



## Economic and Social Council

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### Committee on Economic, Social and Cultural Rights

#### Forty-fifth session

#### Summary record of the 35th meeting

Held at the Palais Wilson, Geneva, on Thursday, 4 November 2010, at 10 a.m.

*Chairperson:* Mr. Marchán Romero

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*The meeting was called to order at 10.05 a.m.*

**Consideration of reports**

**(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant** *(continued)*

*Third periodic report of the Dominican Republic* (continued) (E/C.12/DOM/3; E/C.12/DOM/Q/3 and Add.1)

1. *At the invitation of the Chairperson, the delegation of the Dominican Republic took places at the Committee table.*

*Articles 1 to 5* (continued)

2. **Mr. Puig** (Dominican Republic), affirming that the Dominican Republic did not violate human rights, said that foreign workers, whatever their nationality, entered the country voluntarily and could leave at any time. The free movement of persons was guaranteed; nobody was obliged to live in a specific location. Salaries were agreed upon by employers and workers, in accordance with relevant legislation and without distinction on grounds of race or nationality, and the right to freedom of association was guaranteed as well. All workers enjoyed the same labour rights and could submit complaints of violations to the Ministry of Labour. The Ministry's legal aid department offered free legal assistance to workers, including those who were not legally resident in the Dominican Republic. Foreign and Dominican workers enjoyed equal access to the courts. In a recent case brought by 500 temporary workers, mostly of Haitian origin, in defence of their labour rights, including the right to written contracts, the court had ruled in their favour. All workers were free to approach non-governmental and other organizations for assistance, without fear of sanction, and could move around the country and change their economic activity without hindrance. Although their economic status differed, there was no segregation between foreign and Dominican workers.

3. The sugar industry employed the majority of resident foreign workers in the country but few temporary foreign workers. While technological advances had been made and sectors such as tourism and export processing zones had expanded, the sugar industry had shrunk to some 10 per cent of its previous size and now employed around 10,000 workers. Through State and private initiatives, significant improvements had been made in conditions in sugar refinery communities, or *bateyes*, many of which were no longer camps but small urban communities with a wide range of services.

4. Only Dominican nationals and holders of residence permits were legally entitled to social security coverage; however, a special system had been established for temporary workers, many of whom were not legal residents. Efforts were being made to regularize their situation and strengthen the legal basis for their access to social security benefits. NGOs were active in improving living conditions in current and former sugar-producing areas, with funding being provided for that purpose under multilateral and bilateral cooperation programmes.

5. The Government was taking long-term measures to reduce poverty. Legislation adopted in 2006 provided for a public investment system and stipulated that all investment and planning policies must be based on public consultations. Broad consultations with all sectors of society were currently under way on a national development strategy for the next 20 years, which should be approved by parliament in the near future. It included plans to increase production and productivity while safeguarding economic, social and cultural rights. The Government hoped that the strategy would contribute to overall prosperity and help translate legislation on those rights into reality. Significant amounts of development

aid had been received from bilateral organizations and the European Union; further details could be supplied in writing.

6. **Mr. Rosario Marqués** (Dominican Republic) said that, while there was no environment of institutionalized corruption in the Dominican Republic, steps had been taken over the last 10 years, with civil society involvement, to reduce corruption and improve transparency. Under legislation on free access to public information, whose implementation was monitored by a specific mechanism involving civil society participation, any Dominican or foreign citizen could access information on budget implementation and administrative policies via the Internet. A law on government procurement of goods and services had also been passed which provided for fair bidding processes and enhanced transparency. The Constitution adopted in January 2010 also included provisions on transparency in the public acquisition of goods and services.

7. Many court cases had been brought against public officials for misconduct and corruption, some resulting in prison sentences of between 5 and 10 years. Efforts were being made to detect complicity in drug trafficking, particularly among high-level officials, and to prosecute offenders. A custodial sentence had already been handed down in one high-profile case. The imposition of sentences of from 5 to 10 years on various banking executives for administrative misconduct had helped to clean up the financial sector. There was no policy of impunity; corruption was being dealt with through preventive measures and prosecution.

