

## Thirty-first session

### Summary record of the 659th meeting

Held at Headquarters, New York, on Thursday, 15 July 2004, at 3 p.m.

*Chairperson:* Ms. Açar

## Contents

Consideration of reports submitted by States parties under article 18 of the Convention (*continued*)

*Fifth periodic report of the Dominican Republic (continued)*

### The meeting was called to order at 3.05 p.m.

#### Consideration of reports submitted by States parties under article 18 of the Convention (*continued*)

*Fifth periodic report of the Dominican Republic (continued)* (CEDAW/C/DOM/5, CEDAW/BSWG/2004/II/CRP.1/Add.2 and CEDAW/BSWG/2004/II/CRP.2/Add.1)

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

2. **The Chairperson** invited Committee members to resume their questions and comments.

### Articles 10 to 14

3. **Ms. Khan**, noted that 35 per cent of persons living with HIV/AIDS in the Dominican Republic were women and a high percentage of young women were victims of sexually transmitted diseases. That situation was the direct result of gender discrimination — of women's lack of access to information, their powerlessness to negotiate safe sex and their exposure to violence and prostitution. In its concluding comments on the State party's previous report, the Committee had highlighted the need to expand sex education programmes for both boys and girls and to review legislation on sexual and reproductive rights, in particular with regard to abortion, family planning and combating the spread of HIV/AIDS. She would appreciate information on Government measures taken to that end.

4. According to information from various sources, HIV/AIDS testing was a requirement for obtaining work in both the tourism sector and the free-trade zone, and pregnancy tests were a prerequisite for employment in the latter. Could the delegation clarify whether discrimination against women on the basis of pregnancy was illegal? The Labour Code was not specific in that regard.

5. **Ms. Ferrer Gómez** said that the presence of 42.8 per cent of women over the age of 10 years in the labour force (CEDAW/BSWG/2004/II/CRP.2/Add.1, p. 8) contradicted the State party's initiatives to eradicate child labour. It would be useful to know the minimum age of employment in the Dominican Republic and the quantitative findings of its National Survey on Child Labour. She would also be grateful for information on government measures to protect the very high percentage of unemployed women (nearly three times that of unemployed men), generate other sources of work for them and address the wage disparity between men and women. It was disconcerting that the Minister of Labour professed not to know the reasons for that disparity or what government measures had been taken to eliminate it. She would also appreciate an explanation of the sharp decline in employment in the tourism sector (50 per cent of whose employees were women) between 2002 and 2003 (CEDAW/BSWG/2004/II/CRP.2/Add.1, p. 9). Which industries were major employers of female workers in the free-trade zone? Citing the continuous exclusion and dismissal of pregnant women, pregnancy-testing as a condition for employment, occupational hazards, low salaries and sexual harassment in the free-trade zone, she asked whether the Government monitored working conditions there and what it was doing to improve them.

6. Lastly, she enquired about government initiatives to disseminate the rights of female domestic workers, who accounted for 97 per cent of the employees in that sector.

7. **Ms. Morvai** added that rights, by definition, must be enforceable. Did the State party have labour inspectors? If labour rights were enforced only at the discretion of employers and were virtually unknown to the 7,000 women employed as domestic workers, they were not rights at all.

8. She also questioned the classification of prostitution as work. Job experience normally increased a worker's value on the job market; yet she was certain that the 35,000 child prostitutes in the Dominican Republic were in much greater demand than their middle-aged or elderly counterparts. She wondered how a 500-member trade union could adequately represent the country's 150,000 prostitutes and whether the 7,000 female domestic workers had their own trade union. If so, how active was it?

9. **Ms. Coker-Appiah** expressed fear that the provision of early-detection cervical and uterine cancer services under the Maternal and Perinatal Care subprogramme might exclude women beyond childbearing years or women who had no children (CEDAW/PSWG/2004/II/CRP.2/Add.1, response to question 29). How were those women assured access to such services?

