from the representative of the Dominican Republic to postpone until its eleventh session consideration of the matters arising out of the Committee's request to the Government for the provision of additional information.

208. The Committee notes that this decision is based upon an assurance given by the representative of the State party to the Committee's Chairperson that an expert from the capital would appear before the Committee in relation to that matter at the meeting scheduled for 6 December 1994 during the Committee's eleventh session.

209. The Committee draws the attention of the State party to the information submitted to it by a non-governmental organization during the tenth session and made available to the Government of the Dominican Republic, and invites the Government of the Dominican Republic to address the matters identified in that document in its presentation to the eleventh session of the Committee.

210. The Committee urges the Government to take all appropriate measures in the meantime to ensure full respect for all economic, social and cultural rights, in particular in relation to the right to housing.

### **A. Introduction**

309. At its 43<sup>rd</sup> and 44<sup>th</sup> meetings on 30 November 1994, the Committee examined matters arising out of the requests to the Government of the Dominican Republic for the provision of additional information, in particular relating to the right to adequate housing. The Committee has devoted ongoing attention to these issues since its fifth session (1990), with particular concern about alleged instances of large-scale forced evictions. At its tenth session the Committee urged the Government to take all appropriate measures in the meantime to ensure full respect for all economic, social and cultural rights, in particular in relation to the right to housing. At its 55<sup>th</sup> meeting on 8 December 1994, the Committee adopted the following concluding observations.

310. The Committee appreciates the appearance before it of two representatives, including an expert from the capital, and the opportunity to engage in a constructive dialogue with the Government on the right to adequate housing.

### **B. Positive aspects**

311. The Committee welcomes the frank and open manner in which the Government responded to questions put to it and its willingness to acknowledge many of the difficulties which have impeded the implementation of the Covenant. In particular, the Committee welcomes the information

received on the extent of the practice of forced evictions, the impact of fraud and other unfair practices in the allocation of public housing units and information concerning positive changes in Government policy.

312. The Committee notes the housing rights provisions in article 8 (15) (b) of the Constitution and several recent amendments to the relevant provisions of the Constitution. It notes that these provisions could, if reflected fully in law and practice, assist in promoting enhanced accountability and the development of judicial procedures which would provide an effective means of recourse for those whose right to housing is threatened.

313. The Committee welcomes those aspects of decrees 76-94 of 29 March 1994 and 155-94 of 11 May 1994 which commit the State to providing the broadest possible protection to the stability of the Dominican family and to giving property titles to all families who, up to 11 May 1994, have built homes on lands declared to be public property. The Committee also welcomes the decision by the Government to create a green belt around the city of Santo Domingo, and its commitment to construct 12,500 new housing units for low-income communities.

314. The Committee also welcomes the Government's statement of its intention to amend its legislation and policy to bring them into line with the obligations arising out of the Covenant, to take measures with regard to forced evictions and to adapt relocation policies to ensure that such measures are carried out only as a last resort and that when they do occur the principle of a "house for a house" will be respected. The indication by the Government that urgent consideration will be given to suspending decrees 358-91 and 359-91 is particularly welcomed by the Committee.

315. The Committee welcomes the undertaking by the Government to submit additional information on all questions which were unanswered and to give positive consideration to the Committee's request to send one or two of its members to the country with a view to assisting the Government in implementing the rights found in the Covenant.

### C. Principal subjects of concern

316. The Committee reiterates the importance it attaches to the right to housing and reaffirms its long-standing view that forced evictions are prima facie incompatible with the requirements of the Covenant and can only be justified in truly exceptional circumstances. The situation regarding forced evictions within the country continues to be viewed with concern by the Committee.

317. The Committee has received, over the course of several years, detailed and precise information relating to the housing situation in the Dominican Republic. This information has systematically been provided to the Government with a request for comments as to its accuracy. That information has indicated, inter alia, that:

(a) Thirty thousand or more families residing in the Northern Zone (Zona Norte) of the capital are threatened with forced eviction under decrees 358-91, 359-91 and 76-94. Areas particularly affected are La Cienaga-los Guandules, Gualey, Barranca de Guachupita, Simon Bolivar, La Canada de Simon Bolivar, Barrio 27 de Febrero, La Zurza, Capotillo, Las Canitas, Ens Espailat, Maquiteria, Simonico, Cristo Rey, Guaricano, Borojol, 24 de Abril and parts of the

Colonial Zone;

(b) Thousands of families have been evicted from the site of the "Faro a Colon" in the city without regard to their rights;

(c) Forced evictions have also occurred in cities such as Santiago, San Juan de la Maguana, Boca Chica and El Seybo, as well as in rural areas such as Los Haitices and Jigüey-Aguacate;

(d) Of the many families relocated to sites on the periphery of Santo Domingo only a small proportion received relocation allowances while some 3,000 families received neither relocation allowances nor adequate compensation for their eviction;

(e) The current living conditions faced by those relocated as a result of Hurricane David in 1979, in particular the 106 families residing under the Duarte Bridge (Puente Duarte) and the 658 families residing in los Barrancones de Alcarrizo, are grossly inadequate.

318. While the Government presented the Committee with information as to the achievements and shortcomings of its various policies in relation to housing, the Committee did not receive any information which would lead it to conclude that these problems do not exist or have been adequately addressed.