8. In order to improve access to public-sector jobs for people with disabilities, training was provided at four specially equipped technological centres managed by the National Institute of Technical and Vocational Training (INFOTEP) and the Ministry of Labour. Some 230 people had benefited so far. Through the National Council on Disability (CONAPREM), equal opportunities policies were being formulated and implemented, and public offices were required to ensure that their premises had disabled access.

9. **Mr. Sadi** requested a list of cases with specific details on the persons who had been prosecuted for corruption, the charges brought against them and the outcome of the proceedings. He requested similar details in respect of human trafficking offences. With regard to foreign, migrant and undocumented workers, he asked whether they were covered by the Dominican Republic-Central America-United States Free Trade Agreement (DR-CAFTA).

10. **Ms. Barahona Riera** asked for information on the budget allocated to the Ministry for Women and to programmes on women's rights and the gender perspective. She enquired about the State party's legislation relating to sexual harassment and the situation in practice, including details of specific cases.

11. **Mr. Puig** (Dominican Republic) said that the banking crisis of 2003, which had cost the Dominican Republic 25 per cent of its gross domestic product, had been precipitated by the fraudulent actions of the heads of four major Dominican banks, all of whom had been convicted and were now in prison. Other corruption cases were before the courts. With regard to trafficking, the delegation would submit details in writing on prosecutions and convictions. Dedicated units for prosecuting such offences had been established within the Office of the Prosecutor-General in 2005.

12. At the behest of United States trade unions, DR-CAFTA contained provisions to protect workers' rights and avoid social dumping in signatory States where labour was cheaper. Among other measures, that agreement provided for systematic verification of working conditions in all countries every six months by a mission from the International Labour Office. The working conditions of all workers, including foreign nationals, were examined, and the Dominican Republic tried to ensure that progress was made after every

inspection. Indicators on foreign workers' employment conditions for the last few years could be provided in writing.

13. The Ministry for Women, in line with its cross-cutting mandate, cooperated with all other ministries and had signed specific agreements with several. All ministries had offices devoted to mainstreaming a gender perspective into their activities. In view of the recent economic crisis, the draft budget for 2011, currently before parliament, contained significant increases in allocations only for the Ministry of Health and the Ministry of Education; the allocations for the Ministry for Women and most others would remain the same as in 2010. The actions of various ministries benefited women.

14. A list of those dismissed from public service for sexual harassment could be provided in writing. The Ministry of Public Administration took sexual harassment in the public sector seriously and was working to strengthen the legislative and institutional framework for its prevention. In the private sector, complaints of sexual harassment were submitted to the Ministry of Labour. It was important to be aware of the fact that sexual harassment was often disguised. Training provided to labour inspectors by the Ministry for Women covered how to identify hidden sexual harassment.

*Articles 6 to 9*

15. **Mr. Kedzia** said he was concerned by the high levels of unemployment, which seemed to affect women disproportionately, and he therefore wished to know to what extent labour policies had been designed to address that problem. He requested clarification on the legal standards that were applied to workers in the informal sector. Was there a comprehensive strategy in place to reduce informal labour? What was being done to address the situation of the continuing influx of undocumented migrant workers? Although employment of children under the age of 14 was prohibited by law, 14.5 per cent of children between 5 and 14 years of age worked in the service sector, agriculture and industry. While the efforts made to reduce the number of children between the ages of 10 and 17 years who were working illegally and to assist them in returning to school were commendable, many children were employed in the private sector, which seemed to be largely beyond regulatory reach. He asked whether measures to reduce child labour in that sector had been successful. He also wished to know what results programmes to prevent the commercial sexual exploitation of minors had yielded. He also wondered what measures were being taken to address the prevalence of adoption of poor Haitian children by Dominican families.

16. The Committee had been informed that the minimum wage was insufficient to guarantee a decent standard of living for workers and their families. Workers in certain sectors, such as the sugar-cane industry, were in a particularly precarious financial situation, and he wished to know what was being done to overcome that problem. Many workers in that sector were undocumented Haitians, who were particularly vulnerable to multiple discrimination. He asked the delegation to comment on measures to improve education, health-care and sanitation services for those living in the *bateyes*. While the appointment of labour inspectors was commendable, he asked what the results of their inspections had been, how many cases of labour standards violations had been found, how those cases had been followed up and what remedies had been granted to victims. The Committee had been informed that there were still too few labour inspectors and that insufficient inspections were being conducted. He asked if that was indeed the case and, if so, what measures were being taken to rectify the situation.

