

COSTA RICA

CESCR E/1991/23

159. The Committee considered the initial report of Costa Rica concerning the rights covered by articles 1 to 15 of the Covenant (E/1990/5/Add.3) at its 38th, 40th, 41st and 43rd meetings from 4 to 7 December 1990 (E/C.12/1990/SR.38, 40, 41 and 43).

160. The representative of the State party which introduced the report described the main developments which had taken place in Costa Rica since the preparation of the report. An act on the promotion of equality between men and women had been promulgated in 1990 and had led to significant changes in the status of women in Costa Rican society. That legislative reform had been designed to establish a programme of action with a view to eliminating any remaining forms of discrimination against women in Costa Rica, especially with regard to their participation in the political life of the country, access to employment, particularly in the civil service, equality in marriage and conditions of work. The act provided for the establishment of a special department for the protection of human rights whose sphere of competence included the protection of the rights of women.

161. On 4 February 1990, moreover, general, national and local elections had been organized - the tenth since 1953 - and the transfer of power had taken place without any difficulty, thus confirming the country's deeply-rooted democratic tradition. As soon as it had taken over, the new Government had established new benefits designed to guarantee all inhabitants better social conditions, especially as far as access to housing and the right to food were concerned.

General matters

162. With regard to the general framework for the implementation of the Covenant, members of the Committee requested information on the country's main political and socio-economic features; the composition of the population, particularly as regards the various disadvantaged groups, such as the indigenous populations and the population of African origin; the most vulnerable population groups and, in particular, the number of persons living below the poverty line and the measures adopted to alleviate such situations; the number of foreigners and refugees living in Costa Rica, their origin and their situation in respect of the rights contained in the Covenant; and the principal obstacles encountered by the Government in implementing the Covenant, particularly as regards the consequences of Costa Rica's foreign debt on the rights guaranteed by the Covenant. As to the enjoyment by the population of economic, social and cultural rights, information was requested on any programmes and measures that had led to improvements in the situation in that regard, particularly as far as education and health were concerned; the resources in the general State budget allocated to education, health, social security and cultural activities; and the contribution made by the various forms of international co-operation to the country's development and the enjoyment of the rights recognized in the Covenant. The members also requested more detailed information on the general legal framework in which the Covenant was being implemented; the competent courts

and legal decisions relating to economic, social and cultural rights; and the manner in which the Covenant was incorporated into domestic legislation and, in particular, any amendments made or decisions taken as a result of the ratification of the Covenant.

163. With regard to the most vulnerable population groups, further information was requested on the practical implementation of legal provisions relating to the rights of the Indian minority, especially its possibilities of access to land ownership and the exploitation of the natural resources of the regions where it lives and the realization of its rights to health, education and social security. Noting that the Afro-Caribbean minority was concentrated in the region of Puerto Limón, one of the poorest and most seriously affected by unemployment, members asked what the average standard of living of the members of that minority was and whether specific measures had been taken to improve their situation. More generally, detailed information was requested on measures taken to eliminate latent racism against national minority groups and refugees and on the identity cards the members of indigenous groups were required to carry. It was also asked what the term “Christian principles” in article 1 of the Labour Code meant and whether such a concept was not likely to conflict with the principle of non-discrimination provided for by the Constitution. With reference to the national strike which had taken place in October 1990, it was asked what measures had been taken to divide the burden of adjustments more equitably among the population as a whole and whether, as a general rule, economic, social and cultural rights were recognized and guaranteed in the Costa Rican democracy to the same extent as civil and political rights.

164. The representative of the ILO referred to articles 6 to 9 of the Covenant and informed the Committee of the ratification and implementation by Costa Rica of ILO Conventions and the relevant conclusions and recommendations of the ILO Committee of Experts on the Application of Conventions and Recommendations.