319. It therefore expresses its serious concern about the nature and magnitude of the problems relating to forced evictions and calls upon the Government of the Dominican Republic to take urgent measures to promote full respect for the right to adequate housing. In this regard, the Committee notes that whenever an inhabited dwelling is either demolished or its inhabitants evicted, the Government is under an obligation to ensure that adequate alternative housing is provided. In this context "adequacy" requires relocation within a reasonable distance from the original site, and in a setting which has access to essential services such as water, electricity, drainage and garbage removal. Similarly, persons who are housed in conditions which threaten their life and health should, to the maximum of available resources, be adequately rehoused.

320. The Committee is concerned about the ease with which the Government is prepared to authorize or undertake the demolition of homes, even when such dwellings are capable of being repaired or renovated. It appears that insufficient attention is paid in this context to extensive alternative community development and urban improvement plans developed by popular organizations.

321. The Committee was informed that the national housing unit deficit currently stands at some 500,000 units. If correct, this level would be exceptionally high given the relatively small population of the country. While the Committee commends the Government for the construction of roughly 4,500 housing units annually, this quantity is clearly insufficient. Moreover, the Committee was also informed that less than 17 per cent of Government-built housing units are provided to the poorest sectors of society.

322. On the basis of the detailed information available to it, the Committee also wishes to emphasize its concern about the "militarization" of La Ciénaga-Los Guandules, the long-standing

prohibition on improving or upgrading existing dwellings for the more than 60,000 residents of the area, and the inadequate and heavily polluted living conditions. The situation is especially problematic given that these communities were originally established as relocation areas for evicted persons in the 1950s. Since that time the Government has failed to confer legal security of tenure on residents or to provide basic civic services.

323. The Committee also notes that, based on available information, the situation of the 200,000 persons residing in rooming houses in Santo Domingo would often appear to be below any acceptable standards.

324. The Committee is concerned about the effects Presidential decrees can and do have upon the enjoyment of the rights recognized in the Covenant. It wishes to emphasize in this regard the importance of establishing judicial remedies which can be invoked, including in relation to Presidential decrees, in order to seek redress for housing rights violations. The Committee is not aware of any housing rights matters that have been considered by the Supreme Court in relation to article 8 (15) (b) of the Constitution. In so far as this might be taken to indicate that the provision has not so far been subject to judicial review, the Committee expresses the hope that greater reliance will be placed upon it in future as a means by which to defend the right to adequate housing.

#### D. Suggestions and recommendations

325. The Committee draws the attention of the Government to the full text of its General Comment No. 4 (1991) on the right to adequate housing and urges the Government to ensure that policy, legislation and practice take due account of that General Comment.

326. The Government should ensure that forced evictions are not carried out except in truly exceptional circumstances, following consideration of all possible alternatives and in full respect for the rights of all persons affected. On the basis of the information available to it, the Committee has no reason to conclude that existing plans for forced eviction in Santo Domingo, to which its attention has been drawn, are necessitated by any such exceptional circumstances.

327. All persons residing in extremely precarious conditions, such as those residing under bridges, on cliff sides, in homes dangerously close to rivers, ravine dwellers, residents of Barrancones and Puente Duarte, and the more than 3,000 families evicted between 1986-1994 who have yet to receive relocation sites (from Villa Juana, Villa Consuelo, Los Frailes, San Carlos, Guachupita, La Fuente, Zona Colonial, Maquiteria, Cristo Rey, La Cuarenta, Los Ríos and La Zurza), should all be ensured, in a rapid manner, the provision of adequate housing in full conformity with the provisions of the Covenant.

328. The Government should confer security of tenure on all dwellers lacking such protection at present, with particular reference to areas threatened with forced eviction.

329. The Committee notes that Presidential decrees 358-91 and 359-91 are formulated in a manner inconsistent with the provisions of the Covenant and urges the Government to consider the repeal of both of these decrees within the shortest possible time. The Government should seek to remove the military presence in La Ciénaga-Los Guandules and allow residents the right to improve their

homes and the community at large. The Government should also give careful consideration to implementing alternative development plans for the area, taking full account of plans developed by non-governmental and community-based organizations.

330. The Committee suggests that in order to promote the objectives referred to in these observations the Government might consider the establishment of commissions, composed of representatives of all relevant sectors of society, in particular civil society, to oversee the implementation of decrees 76-94 and 155-94.

331. The Committee requests the Government to apply existing housing rights provisions in the Constitution and for that purpose to take measures to facilitate and promote their application. Such measures could include: (a) adoption of comprehensive housing rights legislation; (b) legal recognition of the right of affected communities to information concerning any governmental plans actually or potentially affecting their rights; (c) adoption of urban reform legislation which recognizes the contribution of civil society in implementing the Covenant and addresses questions of security of tenure, regularization of land-ownership arrangements, etc.

332. In order to achieve progressively the right to housing, the Government is requested to undertake, to the maximum of available resources, the provision of basic services (water, electricity, drainage, sanitation, refuse disposal, etc.) to dwellings and to ensure that public housing is provided to those groups of society with the greatest need. It should also seek to ensure that such measures are undertaken with full respect for the law.

333. In order to overcome the existing problems recognized by the Government in its dialogue with the Committee, the Government is urged to give consideration to initiatives designed to promote the participation of those affected in the design and implementation of housing policies. Such initiatives could include: (a) a formal commitment to facilitating popular participation in the urban development process; (b) legal recognition of community-based organizations; (c) the establishment of a system of community housing finance designed to open more lines of credit for poorer social sectors; (d) enhancing the role of municipal authorities in the housing sector; (e) improving coordination between the various governmental institutions responsible for housing and considering the creation of a single governmental housing agency.