17. Although the legal framework for trade union rights and freedoms was in place, vulnerable groups, such as Haitian workers, often suffered de facto discrimination in terms of access to trade unions. Undocumented migrant workers were afraid to join trade unions. Trade union rights were often violated in the private sector, and blacklists of trade unionists

were being circulated. Those violations were reported to be most prevalent in the free trade zones, where only 15 per cent of workers were union members. He asked what measures were being taken in that regard.

18. **Ms. Bras Gomes** said she was concerned by the gap in wages between men and women, which increased as professions became more skilled. She wished to know how the Government intended to go about closing that wage gap, particularly in view of the increasing number of women graduating from university and qualifying for skilled professions. She asked what measures were taken to ensure that social security benefits were provided to workers who were permanently employed in the informal sector. She also asked whether domestic workers were covered by the contributory social security regime. A recent study by the Ministry for Women showed that domestic work had increased and that 95 per cent of that workforce was composed of women, who were not covered by medical insurance. She wished to know how maternity protection was provided for those women. The Committee had received information about compulsory pregnancy testing for female workers in the free trade zones. She wondered if that was indeed the practice and, if so, what measures were being taken to halt it. Turning to the subsidized social security regime, she asked whether any joint measures were being taken with the International Labour Organization (ILO) to implement the Social Protection Floor Initiative. She wondered whether measures were being taken to establish a universal old-age pension and how workers in the informal sector could be included in such a pension scheme.

19. **Ms. Bonoan-Dandan** said that she had been surprised to hear from the delegation that there were no cases in which the rights of foreign workers had been violated, particularly since the Committee had received information to the contrary from non-governmental sources. Turning to the statement in paragraph 53 of the State party report, which indicated that the 55,000 jobs lost in the textile industry had been offset by the creation of over 59,000 new jobs in other sectors, she asked whether the unemployed workers from the textile industry had been retrained to do those new jobs and how many of the 55,000 workers who had lost their jobs had been re-employed.

20. She asked how much the minimum wage was, what the basic cost of subsistence was and what the cost of a decent standard of living was. What impact had DR-CAFTA had on the State's ability to fulfil its obligations under articles 6 to 9 of the Covenant? The Committee had been informed that the free trade zones had been adversely affected by quota arrangements and that over 70,000 jobs had been lost. Workers had suffered from unjustified dismissal, non-payment of overtime and violations of their rights to freedom of association and collective bargaining. She wondered whether that was a result of DR-CAFTA.

21. **Mr. Sadi** asked what criteria the tripartite national salary committee used to set the minimum wage. He was concerned that several categories of workers in the private sector received less than the minimum wage and would like to know what was being done to rectify that situation. He was particularly concerned by the situation with regard to child labour and, in particular, the adoption of Haitian children by Dominicans to work in their homes. Was this not bordering on slavery?

22. **Mr. Puig** (Dominican Republic) said that 56 per cent of the workforce in the Dominican Republic was employed in the informal sector, which also included freelance and independent workers. Since those workers did not have a fixed salary, it was difficult to guarantee them access to social security. It was also difficult for the State to ensure that they paid taxes. Every year, 100,000 young people entered the labour market in the Dominican Republic and, despite economic growth, job creation was not sufficient to absorb them into the workforce. Just to maintain the unemployment rate at its current level, gross domestic product (GDP) would have to increase by 4 per cent annually. In addition, the constant influx of undocumented workers from Haiti was putting downward pressure on

wages. In parallel with the design of active employment policies, a national development strategy was being prepared that would be implemented over the course of the coming 20 years on the basis of evaluations made by the Labour Monitoring Centre, which had begun to analyse employment trends.