10. **Ms. Šimonović** said that the delegation's inability to provide data on working conditions and wage discrimination in the free-trade zone was regrettable and did not allay the concerns already expressed by the Committee in considering the State party's

previous report. Stressing that dismissal on the grounds of pregnancy was prohibited under article 11, paragraph 2 (a), of the Convention, she asked whether appropriate penalties were in place, including fines, to discourage that practice. She also wondered whether female workers and job-seekers knew how to file complaints of gender discrimination.

11. **Ms. Balcacer** (Dominican Republic), replying to Committee members' questions, said that approximately 1 per cent of the population was infected with HIV/AIDS. Her Government was extremely concerned that the infection could spread, and large-scale measures were being implemented by both government and non-governmental entities to educate young people, adult men and women and sex workers on prevention. The State Secretariat for Education had taken steps to incorporate sex education in the school curriculum, and the major provincial hospitals were providing counselling, treatment and support to HIV/AIDS-infected women, particularly pregnant women. The State Secretariat for Public Health was also taking special measures to distribute medication to the poorer sectors of the population.

12. **Ms. Diaz** (Dominican Republic) said that maternity protection was guaranteed under both the Constitution and the Labour Code. Complaints regarding pregnancy-based discrimination could be filed with the State Secretariat for Labour, which monitored compliance with maternity legislation. Employers had to pay six months' wages (representing the three months prior to, and the three months following birth) as compensation for violations.

13. The State Secretariat for Labour was making tremendous efforts to eradicate child labour in the Dominican Republic. On the basis of both the National Survey and questionnaires, it was implementing five programmes to eradicate child labour, including a joint programme with the International Labour Organization (ILO) in the municipality of Constanza, where 456 children had been rescued from plantations and a training project for child labourers taken off rice plantations in the province of Duarte. Education, counselling and, in Duarte, a small sum to compensate for the loss of income, were provided to families in an effort to eradicate that very deep-rooted practice.

14. Although the State Secretariat for Labour established a minimum wage applicable to both sexes, the reality was that it had no control over what happened in the private sector; however, its gender equity unit was conducting awareness-raising campaigns. In response to another question, she said that employment in the tourism sector had plunged after the attacks of 11 September 2001. The Government and State Secretariat for Labour were aware of the numerous health and hygiene violations in the free-trade zone and imposed fines on delinquent employers.

15. Sexual harassment in the workplace was not covered by the 1992 Labour Code. Under Act No. 2497 of 1997, women were entitled to file complaints with the State Secretariat for Labour, without prejudice to any other type of action they might wish to bring. The State Secretariat, in turn, referred the complaints to the courts. Thus far, only five complaints had been submitted; however, initiatives were being taken to increase women's awareness of their rights in that regard.

16. Domestic workers employed by companies or private homes were guaranteed an annual vacation and a Christmas bonus under a 1999 amendment to the Labour Code. The State Secretariat for Labour kept daily records of complaints filed by domestic workers over benefits or compensation; however, much remained to be done in order to raise awareness of those relatively new rights.

17. The State Secretariat for Labour was attempting to ensure that prostitutes and sex workers officially employed as waitresses, cooks or assistants in bars, restaurants and hotels were aware of their rights and received benefits by virtue of their working relationship with establishment owners. Sex workers had no recognized labour union but they did have an association. She personally had represented the State Secretariat for Labour at conferences to brief sex workers on their labour rights.

18. **Ms. Nivar** (Dominican Republic) said that, since women were often less aware of their rights than the rest of the population, women's associations and the State Secretariat for Women made special efforts to disseminate legislation relating to women's rights. Ms. Morvai's question concerning the classification of prostitution as work would be given careful consideration.

19. **Ms. Saiga** enquired whether regulations existed to set the minimum age of employment. Noting that 10 per cent of children never attended school and only 30 per cent attended primary school through the eighth grade (CEDAW/PSWG/2004/II/CRP.2/Add.1, page 33), she asked whether the Government provided any incentive for parents to send their children to school.