165. Replying to the questions asked, the representative of the State party gave a detailed description of Costa Rica’s political, legal and socio-economic features and drew particular attention to its democratic, free and independent nature. In accordance with article 7 of the Constitution, duly ratified international conventions and treaties took precedence over domestic legislation and the rights provided for in the Covenant were therefore guaranteed in Costa Rica. Several legal provisions guaranteed the full equality of all before the law and prohibited all forms of discrimination based on race, sex, age, religion, family situation, political opinion, social origin or economic situation. Costa Rica had 2.6 million inhabitants, including 9.5 per cent of African origin and a group of 4,500 indigenous persons. The black communities enjoyed all rights and privileges granted by the Constitution and related legislation and lived not only in the Province of Limón in the Caribbean, but throughout the country. The indigenous community lived in national parks set up by the Government to protect the country’s flora and fauna and covering nearly 11 per cent of the country. Within those parks, the indigenous inhabitants were entitled to make use of water and all the other resources, with the exception of timber, and were able to farm and to sell any surplus produce outside the national parks. Although education for the indigenous community was given in Spanish throughout the seven-year period of schooling, and attempt was being made to provide one quarter of the teaching in the Bribri language. In addition, a project for the registration of Indians and the distribution of identity cards to all indigenous persons was being considered in order to speed up the economic and social development of those populations. Identity cards were the same for all Costa Ricans, irrespective of race. Under the Government’s programme to promote the

creation of small business, bank loans were being offered to Indians, but an identity card had to be presented. Consequently, Indians, who had initially been reluctant to acquire such identity cards, were now beginning to apply for them.

166. He stressed that Costa Rica had a long tradition of granting asylum to any person who was expelled from his country for political reasons or who might be subjected to persecution if he returned to that country, and indicated that 25,000 persons had refugee status, 18,900 persons had applied for such status, and between 50,000 and 175,000 displaced foreigners had settled in Costa Rica. While refugees benefited from various forms of assistance and subsidies and were entitled to education, security and employment, displaced persons were assisted only if they were vulnerable. Although the Government was trying to facilitate the repatriation of refugees without documents, it regarded only voluntary repatriation as acceptable and was co-operating for that purpose with the international community and, in particular, UNHCR. Refugees who did not want to be repatriated benefited from various integration projects set up by the Government. At the same time, the Government had undertaken to draw up an immigration control programme in order to promote integration and was carrying out a number of activities to encourage the economic involvement of refugees, to guarantee social justice, health and education for all and to improve access to housing.

167. Referring to the factors and difficulties affecting the implementation of the Covenant, the representative of Costa Rica stressed that the foreign debt was a heavy burden for his country's economy. Although GDP had increased by nearly 3.5 per cent in 1989, major economic problems had slowed down Costa Rica's development. The rate of inflation was thus between 18 and 20 per cent and poor families accounted for 38 per cent of the population. Debt servicing amounted to 27 per cent of GDP, but it had not prevented the Government from allocating half of the national budget to social programmes. Per capita social expenditure had nevertheless declined in recent years, partly was a result of sharp population growth, and had required the adoption of many measures which were designed to improve the education, health, food, vocational training and housing situation and whose effects were beginning to be felt.

168. The national strike of October 1990 had taken place in protest at increases in the cost of a number of basic commodities and at an inflation figure of 25 per cent, despite the fact that the Government had decreed two wage increases in 1990, one of 15 per cent and the other of 9.65 per cent, to offset inflation. Costa Rica, which had been awarded the Nobel Peace Prize in recognition of the important work it had done in the cause of peace in Central America, was renowned for its full commitment to human rights.

169. Responding to other questions, the representative of Costa Rica stated that the Catholic religion was the religion of the State, but the free exercise of other religions which were not opposed to universally-recognized moral percepts and customs was guaranteed. Difficulties might, however, theoretically arise in respect of the President or Ministers taking the oath of office if one of them declared himself to be an agnostic. Attempts to eliminate the reference to the Catholic Church in article 75 of the Constitution had led to public demonstrations.

Articles 1 to 5

170. Members of the Committee requested further information on the position of women in Costa

Rican society and, in particular, on their involvement in the country's political, social and trade union life and on their status at work. They asked whether full equality of rights under the law had been achieved and, if not, what distinctions remained and what plans were being made to do away with them. Information was also requested on the activities of the National Centre for the Advancement of Women and the Family.