23. Most of the textile companies operated in free trade zones. The number of workers employed in those zones had peaked at almost 200,000 in 2003 and had then dropped by more than 70,000 in the following five years as a result of changes in world textile markets. Of the total 124,000 workers currently employed in free trade zones, the percentage of textile workers had decreased while the number of workers employed in other sectors, such as electronic goods and footwear, had risen.

24. The Government had launched employment plans for areas such as Santiago Province, which had experienced heavy job losses in the textile sector. Under the Government-funded Santiago at Work programme, unemployed workers did community work while also receiving vocational training over a period of four months in order to improve their employability. The unemployment rate for people under 29 years of age was much higher than the rate for adult males. The Ministry of Labour had therefore established a programme, which had been recognized as an example of best practices by the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the Inter-American Development Bank, for people aged 16 to 29 years who had left school and were not working. The programme's courses had been designed by the Technical and Vocational Training Institute and were run by private institutions with the backing of private enterprise. Sixty per cent of participants had found work within six months of completing the programme.

25. The number of children and adolescents at work had fallen considerably since 2000, when a national survey had found that 456,000 children were employed. A new study on the subject would be published in November 2010. Increasing school enrolment was one way of reducing child labour. Currently, 94 per cent of children attended school, and the Ministry of Education aimed to have all children enrolled in school by 2019. As incentives to enrolment, families received a subsidy for every child who attended at least 85 per cent of classes, and 2.4 million children received breakfast at school each day. The Ministry of Labour was taking action against companies that employed children. Large companies were less likely to do so, as such practices damaged their image abroad and had a negative impact on exports. In the sugar industry, for example, labour inspections were no longer finding evidence of child labour. It was, however, harder to enforce labour laws in small businesses.

26. Children were often pushed into work by poverty, but child labour was also widely accepted, and that attitude applied equally to foster children. Parents in poor rural areas frequently sent their children to live with wealthier relatives in the cities, but many of those children were made to work and were ill-treated. Cases of Haitian children adopted and put to work by Dominicans were, however, rare. The Ministry of Labour and the National Council for Children and Adolescents were working to raise awareness of the problem of child labour. The State party was also making efforts to combat sexual exploitation of children.

27. The situation in the *bateyes* had improved. One sugar company had invested US\$ 25 million over three years to improve workers' living conditions and had even built entire new towns to house people from the *bateyes*.

28. The Dominican Republic had 14 minimum-wage categories, divided by industry and work sector, rather than a general minimum wage. Those categories were each subdivided into three further categories according to company size. It was a complex system, and minimum wages were low because the labour supply was so abundant. The minimum wage

in each category was set every two years and was indexed to inflation. In real terms, therefore, wages had remained unchanged for the past 15 years. Employers had thus far refused to consider wage rises based on increased productivity.

29. In spite of regulations stipulating equal pay for equal work, many employers paid female and disabled employees less than their able-bodied male counterparts. Foreign workers, however, did receive equal pay. Labour inspectors took action against employers that used pregnancy tests as a means of discriminating against female employees.

30. The Dominican Republic was a signatory to the ILO Convention concerning Freedom of Association and Protection of the Right to Organize (No. 87) and the ILO Convention concerning the Application of the Principles of the Right to Organize and to Bargain Collectively (No. 98). The Government was endeavouring to enforce laws on the right to establish trade unions. The Ministry of Labour's 203 labour inspectors were receiving better training, but more were needed to investigate alleged violations of trade union laws. The trade union presence in free trade zones had increased, in part because of pressure from consumer rights groups abroad that blacklisted companies which impeded trade union activities.

31. The Government was making a determined effort to expand the social security system, but numerous challenges remained to be overcome. Only 66 per cent of workers eligible for the contributory regime had been registered by their companies, and some firms had declared their employees to be earning less than was actually the case, which posed a threat to the system's financial viability. In spite of limited resources, the State was, however, paying benefits to 1.5 million persons under the subsidized regime, and preparatory studies for the implementation of the subsidized contributory regime were under way.

32. About 250,000 people, of whom approximately 220,000 were women, worked in domestic service, and the Government was working with their representatives to extend social security cover to those workers.