334. The Committee urges the Government to revise the 1994 Master Plan of Santo Domingo to bring it into line with the obligations arising under the Covenant and to involve civil society in the revision and implementation of the Plan. Forced evictions should not be envisaged except in full compliance with the conditions noted above.

335. Subsequent to the appearance before the Committee of two representatives of the Government of the Dominican Republic, the Committee received information that, based on a recommendation by the Special Committee on Urban Affairs, decree 371-94 was promulgated on 1 December 1994, ordering the immediate eviction of two sectors situated on the banks of the Isabela River. In the implementation of this decree the Committee requests the Government to ensure its compliance with the terms of the Covenant and to take full account of the recommendations contained in these concluding observations. The Committee has also learnt that the problem of evictions is attracting attention in the country's press and is aware of the polarization which the issue is currently causing

in Dominican society. The Committee feels that it could make a more comprehensive assessment of the problem of evictions if the Government of the Dominican Republic were to invite one or two Committee members to make an in situ visit. The Committee therefore renews its request to the Government to send a two-person mission to the country and recalls that this request has already been endorsed clearly on two occasions by the Economic and Social Council.

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212. The Committee considered the second periodic report of the Dominican Republic on articles 1 to 15 of the Covenant (E/1990/6/Add.7) at its 29<sup>th</sup> and 30<sup>th</sup> meetings on 19 November 1996 and, at its 50<sup>th</sup> meeting on 3 December 1996, adopted the following concluding observations.

### A. Introduction

213. The Committee expresses its appreciation to the State party for its report and welcomes the appearance before it of the Permanent Representative of the Dominican Republic to the United Nations Office at Geneva. The Committee notes with regret, however, that the Government of the State party neither provided written replies to the Committee's list of issues made available to it in January 1996, nor sent an expert delegation to present its report as it had undertaken to do at the Committee's fourteenth session in May 1996, when requesting the postponement of the consideration of its report to the fifteenth session. Consequently, the Committee was obliged, in accordance with its methods of work, to consider the second periodic report of the Dominican Republic without the benefit of a dialogue or the participation of an expert delegation. Nevertheless, the Committee notes the statement by the Permanent Representative of the Dominican Republic to the United Nations Office at Geneva that, although she was unable to take an active part in the Committee's deliberations, she would communicate to her Government the principal additional subjects of concern identified by the Committee in the course of its discussions.

214. The Committee notes with dissatisfaction that the report submitted by the Government of the State party was, like the initial report, not prepared in accordance with its revised guidelines regarding the form and contents of reports. <sup>7/</sup> It also notes that information contained therein is incomplete and of a purely legal nature, without any reference to the situation concerning the practical realization of the rights set forth in the Covenant, and that the suggestions and recommendations formulated by the Committee in the concluding observations adopted at its eleventh session in 1994 <sup>8/</sup> have not been addressed in the second periodic report. It further notes, with regret, the lack of information of a general character which the State party was supposed to have provided in a core document, which it has similarly failed to submit.

215. The Committee feels that the failure of the State party to respond to the list of issues and to send a delegation with competence to engage in a dialogue with it at its fifteenth session shows, on the part of the State party, a consistent pattern of disregard for its obligations under the Covenant and an unwillingness to cooperate with the Committee.

216. In this connection, the Committee wishes to express its gratitude to non-governmental

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<sup>7/</sup> Ibid. [E/1991/23, annex IV.]

<sup>8/</sup> See E/1995/22, paras. 309-335.

organizations, both national ("Ciudad Alternativa" and COPADEBA) and international (Habitat International Coalition and International Women's Rights Action Watch), for the detailed and carefully documented information they have made available to it in relation to the Dominican Republic's report. In particular, the Committee draws the attention of the State party to the document "The Dominican Republic: An independent report submitted to the UN Committee on Economic, Social and Cultural Rights by the International Women's Rights Action Watch".

#### B. Positive aspects

217. The Committee notes with satisfaction, from the information available to it from other sources, that the Government has repealed Decree No. 358-91, the application of which had previously negatively affected the realization of the right to adequate housing, and that it has provided a solution to the cases of eviction pronounced under previous Governments.

218. The Committee welcomes the information that the Government has undertaken a thorough review of the public health sector and is preparing a reform of the Health Code.

219. The Committee further appreciates the attempts being made in the Chamber of Deputies to recognize domestic violence as a public health issue and thus to discourage gender violence as a matter of public policy.

#### C. Factors and difficulties impeding the implementation of the Covenant

220. The Committee notes that the slow pace of evolution towards democracy and the rule of law in the Dominican Republic has inhibited the strengthening of democratic institutions, the modernization of the machinery of government and, consequently, the effective implementation of the Covenant.

221. The Committee also observes that economic difficulties characterized by, inter alia, an increasing number of impoverished people (60 to 65 per cent of the population live below the poverty line), a growing landless rural population, the high level of unemployment, especially in the cities, and the persistent large-scale emigration of skilled and semi-skilled workers have had a constraining influence on the implementation of the Covenant in the Dominican Republic.