20. **Ms. Manalo** maintained that legislation alone was not sufficient to protect the interests of women subjected to pregnancy testing in the free-trade zone. To what extent were women actually aware of the complaint procedure mandated by law and how often had it been successfully used? Information on the number of women who had not come forward, the consequences for violations by employers and any special government measures to eliminate the practice would also be helpful.

21. **Ms. Shin** said that, in addition to the issue of mandatory pregnancy testing for employment, she wondered whether studies had revealed a problem with sexual harassment or rape of women working in free-trade zones. Experience in other countries such as Korea had shown that in an effort to attract investment to the free-trade zones Governments were tempted to make exceptions to the labour laws, to ban union activity, for example, and not to enforce the laws effectively. She would appreciate information in the next report on working conditions in the free-trade zones and any government efforts to improve them.

22. **Ms. Belmihoub-Zerdani** noted that the report had given detailed statistics on the extent of poverty in the country, which affected 52 per cent of the population and was particularly serious among rural and female-headed households. The Government's poverty reduction programmes and the implementation of the recommendations resulting from the Assessment of the Beijing Platform for Action in the Dominican Republic surely required help from the international community. She was interested in knowing what funds for poverty reduction and women's programmes had been received from United Nations funds, programmes and specialized agencies, from the World Bank and the International Monetary Fund and from donor countries, in the light of the commitments made by the developed countries in the Beijing Platform for Action and at the twenty-third special session of the General Assembly to devote 0.7 per cent of gross national product to official development assistance. In the next report the Committee would like to see specific figures in that regard.

23. **Ms. Achmad** said that, although the report noted that women made up 70 per cent of enrolment in technical and vocational education, unemployment was three times higher among women than men, and was particularly severe among women under the age of 24. That being the case, she wondered whether the Government, as part of its poverty reduction programmes, had analysed the specific patterns of unemployment and job opportunities, so that education could be used more effectively as an anti-poverty tool, in rural as well as urban areas. She also joined her colleagues in stressing the importance of sexual and reproductive health education and measures to combat child labour.

24. **Ms. Balcacer** (Dominican Republic) said that, clearly, her country had not yet devoted the resources and attention to the area of sexual and reproductive health that the issue warranted, but a start had been made. Sex education had been introduced into the basic education curriculum; a programme to prevent teenage pregnancy and assist poor pregnant teenagers was in operation, coordinated by the State Secretariat for Women and the Office of the First Lady; and a handbook on sexual and reproductive health, product of the efforts of a number of government agencies and non-governmental organizations, was going to press.

25. Historically the Dominican Republic had been primarily agricultural. That situation had changed in the past two decades as a result of heavy rural to urban migration, particularly by young people. Nevertheless, the situation of rural women remained an important issue. Throughout 2003, the State Secretariat for Women had conducted a round of consultations with rural women, asking them to identify their main problems and the causes and possible solutions. A document had been prepared presenting the findings to serve as the basis for public policy. In addition, in conjunction with the State Secretariat for Public Health, campaigns were being conducted in rural areas to screen for cervical and uterine cancers and other women's health problems. Financing for women-owned small agricultural or service enterprises in rural areas was available through a programme run by the Women's Agricultural Sectoral Office within the State Secretariat for Agriculture, with support from the Government of Taiwan Province of China. Moreover, the State Secretariat for Women had an agreement with the State Secretariat of Labour whereby a portion of its job-creation funds would be earmarked for women's employment in rural as well as urban areas.

26. Although it was true that implementation of the standby agreement signed with the International Monetary Fund had caused the country serious difficulties, it had received substantial funds from IMF and the World Bank to combat poverty and improve education. The United Nations Population Fund (UNFPA) had also been very active in the Dominican Republic in support of sexual and reproductive health programmes, especially in suburban and rural areas.