171. In his reply, the representative of the State party drew attention to the recent adoption of an Act on the promotion of equality between men and women and gave some statistical data concerning the problems encountered by Costa Rican women within the family, in access to employment and in conditions of work. Women accounted for over 50 per cent of the population, but their employment rate was only 18 per cent, as against 52 per cent for men, and, although unemployment was declining, it had affected women more severely, particularly in rural areas. Their wages amounted, moreover, to only 89 per cent of men's wages. The above-mentioned Act was thus designed to eliminate all forms of discrimination against women, particularly with regard to their participation in the political life of the country. Constant efforts were being made throughout the country to try to change attitudes, and the National Centre for the Advancement of Women and the Family had been established for that purpose. The Centre carried out many research activities to promote the participation of women in the socio-economic life of the country. In addition, Costa Rica was undertaking to achieve the objectives of the Decade for the Advancement of Women: Equality, Development and Peace through, *inter alia*, national development policies, sectoral activities by the Ministry of Culture, Youth and Sports, and intensive training activities. During the period covered by the report, 730 training activities had thus been organized for 7,800 beneficiaries in order to make the various population sectors more aware of the new image of women in society and to strengthen the family as the basic unit of the organization of society. Information in that regard had also been widely disseminated by various means, and especially by the media.

Article 6: Right to work

172. Members of the Committee asked what trends there had been in unemployment in the past five years, broken down by sex and age group, what specific measures had been taken to reduce unemployment, as well as in the sphere of vocational and technical training and permanent education for adults, and what specific action had been taken on behalf of disadvantaged groups. Information was also requested on the legal significance of the concept of the "right freely to choose employment" embodied in article 56 of the Constitution and on the prohibition of any discrimination based on age as far as access to employment was concerned.

173. In his reply, the representative of the State party indicated that unemployment had dropped in the past five years and stood at 4.6 per cent in 1990. Underemployment, defined as unemployment plus visible and hidden under-utilization of the work-force, had decreased from 14.3 per cent in 1986 to 9.9 per cent in 1989. It affected men more than women, and persons aged between 15 and 19 were the hardest hit. Costa Rica, like many other developing countries, had no unemployment insurance. However, the National Apprenticeship Institute and the Programme for Higher Education by Correspondence provided vocational and technical training for adults. In co-operation with the government authorities, the University of Costa Rica was also implementing a number of assistance programmes for the creation of jobs and vocational training and on behalf of unemployed persons and migrant and seasonal workers. The Ministry of Labour and Social Security organized

programmes of short-term employment in community or other work for unemployed and disabled persons and efforts were being made to reduce unemployment by encouraging foreign investment in Costa Rica. Higher labour tribunals had been set up to implement the provisions of the Labour Code and the law required the employer to provide financial compensation in case of unjustified dismissal.

Article 7: Right to just and favourable conditions of work

174. Members of the Committee requested detailed information on the machinery for establishing minimum wages, on the role of collective bargaining in that respect, and on the special protection in labour matters enjoyed by women and minors in accordance with articles 71 and 87 of the Constitution. Clarification was sought about the exact scope of the provisions of the Labour Code prohibiting work by minors and any exceptions provided for by law, particularly in the case of children under the age of 12. In addition, information was requested about illegal employment, the actual situation of clandestine foreign workers, and the duties and powers of labour inspectors.

175. In his reply, the representative of the State party said that the machinery for establishing minimum wages was intended to check inflation while at the same time maintaining workers' purchasing power. Wages were thus established once a year and adjusted in the light of the increase in retail prices. In the private sector, wages were established by the National Wages Council composed of representatives of the private and public sectors and the trade unions, while in the public sector the wages were established by a public-sector negotiating committee composed of representatives of the Administration and trade union federations. Between 1980 and 1988, collective bargaining had given rise to 240 agreements.