#### D. Principal subjects of concern

222. In relation to article 2 of the Covenant, the Committee observes that the Dominican Republic has done very little to promote public awareness of the rights set forth in the Covenant. The Committee has been informed that abuses by the police and other security services persist.

223. The Committee notes with regret that, although in law United Nations human rights treaties become part of Dominican law upon ratification, in practice the judiciary does not apply these international treaties.

224. The Committee is particularly concerned about the exploitation of Haitians and their unacceptable living conditions in the bateyes. In this connection, it has no reason not to accept the

veracity of various reports which emphasize the dire predicament of workers in the bateyes, especially women workers whose presence there is not administratively recognized and who therefore become vulnerable to extreme exploitation (their wages are 50 per cent lower than men's) and are often deprived of their rights and the most basic health and social services. Both men and women in the bateyes, as well as Haitian workers in other sectors of the economy, live in perpetual insecurity and they constitute the principal national group in the Dominican Republic who are subject to deportation in inhuman conditions, often at the whim of employers who take advantage of the State's inaction to exploit the vulnerability of this group.

225. The Committee takes note of information from various sources concerning the arbitrary confiscation of identity cards and the illegal deportation during the 1995-1996 presidential campaign of persons of Haitian origin born in the Dominican Republic. This information stresses the insecurity prevailing with regard to nationality of Dominican citizens of Haitian origin. It thus appears necessary to adopt clear legislation on nationality, which would provide legal security to persons of Haitian origin born in the Dominican Republic and to their children; require the authorities to register births without discrimination; and allow Haitians to obtain Dominican nationality through naturalization under the same conditions as other foreigners.

226. The Committee is informed that Black Dominicans are often subject to the same arbitrary police and administrative discrimination as temporary Haitian workers. Groups representing Blacks in the Dominican Republic also claim that the State violates their cultural rights by allowing the police and local communities to suppress Afro-American or African-identified cultural practices. They also assert that discrimination of this kind is encouraged at public schools and by employers in both the public and private sectors.

227. The Committee also notes with concern that, according to information received from various sources, there is no mechanism for lodging complaints against the arbitrariness or corruption of some judges and that there is no appellate procedure for challenging the discriminatory application of a law, an executive decree or a decree of a court.

228. The Committee notes with great concern that State expenditures on education and training as a proportion of public expenditure are less than half their average in Latin America.

229. The Committee notes with concern that large-scale emigration of Dominicans has been going on for many years and has had and will continue to have a harmful effect on the Dominican economy, since a large number of emigrants are skilled workers. The State party will have to take measures in the educational and socio-economic fields to stem the outflow of skilled workers.

230. The Committee notes with alarm that, 30 years after the first industrial park was established in a free-trade zone in the Dominican Republic, unacceptable working conditions and abuses against workers' rights under articles 6, 7 and 8 of the Covenant persist.

231. The Committee notes with concern the inhuman and archaic prison system, whereby members of the family of an accused person who has run away may be imprisoned without trial in his place as a guarantee for the accused until he surrenders himself to the prison authorities; and whereby prisoners are expected to buy their own meals at weekends, when the prison authorities stop

providing them.

232. The Committee is concerned to note the persistent rise of "sex tourism" in resort areas, and the spread of the HIV/AIDS virus, which is one of the country's greatest health problems.

233. The Committee is particularly concerned that the enjoyment by women of economic, social and cultural rights is undermined by, *inter alia*: a traditional and persistent male-dominated society; the failure to ensure that single women heads of household benefit from the agrarian reform or the Government's housing programme; the absence of any administrative mechanism that allows women to file complaints in cases of discrimination by the Dominican Agrarian Institute; the failure of the Government to protect women workers from discrimination and arbitrary dismissal related to pregnancy, including failure to discourage employers from the practice of pregnancy testing; and failure to develop and promote family-planning services. The Committee is also concerned that, despite the very high rate of hospital births in the Dominican Republic, the rate of maternal mortality is unacceptably high; and that common-law marriages are not legally recognized, although 60 per cent of all marriages are of this nature, the consequence being that, in cases of separation, abandonment or the death of the male breadwinner of the family, a woman frequently loses everything and finds it difficult to acquire an identity card or collateral, without which she cannot obtain agricultural credit, housing or employment.

234. The Committee wishes to voice its serious concern about the continuing problem of violence against women and the insufficient attention paid to the problem by governmental institutions.

235. The Committee expresses its concern about the issue of limited access to safe drinking-water for the rural population and those living in deprived urban areas, the higher incidence of infant mortality in certain socio-economic groups, the deplorable situation of persons with disabilities, the prevalence of endemic diseases, the inadequacy of social welfare and social security, the persisting housing shortage and the inadequacy of access to health care.

236. The Committee also calls attention to the various concerns it has expressed to the State party since its fifth session in 1990 in relation to the continuous violation of the right to adequate housing, and regrets that it has received an entirely unsatisfactory and inadequate response from the State party in this respect. The Committee reminds the State party of the significance it attaches to the right to adequate housing and thus to the adoption of measures by the State party to recognize, respect, protect and fulfil that right.

#### E. Suggestions and recommendations

237. The Committee invites the State party to confirm publicly its commitment to implementing its binding human rights treaty obligations. It strongly calls upon the Government of the State party to honour its obligations under the International Covenant on Economic, Social and Cultural Rights, particularly through maintaining the proper direct and constructive dialogue with the Committee called for in the Covenant. The Committee proposes to adopt finally its concluding observations in relation to the State party at its sixteenth session. For that reason, the Committee decides that the present concluding observations will be considered "preliminary", pending further consideration of the second periodic report based on a dialogue with representatives of the State party at its sixteenth

session.