27. **Ms. Cubilete** (Dominican Republic), recalling that questions had been raised about children not enrolled in school, said that the Government was very concerned about the detrimental effects of lack of education not only for personal development but for national productivity as well. Through educational reforms begun in the 1980s, school enrolment had now reached 97 per cent at the compulsory levels, a total of eight years. At the secondary level, which was not compulsory, enrolment was 75 per cent. There were also pre-school centres, primarily for the benefit of working parents, where they could leave their young children in a learning environment.

28. **Ms. Diaz** (Dominican Republic), responding to questions on employment, said that the minimum working age was 14, but that the Labour Code placed restrictions on conditions for workers younger than 16: they could not be employed at night, for example, or for more than six hours per day. Unfortunately, no data were available on sexual harassment of workers in the free-trade zones. However, the State Secretariat for Labour was currently working on a project to study the labour market for women, and the delegation would convey the Committee's concerns. There was a nationwide system of labour inspectors, and the State Secretariat for Labour had a programme to provide free legal aid to women who wished to bring a complaint before the labour courts.

29. On the subject of unemployment, the State Secretariat for Labour currently had three major projects. One was designed to provide vocational training for young people, selected on the basis of gender equality, and place them in apprenticeships. Another project entailed training courses for women on how to start and run their own small business, supplemented by small start-up loan programmes. A third project entailed agreements with other countries to receive and train Dominican workers; one such agreement with Spain was in progress and another with Canada was under discussion.

## Articles 15 and 16

30. **Ms. González Martínez** noted that the Committee had been urging the Government of the Dominican Republic for some time to reform its family law but, although there were proposals to amend the Civil Code, there had been no actual changes. It was of vital importance that the law should provide for the rights of women living in de facto marital union, since over 60 per cent of women with partners were in such consensual unions. Moreover, in view of the leadership the Dominican Republic had historically shown in the field of women's rights, it was inconceivable that Dominican women who were married should be unable under the law to administer their personal property.

31. **Ms. Balcacer** (Dominican Republic) lamented that the reforms to the Civil Code had been so long delayed. At least proposals for the Penal Code were on the agenda of Congress but, despite the efforts of the State Secretariat for Women and the women's organizations to elaborate proposals and lobby for reforms, the decision would depend on the current composition of the Congress.

32. **Ms. Henríquez de Sánchez Baret** (Dominican Republic) pointed out that the composition of the National Congress, throughout its history and up to the present time, had been predominantly masculine. Women's representation had never been sufficient to pass legislation. The legislative advances that had been achieved — such as Act No. 24-97 on Domestic Violence and the minimum quota acts for congressional and municipal elections — had been passed because congresswomen had seized propitious moments to make strategic alliances. The proposed reforms to the Penal Code would cut deep into the attitudes of machismo that still prevailed in the country, and the same was true of the necessary changes to the Civil Code. However, the State Secretariat for Women was lobbying heavily and making strategic and contingency plans to be able not only to present a bill but ultimately to achieve a Civil Code that was in harmony with the principles of equality enshrined in the Constitution.

33. **Ms. Nivar** (Dominican Republic) explained that the State Secretariat for Women was preparing proposals for reform of the Civil Code in the hope that the item would be placed on the congressional agenda, but until such time it could not move forward with its proposals. At the moment Congress was considering amendments to the Penal Code, and lobbying efforts were naturally concentrated there. However, a recent ruling by the Supreme Court of Justice in favour of the rights of a woman in a consensual union had opened the way for similar legal action by other women to secure their rights.

34. **The Chairperson** invited members of the Committee to pose follow-up questions.

35. **Ms. Khan** said that she would appreciate clarification on two points regarding nationality. Under question 24 of the written responses to the list of issues (CEDAW/PSWG/2004/II/CRP.2/Add.1), it was stated that cultural determining factors hampered fair application of the law of *jus soli* and prevented descendants of Haitians who were born in the Dominican Republic from obtaining nationality documents, but that children without birth certificates were ensured access to education. She would appreciate more detailed information on how the “cultural determining factors” operated and what prevented the children from being issued identity papers.