33. **Ms. Barahona Riera** said that it would be preferable to set one minimum wage that would cover basic family needs and inflation; wages for the various sectors could then be determined accordingly. Under the current system, the Dominican Republic would never be able to eradicate poverty, nor would it be able to improve productivity without increasing wages.

34. **Mr. Tirado Mejía** said that the State party's system for setting the minimum wage seemed very unmanageable. Normally, the minimum wage ensured that workers had a decent standard of living, whereas, in the Dominican Republic, there was constant downward pressure on wages. The State must not delegate the protection of its workers to market forces and foreign public opinion. Were there any State mechanisms for ensuring equitable social policy?

#### *Articles 10 to 12*

35. **Mr. Kedzia** said that, according to the delegation, public health care in the Dominican Republic was universal, but the Committee had received information from a number of sources indicating that only 40 per cent of the population had coverage. It would be useful if the delegation could clarify that discrepancy.

36. The Committee had been informed that the new Constitution introduced a complete prohibition on abortion, even in cases of rape or when the pregnancy endangered the health of the mother. The Committee on the Elimination of Discrimination against Women had strongly recommended that the State party should reconsider those two cases. Were any steps planned to address the issue? As he saw it, the country's restrictive legislation, which

resulted in many abortions not being performed by hospital services, was not unrelated to the rate of maternal mortality, which, at 159 per 100,000 live births, was one of the highest in Latin America and the Caribbean.

37. With regard to domestic violence, statistics showed that between 150 and 200 women were murdered every year by current or former partners. He asked what the results had been of the various programmes developed to address the issue.

38. The United Nations Development Programme (UNDP) had reported a serious housing shortage in the Dominican Republic. He enquired whether the Government had a national housing policy and, if so, how it was implemented. He also asked the delegation to comment on reports of forced evictions.

39. **Ms. Barahona Riera** said that she would like to know what percentage of the budget was earmarked for health care and education, since, according to the Committee's information, it was very low in comparison to other Latin American countries. Did the current budget allocate funds for sexual and reproductive health programmes in the education and other sectors?

40. As she understood it, the article on right to life in the new Constitution was such that changes would be introduced in national legislation to prohibit abortions even if the health of the mother was in danger or in cases of rape or incest. In her view, the country had therefore regressed in the area of sexual and reproductive health rights.

41. Act No. 24-97 had ushered in progress in the area of domestic violence. She enquired how many cases there had been and how the offence of domestic violence was punished. She would also like to know whether sexual abuse was a punishable offence and, if so, whether the penalty was imprisonment or just a fine. The reconciliation procedure in the Dominican Republic gave cause for concern, because many cases did not reach the courts. She also enquired whether the subsidized health-care system covered all poor people. Were there free services aimed at reducing maternal mortality and promoting sexual and reproductive health and, if so, were they accessible to all, including undocumented persons?

42. **Mr. Pillay** said that all the material contained in the report dated back to 2002 or 2004. During the consideration of the State party's second periodic report, in 1997, the Committee had already deplored the absence of recent, disaggregated data. He urged the delegation to ensure that the statistics provided in its next periodic report were up to date.

43. The delegation had stated that approximately 40 per cent of the population lived below the poverty line, although, once again, that was the figure for 2004. Some 16 per cent of the population lived in extreme poverty. He enquired whether the Government had adopted a human rights approach in its poverty reduction plan which incorporated economic, social and cultural rights and whether it targeted vulnerable groups, such as children, young persons, women, persons with disabilities, persons with HIV/AIDS and persons of Asian origin living in *bateyes*. Only about 8 per cent of GDP in the Dominican Republic was devoted to investment in the social sphere, as against an average of 16 per cent in other Latin American countries. Information on efforts to redistribute wealth would also be appreciated. According to a 2002 figure, the wealthiest 20 per cent of the population absorbed 50 per cent of the country's income, whereas the poorest 40 per cent received only 14 per cent. He reiterated the recommendation made by the Committee in 1997 in paragraph 28 of its concluding observations following its consideration of the State party's second periodic report (E/C.12/1/Add.16) in which it had urged the State party to "address the problem of the inequitable distribution of wealth among the population in order to combat poverty".