238. In view of the consistent failure of the State party to meet its reporting obligations under the Covenant and to respond to successive requests for information made by the Committee over a number of years, the Committee urges the State party to attach the utmost importance to responding to the matters raised in the present concluding observations.

239. The Committee further recommends that the State party provide it with written replies (a) to the concluding observations adopted at its eleventh session in 1994, 9/ in particular with regard to its request that the State party invite representatives of the Committee to visit the Dominican Republic; (b) to the list of issues drawn up in connection with the second periodic report (E/C.12/1995/LQ.7); (c) to information contained in the document "The Dominican Republic: An independent report submitted to the United Nations Committee on Economic, Social and Cultural Rights by the International Women's Rights Action Watch".

240. The Committee requests the State party to submit the information referred to in the preceding paragraph by 15 February 1997 in order to allow the Committee to consider it at its sixteenth session, to be held from 28 April to 16 May 1997.

241. The Committee strongly recommends that the specific information requested above be presented to the Committee at its sixteenth session by an expert delegation.

242. The Committee encourages the State party to disseminate widely the present concluding observations adopted by the Committee following its consideration of the State party's second periodic report.

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9/ Ibid.

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197. At its 1<sup>st</sup> meeting on 28 April 1997, the Committee was informed by a note verbale dated 23 April 1997 from the Permanent Representative of the Dominican Republic to the United Nations Office at Geneva that the Government of the Dominican Republic had accepted the Committee's offer to send two of its members to visit the country and pursue its dialogue with the Government in relation to the matters identified by the Committee at its fifth, seventh, tenth, eleventh and fifteenth sessions. Subsequently, the Secretary of State for Foreign Affairs of the Dominican Republic, by a note verbale dated 25 April 1997, confirmed the invitation to the Committee to visit the country to observe on site the situation of economic, social and cultural rights.

198. The Committee expresses its strong appreciation to the Government of the Dominican Republic for its willingness to cooperate with it.

199. Following its discussions relating to the organization of the mission, the Committee agreed that:

(a) It would be represented by two of its members - Mr. Philippe Texier and Mr. Javier Wimer Zambrano - and assisted during the mission by one staff member of the Office of the United Nations High Commissioner for Human Rights;

(b) The mission should take place preferably in September 1997 and in any event before the start of the Committee's seventeenth session (November 1997);

(c) The mission would focus primarily on matters relating to the implementation of the right to housing (art. 11, para. 1, of the Covenant), and would also take account of the other issues identified by the Committee in its preliminary concluding observations adopted at its fifteenth session in December 1996 following its consideration of the second periodic report of the Dominican Republic; 8/

(d) The mission would undertake on-site visits and arrange meetings with the relevant government officials, as well as with individuals and groups from all appropriate sectors of civil society;

(e) Mr. Texier would be responsible for the preparation, on the basis of agreement with Mr. Wimer Zambrano, of a written report and its submission to the Committee at its seventeenth session in November-December 1997. That report would be considered in conjunction with the further consideration of the second periodic report of the Dominican Republic;

(f) The draft mission report would be considered by the Committee in private session and subsequently be adopted for public release;

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8/ See E/1997/22, paras. 212-242.

(g) Significant assistance would be required from the Secretariat in the preparation of the mission, particularly in obtaining and analysing relevant information. The Secretariat should seek inputs from all relevant sources and should specifically request any pertinent reports or other information from UNDP, the World Bank, the United Nations Centre for Human Settlements (Habitat), ILO and other such agencies, as well as from non-governmental organizations.

#### Seventeenth session

200. The Committee considered the second periodic report of the Dominican Republic on articles 1 to 15 of the Covenant (E/1990/6/Add.7) at its 29<sup>th</sup> to 31<sup>st</sup> meetings on 18 and 19 November 1997 and, at its 51<sup>st</sup> meeting on 3 December 1997, adopted the following concluding observations. 9/

#### A. Introduction

201. The Committee welcomes the resumption of the dialogue with the Dominican Republic through its second periodic report. It also welcomes the submission by the State party of comprehensive written replies to its list of issues, although it regrets that the second part of those replies was submitted too late for translation. Furthermore, the Committee welcomes the appearance before it of an expert and high-level delegation from the capital, which allowed a fruitful and constructive dialogue to be conducted and many answers and clarifications to be obtained in response to questions and comments by members of the Committee.

202. The Committee wishes to express its appreciation to the Dominican Republic for its acceptance, in April 1997, of a mission composed of two members of the Committee to be conducted in the country, in accordance with the offers made in repeated decisions by the Committee and endorsed by the Economic and Social Council in its decisions 1992/261 and 1993/295. It also expresses its deep satisfaction at the State party's responsiveness to and cooperation with the mission, which took place from 19 to 27 September 1997. In this respect, the Committee notes with appreciation that government officials at the highest levels of the State, numerous non-governmental organizations and UNDP provided its delegation with technical and logistical assistance, as well as with valuable information on the right to housing and the situation of Haitian workers in the Dominican Republic, which were the subjects identified by the Committee as the mission's mandate, and more generally on the implementation of the Covenant in law and in practice.

