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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on
Economic, Social and Cultural Rights

DOMINICAN REPUBLIC*

A. Introduction

1. On 30 November 1994, at its 43rd meeting, 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" (E/C.12/1994/SR.5).

2. 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.

* Adopted at the 55th meeting (eleventh session) held on 8 December 1994.

B. Positive aspects

3. 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.

4. 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.

5. 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, and its commitment to construct 12,500 new housing units for low-income communities.

6. 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 and 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.

7. 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

8. 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.

9. 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:

- (1) 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 Espaillat, Maquiteria, Simonico, Cristo Rey, Guaricano, Borojol, 24 de Abril and parts of the Colonial Zone;
- (2) Thousands of families have been evicted from the site of the "Faro a Colon" in the city without regard to their rights;
- (3) 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;
- (4) 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;
- (5) 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.

10. 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.

11. It therefore expresses its serious concern at 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.

12. The Committee is concerned at 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.

13. 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.

14. On the basis of the detailed information available to it the Committee also wishes to emphasize its concern at the "militarization" of La Cienaga - 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 evictees in the 1950s. Since that time the Government has failed to confer legal security of tenure on residents or to provide basic civic services.

15. 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.

16. The Committee is also concerned at 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

17. The Committee draws the attention of the Government to the full text of its General Comment No. 4 on "The right to adequate housing (article 11 (1) of the Covenant)" and urges the Government to ensure that policy, legislation and practice take due account of that General Comment.

18. 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.

19. 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.

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

21. 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 frame. 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.

22. 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.

23. 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.

24. 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 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.

25. 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.

26. 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.

27. 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 No. 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 learned 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.