176. On the question of special protection for women and minors at work, the representative stated that the trade union organizations concerned and the women's associations had to be consulted about the working conditions of women employed in particularly hazardous, insanitary or difficult work. The Labour Code forbade night work by minors and the number of hours worked per week varied according to the minor's age. In addition, a National Children's Board had been established to supervise working conditions for minors. In line with ILO Conventions, the minimum age was set at 15 years for both men and women. In very special instances, however, and under the strict control of the National Children's Board, the age could be reduced to 12. In such cases, the working week was limited to 20 hours to enable the child to continue his or her studies.

Article 8: Trade union rights

177. Members of the Committee requested detailed information about the system of labour relations and, in particular, about the right to form unions and the right to strike as recognized in ILO Conventions Nos. 87, 98 and 151. Clarification was also requested about the participation of foreigners in trade union activity in Costa Rica and in connection with the establishment under a Ministry of Labour Organization Act of an office to supervise trade unions organizations. Lastly, members asked what was the percentage of trade union membership and requested an overall description of the trade union movement in Costa Rica.

178. In his reply, the representative of the State party emphasized that his country had ratified ILO

Conventions on the freedom of association and protection of the right to organize, 1948 (Convention No. 87), employment service, 1948 (Convention No. 88) and labour administration, 1978 (Convention No. 150). The right to form trade unions was fully guaranteed, the only limitations being those necessary for the maintenance of public order. The right to strike was recognized in Costa Rica legislation, and trade unions had the right to set up federations and confederations. The Trade Union Office in the Ministry of Labour provided legal assistance to trade unions and counselled their representatives, but did not seek to restrict trade union practices. The percentage of the active work-force in the public sector belonging to a union had reached 82 per cent compared with 48 per cent in the private sector. There had, however, been a drastic decline in trade union membership in Costa Rica over the previous five years, in line with a worldwide trend.

179. The representative denied allegations that the Government was encouraging a movement known as “Solidarity” in firms and said that the Government had proposed that ILO representatives should come and ascertain the situation. Foreigners could join trade unions but could not hold executive positions.

Article 9: Right to social security

180. Members of the Committee requested information about the social security system, the types of benefits offered, protected categories and the extent of coverage. With regard to trends in unemployment over the past five years, they asked what benefits had been granted to unemployed persons.

181. In his reply, the representative of the State party explained that under Costa Rican legislation employers were required to provide individual or collective insurance for all employees. In the event of failure to do so, an employer had to cover all hospital costs and pay compensation for industrial injuries. The National Insurance Institute provided full hospital, surgical and other coverage for persons injured at work. The proportion of those insured within the population had been 81.7 per cent in 1963 and 81.8 per cent in 1985.

Article 10: Protection of the family, mothers and children

182. Members of the Committee asked what measures had been adopted by the Costa Rican Government in aid of abandoned children, what was the minimum legal age in order to work and whether the commencement of work was co-ordinated with the education system. Additional information was requested about the implementation of legislative measures for the protection of children against exploitation for purposes of prostitution, the legal régimes for marriage and divorce, the fate of children in the event of their parents’ divorce, and the marriage rate in Costa Rica.

183. In his reply, the representative of the State party explained that Costa Rican legislation recognized the family as the natural unit and the basis of society entitled to special protection of the State.

Article 11: Right to an adequate standard of living

184. Members of the Committee requested information on the activities of the Social Welfare

Office. Information was also sought on the implementation of the right to housing in Costa Rica and, in particular, legal measures for the protection of tenants, on the relative proportions of tenants, home-owners and homeless persons in Costa Rica, and any measures taken by the Government to facilitate home-ownership and control rents.

185. In his reply, the representative of the State party said that the essential role of the Social Welfare Office was to improve the standard of living and the general well-being of families, children and single mothers, and to co-ordinate the programme of assistance to families and minors. Under the housing programmes, grants of 4,500 colones were made to families with an annual income of 17,000 colones or less. The difference between the grant and the total cost of the housing unit was met by a loan from the Housing Mortgage Bank at a low rate of interest. From 1978 to early 1990 over 200,000 families had benefited from the housing programmes, and it was expected that over the next four years between 80,000 and 100,000 additional families would benefit. Property ownership had therefore become more accessible to a great many low-income families, and rents were relatively low. The Rent Act of 1939, currently being revised, provided special protection for tenants, particularly for loss of their housing.