#### B. Positive aspects

203. The independence and effective functioning of the judiciary are necessary elements in the protection of economic, social and cultural rights. Thus, with respect to the concerns it expressed in its preliminary concluding observations (E/1997/22, para 227), the Committee notes with

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9/ The Committee had adopted preliminary concluding observations following its consideration of the second periodic report of the Dominican Republic at its fifteenth session in November-December 1996 (ibid.).

appreciation the measures taken to combat the problem of corruption of public officials, including

judges, and in particular the increase in the salaries of government officials and judges. Furthermore, the Committee notes that the procedure for nominating judges to the new Supreme Court has been made public and transparent, with the objective of guaranteeing the impartiality of the judiciary and its independence from the executive.

204. The Committee also notes with appreciation that a number of measures have been taken to improve the situation of women, in particular measures allowing them to own property and to benefit from the medical insurance of their partners in case of de facto marriages and from land distribution in the framework of the agrarian reform. The adoption of a Women's Code is also welcomed, as are the activities and programmes of the General Directorate for the Advancement of Women. Furthermore, the Committee takes note of information concerning the setting up of a State Secretariat for Women's Affairs and the proposed establishment of special courts to deal specifically with matters involving violence against women and children, including domestic violence.

205. The Committee welcomes the establishment of a bilateral commission by the Governments of the Dominican Republic and Haiti, as well as the agreement signed with the Government of Haiti concerning the granting of temporary work permits for Haitian seasonal sugar cane cutters during the next harvest, in order to give them a legal status and protect them from the exploitation related to the lack of such status.

206. With respect to the right to adequate housing under article 11 of the Covenant, the Committee notes with appreciation the policy set up and applied by the new Government, which involves giving priority to low-income groups and carrying out housing projects in consultation with the communities concerned. The Committee notes that this policy differs from previous government policies which gave preference to major ornamental public works, including the Columbus lighthouse, which unnecessarily caused the displacement of large numbers of people, and to the authoritarian planning of housing projects. The Committee also notes with appreciation the holding in 1996 of a national conference for a "New Policy for the Housing Sector", organized by the National Housing Institute and UNDP as a follow-up to the United Nations Conference on Human Settlements (Habitat II), as well as the envisaged setting-up of a State Secretariat for Housing to coordinate all government activities in the field of housing.

207. Also concerning the right to housing, the Committee notes among the steps taken by the Government in this field the following: the commitment of the Government to suspend all forced evictions by public organs and to adopt a policy of providing adequate alternative housing to persons evicted and displaced persons; the adoption of Decree 443/96, which repealed Decree 358/91, and the consequent removal of a military presence from the La Ciénaga and Los Guandules areas in the centre of Santo Domingo; and the signing of relocation agreements between the Government and some 681 families living in the Los Alcarrizos shanty town and the 209 evicted families who occupied three churches for a year.

208. With respect to the concern expressed in its preliminary concluding observations (E/1997/22, para. 231) the Committee notes that measures have been taken to improve prison conditions in relation to economic, social and cultural rights, including, the provision of meals to inmates free of charge - including during weekends - and the carrying out of a prison reform programme with particular emphasis on the improvement of the regime governing visits and on rehabilitation through

education programmes.

209. The Committee notes with satisfaction the new emphasis which the new Government has placed on education by increasing, by 14.5 per cent, the budget allocation to education in 1996. It also notes that measures have been taken to improve the level of education in public schools by increasing teachers' salaries.

#### C. Factors and difficulties impeding the implementation of the Covenant

210. The Committee, recalling its preliminary concluding observations concerning the slow evolution towards democracy (*ibid.*, para. 220), notes that positive and concrete steps have recently been taken to strengthen democratic institutions in the Dominican Republic. However, it notes that the consequences of decades of neglect or ineffective promotion and protection by previous Governments of the economic, social and cultural rights of the population as a whole, and those of vulnerable groups in particular, cannot easily be overcome. The Committee acknowledges that these factors continue to constitute impediments to the full implementation of the rights enshrined in the Covenant.

211. The Committee also notes that, since the mid-1980s, the economic situation in the Dominican Republic has deteriorated at a rapid pace, mainly because of the deficient management of the country's economy and of the public finances by the previous administration. The consequences of this deterioration include the heavy burden of external debt on the national economy, the need for structural adjustment programmes, the high rate of inflation, large-scale emigration of skilled workers, growing poverty, unequal distribution of wealth within the population and the deepening gap between the rich and the poor. Such a situation creates difficulties which hinder the full implementation of the Covenant in the Dominican Republic.

#### D. Principal subjects of concern

212. The Committee expresses its regret at the absence of statistical information on the economic, social and cultural situation in the Dominican Republic both in the State party's report and in the dialogue with the delegation. The Committee notes that such information is not only useful but necessary for it to assess the real situation of implementation, with regard to all groups in society, of the economic, social and cultural rights enshrined in the Covenant.

213. The Committee notes the presence of racial discrimination in the Dominican Republic, although this seems to be denied by the authorities, and it emphasizes that, in order to combat and prevent racial discrimination in the enjoyment of economic, social and cultural rights, its existence must be recognized by the authorities. The Committee stresses that, without such recognition, no effective anti-discrimination policies can be put in place. In this respect, the Committee expresses the view that the existence of racial discrimination does not necessarily entail institutionalized or legal discrimination.