44. The Dominican Republic had been estimated to have an acute shortage of about 800,000 housing units, a figure which was increasing by 6,000 every year. According to the 2002 data, 17.5 per cent of the urban population was living in slums. He asked the delegation to provide the latest figures. The delegation had stated that private companies were improving living conditions in the *bateyes*. However, as he understood it, of the 27 such settlements, 13 still lacked electricity and running water. He asked what the Dominican Republic was doing to improve the situation.

45. In paragraph 210 of the report, the State party had acknowledged that many people did not have legal title to the land where they lived. There had been a large number of forced evictions since 1997, and it was estimated that 50,000 families were at risk. Forced evictions took place without due process, consultation with the affected communities or provision of alternative accommodation. Houses were demolished and, what was worse, the police and the military were assisted by armed and masked individuals. In paragraph 42 of its concluding observations of 1997, the Committee had recommended 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 be duly taken into account”. He asked whether the State party planned to enact legislation to ensure that any forced evictions carried out were conducted in accordance with general comment No. 7 and whether it would consider introducing a national housing policy and setting up a land bank to address the problem of property registration, which would in turn help deal with the issue of forced evictions. Most importantly, would it devote sufficient funds to ensuring that public housing units were built for disadvantaged persons and groups?

46. **Mr. Atangana** noted that the delegation had not replied to question 29 of the list of issues, in which the State party was requested to provide disaggregated data on victims of trafficking in persons. Could such information be made available?

47. With regard to domestic violence, he said that in paragraph 284 of the concluding comments adopted in 2004 (A/59/38), the Committee on the Elimination of Discrimination against Women had noted with concern that passage of the Penal Code bill as it stood would constitute a reversal of some of the advances made in the area of women’s human rights by eliminating the definition of violence against women contained in Act No. 24-97, reducing the penalties for domestic violence and eliminating incest as a defined crime. It would be useful if the delegation could provide up-to-date information indicating how the State party had responded to that comment.

48. **Mr. Abashidze** said that, according to a number of sources, the situation in the Dominican Republic with regard to the physical protection of women gave cause for concern. The 2008 statistics indicated that two thirds of the women who had been murdered had been victims of domestic violence. In its second periodic report, the State party had acknowledged the problem and had stated its intention to set up special courts to help protect women and children. Had such jurisdictions been created? If so, could the delegation cite examples of how they had protected women?

49. **Mr. Dasgupta** said that the report did not provide a clear picture of the extent to which the population had access to health services. According to UNDP figures, in 2002 there had been only 1.9 doctors per thousand inhabitants, and public spending on health services had stood at only 2.2 per cent of GDP, which was considerably below the regional average of 3 per cent. Had there been any improvement in those figures since then? He also enquired what percentage of the population was entirely dependent on health services in the public sector and what percentage had access to the private sector. According to reports, the public sector offered free services, but access was not guaranteed, presumably because of the insufficient number of doctors and hospitals. He asked the delegation to provide information on the number of doctors and hospital beds available in the public sector and

the percentage of patients turned away or unable to access those services for lack of adequate facilities. How did the State party plan to improve the situation?

50. **Ms. Bras Gomes** noted that the Dominican Republic had a procedure for ruling on applications for asylum but that it had apparently been inactive for some time. As a result, asylum-seekers were kept in limbo for years. She urged the State party to rethink its policy of denying requests for the extension of temporary refugee status when it expired. Noting that the subsidized family health plan did not include coverage of retroviral treatment except for cases of mother-to-child transmission, she asked the Government to reconsider the inclusion of retroviral treatment under the subsidized health plan.

51. **Mr. Schrijver** said that the Committee would be grateful for updated statistics so that it could assess the progress made towards the Millennium Development Goal on poverty. Paragraphs 165 to 171 of the State party's report had provided a persuasive analysis of why the Dominican Republic had made such little headway in reducing poverty. Had that analysis resulted in a change in policy and the adoption of measures to address the problem?

52. **Mr. Sadi** pointed out that, in cases involving, for example, child labour, patriarchal tyranny or violence against women, it was not sufficient to refer to a clash between culture and law. Instead, the State must launch campaigns or take other steps to change cultural attitudes.

*The meeting rose at 1 p.m.*