Article 12: Right to physical and mental health

186. Members of the Committee requested information on the structure and functioning of health services, the types of services offered and the extent of coverage, efforts made and results of action to combat disease and, in particular, the number and geographical distribution of health services, and the number of hospital beds and doctors per 1,000 inhabitants.

187. In his reply, the representative of the State party highlighted the legal provisions governing the structure and functioning of health assistance and those relating to efforts to combat disease. Almost all infectious diseases, including malaria, leprosy and tuberculosis, had been eradicated and a programme to combat AIDS and other infectious diseases had been set up. Life expectancy had been 73.7 years in 1988 compared with 65.6 years in 1965. There had been 2.6 hospital beds per 1,000 inhabitants in 1988.

Articles 13 and 14: Right to education

188. Members of the Committee requested information on the education system and, in particular, basic general education, pre-school education and diversified education. Additional information was sought on the availability and cost-free nature of primary education, particularly in connection with induced or disguised costs, any recent change in the literacy rate and the methods used to integrate the children of immigrants into the education system.

189. In his reply, the representative of the State party described the education system in his country, and stressed that basic general education, comprising primary education and the first three years of secondary education, was compulsory and free of charge, that 85 per cent of children completed their primary and secondary studies, and that the literacy rate was 94 per cent. School libraries throughout the country contained textbooks, so that pupils did not necessarily have to buy them and basic school materials were provided free of charge to pupils unable to afford them. For demographic reasons, there had been a fall in the number of primary schools. Children of foreigners

born in Costa Rica were Costa Rican citizens and, consequently, could enrol in public educational establishments on the same basis as children of Costa Rican citizens. For private education, however, the children of foreign nationals had to pay double the tuition fees charged for children of Costa Ricans. There were four main universities in Costa Rica and 65 per cent of students had been awarded scholarships. In addition, civic education courses were given with the aim of teaching children about the various international instruments on human rights and the legal and institutional machinery available in Costa Rica in that area.

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

190. Members of the Committee requested additional information on measures taken and activities conducted by the Costa Rican Government to give effect to the cultural rights enunciated in article 15 of the Covenant. In particular, they asked what measures had been taken to promote indigenous culture and in what way that culture was incorporated in the cultural pattern of Costa Rica and coexisted with the culture of the majority of the population.

191. In his reply, the representative of the State party emphasized that cultural centres had been set up throughout the country in order to give the whole population access to cultural activities. In addition, a law on intellectual property and related rights had recently been drafted with the assistance of WIPO.

Concluding observations

192. The members of the Committee thanked the representative of the State party for his additional information which had, to a large extent, filled the serious gaps in the initial report, which had not been drafted in accordance with the general guidelines regarding the form and contents of reports to be submitted by States parties (E/C.12/1987/2), since it contained only a recital of legal provisions in force, without giving an interpretation or comments on the practical implementation of the provisions of the Covenant. In those circumstances, the dialogue with the delegation of the State party had not enabled the Committee to ascertain with exactitude the degree of practical implementation of the Covenant.

193. In view of the excessively legalistic character of the report and the incomplete replies given to some of the questions asked, the Committee expressed a desire to receive additional information on the practical implementation and effective exercise of the economic, social and cultural rights provided for in the Covenant. In particular, information was sought on protection against unemployment, the effect of the country's external debt on the enjoyment of the rights to just and favourable conditions of work and an adequate standard of living and social security, the free exercise of trade union rights, the status of foreigners and their possibilities of enjoying the rights enshrined in the Covenant.

194. In addition, a view was expressed that the restrictions placed on the participation of foreigners in trade unions were not in conformity with article 8 of the Covenant or article 7 of the Constitution of Costa Rica.

195. With regard to the nature of comments that had been deemed too critical by the representative of the State party, the Committee reiterated that members of the Committee, who served in a personal capacity, were fully independent and impartial, and that it was necessary to engage in a constructive dialogue between the representatives of States parties and the Committee. Such a dialogue was designed to make possible an objective assessment of the extent to which the economic, social and cultural rights enshrined in the Covenant were being implemented by States parties.