214. While noting that a number of positive measures have been taken by the authorities to promote gender equality and to protect women from discrimination, the Committee remains concerned that women do not fully enjoy their economic, social and cultural rights under the Covenant. In this

respect, the Committee reiterates the concerns it expressed in its preliminary concluding observations (ibid., para. 233), with particular reference to the persistence of a traditional male-dominated society detrimental to gender equality, to the lack of protection afforded to women workers who are victims of discrimination in employment or arbitrary dismissal owing to pregnancy, to the lack of family-planning services, to the high maternal mortality rate, to unequal pay between women and men, and to the absence of legal recognition of de facto marriages.

215. The Committee recalls the concerns it expressed in 1996 (ibid., para. 229) with respect to the large-scale emigration of Dominicans, many of whom are skilled workers, and notes that improved enjoyment of economic, social and cultural rights can help to reduce incentives for such people to emigrate.

216. Furthermore, the Committee is still preoccupied by the situation of Haitian illegal workers and by the situation of their children. It notes that approximately 500,000-600,000 Haitian illegal workers reside in the Dominican Republic, some of them for one or two generations, without any legal status and any protection of their economic, social and cultural rights. In this respect, the Committee is particularly concerned about the situation of the children, who, due to the restrictive interpretation of article 11 of the Constitution by the authorities, do not receive Dominican nationality on the grounds that they are children born of foreigners in transit. These children are thus denied their most basic social rights, such as the rights to education and health care. Moreover, the Committee notes with concern that, until now, measures have not been taken to improve the overall situation of Haitian illegal workers by regularizing their status and that of their children.

217. The Committee also reiterates its concerns about the inadequate living conditions in the sugar cane plantations (bateyes) (ibid., para. 224), and the inadequacy of the measures taken to date by the authorities to remedy the situation.

218. The Committee notes that, despite the recent steps taken to raise the minimum wage in the latest Labour Management Agreement, the minimum wage is not yet sufficient to ensure a decent living for workers and their families, in accordance with article 7 (a) (ii) of the Covenant.

219. The Committee further expresses concern about reports of extremely unsatisfactory working conditions in the free-trade zones. The Committee is concerned that workers in the free-trade zones are allegedly discouraged from joining or forming trade unions and that the regulations concerning the right to strike in the Labour Code are not complied with by employers.

220. The Committee notes with concern that, at present, the national social security scheme covers only workers employed in the formal sector. Although it notes that new legislation on social security which provides for universal coverage is under study, the Committee expresses its concern about the non-application of article 9 of the Covenant to self-employed workers, including small farmers, and their families.

221. With respect to article 10 of the Covenant, the Committee expresses its concern about the situation of children in the Dominican Republic and, in particular, about reports received on the occurrence of child labour and child exploitation, including sexual exploitation, about the increasing number of street children, the low rate of school enrolment, the high rate of infant mortality and the

high number of pregnancies among school-age females. Furthermore, the Committee expresses its concern about the reported prevalence of violence against women and children within the family.

222. Although the Committee welcomes the drafting of a plan by the National Council for Urban Affairs to ensure access to safe drinking water, it notes that the plan is limited to urban areas and that much remains to be done in order to ensure such access for the rural population and for all those living in deprived urban areas. In this regard, the Committee recalls the concerns it expressed in the past (*ibid.*, para. 235).

223. With respect to the right to housing, the Committee notes that the positive measures and programmes undertaken by the Government may be hampered by a lack of resources allocated by the authorities at the national and local levels to alleviate the many problems associated with the lack of housing; by the dispersion of the many organs and institutions set up to deal with housing and the lack of coordination between them; by the failure of the central authorities to delegate more powers to local communities; and by the priority and preference given to the alleviation of the problems in urban areas to the detriment of rural areas.

224. With respect to the agrarian reform and the distribution of urban and rural lands, the Committee expresses regret at the lack of information concerning land survey, delivery of land titles and land allocation. While noting the information that the agrarian reform is supported by the Ministry of Agriculture and the Agricultural Bank, it is concerned about the lack of progress to date in this respect owing to delays in the completion of the land survey.

225. Furthermore, the Committee notes that forced evictions from private land still occur, and that the authorities have not yet taken the necessary measures to address this problem.

226. With respect to the right to health under article 12 of the Covenant, the Committee is concerned about the lack of information on the situation of the elderly, disabled persons, and HIV-positive persons and persons with AIDS. With respect to the latter, the Committee notes that, according to the WHO the number of AIDS cases has increased from 133 in 1993 to 574 in 1996 for women and from 256 in 1993 to 1,050 in 1996 for men. The Committee also notes that prevention campaigns carried out in the Dominican Republic are insufficient in addressing the appropriate ways and means available to combat the transmission of the virus. It further notes the persistence of sex tourism in resort areas, sometimes involving minors, which is one of the causes of the spread of AIDS, although it recognizes that coercive measures have been taken by the authorities against persons involved as local agents in such exploitation.

#### E. Suggestions and recommendations

227. The Committee recommends that measures be taken by the authorities, notably at the fiscal and social levels, to address the problem of the inequitable distribution of wealth among the population in order to combat poverty.

228. The Committee recommends that measures to combat the arbitrariness and corruption of some judges and public officials (see para. 203 above) be pursued. In particular, the Committee recommends that information on the means available, if any, to challenge the discriminatory,

arbitrary and unjust application of a law, an executive decree or a court decree be provided in the State party's next periodic report.