36. **Ms. Morvai**, noting that it was the responsibility of the richer countries to donate funds for development, said that she would like to have more detail on how the international community was helping the Dominican Republic to fund its programmes for women. She was concerned about the conditions for women working in free-trade zones and wondered whether the problem stemmed from foreign ownership, particularly American ownership, of free-trade zone companies.

37. **Ms. Ferrer Gómez** asked whether an evaluation had been made of the National Gender Equity Plan and, if so, what were the findings. She wondered whether the Government had considered the possibility of disallowing the process of mediation in cases of violence against women, since it could be used as a means of escaping criminal charges.

38. **Ms. Henríquez de Sánchez Baret** (Dominican Republic) replied that the Dominican Republic would answer the previous questions in writing within a few days.

39. **Ms. Balcacer** (Dominican Republic) said that the first stage of the free trade treaty had been negotiated but that the United States had not ratified it. Studies were currently being conducted on the possible impact of the treaty on jobs for women.

40. The effect of the National Gender Equity Plan on the different sectors of the economy had not been evaluated because there had been difficulties in implementing it. The evaluation had been postponed until the beginning of 2005 as part of the work plan of the Secretary of State for Women.

41. With respect to mediation in cases of violence against women, the Dominican culture played an important role. Although they received ample support from legal aid and other services, the victims often filed a complaint only to withdraw it at a later date.

42. **Ms. Henríquez de Sánchez Baret** (Dominican Republic) emphasized that mediation was not formally legislated; in fact, it contravened the current laws.

43. **Ms. Cubilete** (Dominican Republic) noted that children without birth certificates had access to education and social services. The Government was currently processing legal papers for 125,000 Dominican and foreign children.

44. **The Chairperson** stressed that, although the Government had ratified the Optional Protocol, it must ensure that both civil society and the legal community understood it thoroughly, in order to help women use it. The Committee acknowledged the Dominican Republic's efforts to deal with the social and economic pressures of poverty and development as well as the cultural reality of a patriarchal society. It particularly appreciated the Government's efforts in the critical area of legal reform. The current Penal and Civil Codes contained many provisions that were incompatible with the principles of the Convention. The experts were thus particularly pleased to learn that new Codes were being prepared and that the State Secretariat for Women was actively participating in the drafting of the new Penal Code. The Government was urged to increase its efforts to ensure that the new Code would fully protect women's human rights. It was important to send the message to society that violence against women was a serious criminal offence deserving serious punishment.

45. The Dominican Republic was commended on its use of the media to increase public awareness of violence against women. Although the Act on Domestic Violence was clearly a step in the right direction, supplementary mechanisms such as safe houses and programmes for the care and rehabilitation of victims were lacking. The Government was urged to allocate funds for that purpose. Churches had begun to include violence against women and domestic violence in their agendas, and their attempts to combat such violence were proving to be effective. The fact that reconciliation and mediation were still being practised in domestic violence cases was of some concern. Violence against women was a blatant violation of the Convention and could not be reconciled or mediated; it must be eradicated through preventive and protective measures, rehabilitation of the victim and effective punishment of the perpetrator.

46. More forceful action was needed to combat trafficking of women and to address the poverty and violence that led to prostitution.

47. The Dominican Republic was urged to monitor and assess the impact of its policies and to include the information in its next report. The statistical data contained in the fifth periodic report were insufficient; the delegation was requested to provide statistical data broken down by sex in the following report.

48. With respect to the question of equity versus equality, the Committee wished to reiterate that the Convention referred exclusively to equality between men and women. Equality in plans, programmes and measures was essential to send the right message to society and educate both the people implementing the plans and the general public.

49. **Ms. Henríquez de Sánchez Baret** (Dominican Republic) explained that the Dominican Civil and Penal Codes dated back to the

Napoleonic Codes and that modernization was a painstaking process. In its attempts to gather the information contained in the report, the delegation had consulted Dominican universities and had asked them to include a compulsory course entitled "Non-violent Resolution of Conflicts" in their curricula.

**The meeting rose at 5 p.m.**