229. The Committee recommends that measures be taken to gather systematically quantitative and qualitative data, disaggregated in accordance with the criteria used by the United Nations and its specialized agencies, on all rights covered by the Covenant. In this regard, it suggests that cooperation be requested from various agencies, such as UNDP, WHO, ILO and UNICEF, with a view to assessing and evaluating progress achieved, identifying prevailing difficulties and setting priorities for future action.

230. The Committee recommends that concrete and appropriate measures be taken, such as information and education campaigns and the reform of the criminal law, in order to penalize acts of racial discrimination by public officials and private persons, and to prevent and combat such acts.

231. The Committee recommends that the Government pursue its policies designed to achieve full equality between men and women, in all areas of economic, social and cultural life. In particular, a thorough review of domestic legislation should be undertaken with a view to eliminating any remaining discriminatory legal provisions, especially with respect to the labour, family, criminal, civil and social security laws; specific remedies should be made available to women victims of sexual discrimination; and information and education campaigns should be carried out. Positive measures should also be taken to promote the participation of women, on an equal basis with men, in public life, on the labour market and in social and cultural activities.

232. The Committee recommends that the State party take effective measures at the educational and socio-economic levels in order to fulfil its obligations under the Covenant, with a view to stemming the outflow of skilled workers from the Dominican Republic.

233. The Committee urges the State party to take all necessary measures to ensure that Haitian illegal immigrants in the Dominican Republic enjoy their economic, social and cultural rights fully and without discrimination. In this regard, the Committee expresses the view that the regularization of the situation of these illegal residents, through the delivery of residence permits or naturalization, is necessary. Furthermore, the Committee recommends that the principle of *jus soli* under article 11 of the Constitution be applied to the children of Haitian residents without delay.

234. The Committee also urges the Government to adopt positive measures to improve living conditions in the bateyes. To this end, the Committee recommends that the legal status of the bateyes be modified and their relationships with municipalities improved, and that sugar cane companies be required to provide inhabitants of the bateyes with basic facilities, such as water and electricity, and with health and social services.

235. With respect to the State party's obligations under article 7 (a) (ii) of the Covenant, the Committee recommends that the minimum wage be reviewed without delay and be periodically adjusted in order to provide workers with a "decent living for themselves and their families in accordance with the provisions of the ... Covenant". It also recommends that all sectors of activity be covered by the regulation of the minimum wage, including the sugar cane industry, and that inspection mechanisms be set up and given the means to conduct surveys in this area.

236. The Committee recommends that workers in the free-trade zones be allowed to form and join trade unions, that their right to strike be acknowledged, that the minimum standards with regard to working conditions be respected, and that inspection mechanisms be set up with full freedom to carry out their tasks in these zones.

237. The Committee urges the Government to continue its review of the Social Security Law and, in this respect, it lays emphasis on the obligation of universal coverage under article 9 of the Covenant.

238. The Committee recommends that the situation of children in the Dominican Republic be closely monitored by the authorities, and that all necessary means be deployed to ensure that all children fully enjoy their rights under the Covenant, special attention being given to abandoned children, street children, exploited children, working children and teenage mothers. The Committee also recommends that the necessary measures be taken to combat violence against women and children in the family.

239. The Committee calls upon the Government to pursue and intensify its efforts to ensure that safe drinking water is made available to the rural population and all those living in deprived urban areas.

240. The Committee recommends that the Government's efforts be pursued and intensified in order fully and effectively to address the problems related to housing in the Dominican Republic. In this respect, the Committee stresses the need for increased resources, both for construction and rehabilitation and for the relocation of evicted and displaced communities; for decentralization and greater autonomy of local authorities in this field; and for effective coordination of the activities undertaken by all the competent organs. The Committee also draws the attention of the Government to the need to complete the process of land surveys in order to issue title deeds to regularize the ownership of land by much of the population, in rural as well as urban areas. In this regard, the Committee encourages action to set up the State Secretariat for Housing, in order to ensure the effective coordination of the agencies concerned and the implementation of housing policies.

241. The Committee recommends that steps be taken without delay to protect the population from forced evictions by private owners and that, in this respect, the Committee's General Comment No. 7 (1997) (see annex IV) be duly taken into account.

242. The Committee draws the attention of the State party to the report on its technical assistance mission to the Dominican Republic, adopted by the Committee on 3 December 1997 (see annex VI). The report focuses especially on the right to housing, as well as on other matters. The Committee calls upon the State party to take the recommendations contained therein fully into account.

243. With respect to the right to health, the Committee recommends that full and concrete information on the situation of the elderly, persons with disabilities, and persons who are HIV-positive or have AIDS be provided in the State party's next periodic report. With regard to AIDS, the Committee stresses the need for the State party to adopt adequate new legislative and social measures. In particular, the Committee recommends the launching of a specific and explicit information campaign on HIV/AIDS, its causes and prevention measures. The Committee suggests

that coordination with WHO and the Joint United Nations Programme on HIV/AIDS (UNAIDS) be set up.

244. Finally, the Committee recommends that the concerns expressed in the present concluding observations, as well as the issues raised during the discussion of the second periodic report which remained unanswered, be addressed in the State party's third periodic report, to be submitted by 30 June 1999. It urges the State party to disseminate widely the present concluding observations adopted by the Committee following its consideration of the State party's second periodic report.