



International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Eighty-second session

Summary record of the 2224th meeting

Held at the Palais Wilson, Geneva, on Monday, 25 February 2013, at 10 a.m.

Chairperson: Mr. Avtonomov

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The meeting was called to order at 10.10 a.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (continued)

Thirteenth and fourteenth periodic reports of the Dominican Republic (continued)
(CERD/C/DOM/13-14 and CERD/C/DOM/Q/13-14)

1. *At the invitation of the Chairperson, the delegation of the Dominican Republic took places at the Committee table.*
2. **Ms. Abreu de Polanco** (Dominican Republic) said that, in response to the judgement issued by the Inter-American Court of Human Rights on 8 September 2005 in the case of *The Yean and Bosico Children v. Dominican Republic*, in which the Court had asked the Dominican Republic to facilitate the late registration of births, the Central Electoral Board had greatly simplified the procedures for such late registrations. The Council had also made special arrangements allowing many Dominicans without birth certificates to obtain them without delay. In addition, mobile birth registration units had travelled throughout remote regions of the country to fill the gaps in registration. Nevertheless, the Dominican Republic had not yet implemented the Court's recommendation that it should publicly acknowledge its responsibility in the case in question. Negotiations in that regard were, however, under way.
3. The mission of the Inter-Agency Human Rights Commission, established in accordance with the Paris Principles, was to make recommendations to the Government on the ratification of international human rights instruments, with the active participation of civil society. It met every two months and held special sessions as necessary.
4. **Mr. Cabrera** (Dominican Republic) said that, after President Danilo Medina had taken office in 2012, the Dominican Republic had decided to allocate 4 per cent of its gross domestic product (GDP) to education. Thus, the share of the budget allocated to education had increased by 1.4 per cent between 2012 and 2013, which was a considerable increase compared with previous years and showed the Government's commitment to making education a central focus of its development policy. In that context, the Dominican Republic had set five major objectives. The first was to eliminate illiteracy, which still affected 850,000 people, by establishing a literacy plan to provide basic instruction to at least 500,000 people over two years and help them to reintegrate in society. The other major focuses of the education policy were improving teacher training, building classrooms, increasing the number of classroom hours per day and preventing school dropouts. In addition, the Government had set up programmes whereby families were required to send their children to school in exchange for cash allowances. All children, including foreign children, were allowed to enrol in school, even if they had no birth certificate. It was estimated that nearly 25,000 Dominican children and nearly 23,000 foreign children enrolled in school had not been registered at birth. In order to remedy that situation, the State had released US\$ 3 million to conduct a census of unregistered children and take the necessary steps to register them with the civil registry so that they could fully enjoy their rights.
5. **Mr. Taveras** (Dominican Republic) said that his Government had spared no effort in following up on the recommendations issued following the Committee's consideration of the previous report, and that it would soon establish an Office of the ombudsman, the budget for which had already been set aside. The situation in the Dominican Republic could not be understood without first placing it in its unique historical, cultural and geopolitical context and considering the country's distinctive features as compared with its neighbours. The Dominican population was the product of integrating slaves with descendants of colonists through marriage, which had resulted in a mixed-race society made up of people

who identified themselves as Creoles. The Dominican Republic disputed the claim that the social exclusion of certain population groups was due to racial intolerance and argued that poverty was the main factor leading to inequality. The socioeconomic disparities between Haiti and the Dominican Republic were due in part to the two countries' radically different colonial histories, but in any event there was no animosity between them, and the criticism levelled at the Dominican Republic was unjustified. That was evidenced by the fact that the Dominican Republic had shown unprecedented solidarity with the Haitian people after the 2010 earthquake by admitting those suffering from cholera into its hospitals and contributing financially to the rehabilitation efforts.

6. Approximately 15 per cent of the health budget was spent on Haitians coming for medical treatment in Dominican hospitals, where, moreover, many Haitian babies were born. In addition, the Dominican Republic accepted approximately 33,000 Haitian students in its public schools free of charge. It was wrong to say that the Dominican population was denying its African origins or attempting to evade Haitian cultural influence. On the contrary, it took special pride in its mixed heritage. With regard to allegations that the nationality of some Haitians had been revoked, he stressed that Dominican legislation on recognizing and granting nationality to foreign nationals fully complied with the standards of international and domestic law, and that his Government's position was backed up by an extensive body of case law. The *Modus Operandi* concluded between the Dominican Republic and Haiti in 1939 was a bilateral instrument governing the conditions for entry and residence in the territory of the two States and left it to their full discretion to define policies on the subject. In cooperation with the International Organization for Migration, the Government had regularized Haitian seasonal workers by issuing them identity cards, which enabled them to receive social security benefits.

7. Since the submission of the previous periodic report, considerable steps had been taken to improve the living conditions in *bateys* (farm workers' camps), which were now equipped with canteens, sports grounds and infirmaries. Seasonal migrant workers could travel freely around the country but could work only in the agricultural area for which they had been hired and which was specified on their residence permit.

8. The Dominican Republic was fully aware of its rights and duties in matters of nationality under both domestic and international law, but in its view it had the sovereign right to determine the criteria for granting and withdrawing Dominican nationality. It categorically rejected the allegation that it refused to issue birth certificates to children born to foreign parents in Dominican territory, which gave the false impression that Haitians were subjected to institutionalized racism. Nearly 2 million Haitians, or 20 per cent of the population, lived in the Dominican Republic, and if Haitians truly posed a danger to Dominicans then the two communities would not be living peacefully side by side.

9. He was not aware of any cases of Haitians being deported from the country because they carried the cholera virus, and he was therefore not in a position to answer questions on the subject. On the contrary, all persons at risk of infection had been admitted to and treated in Dominican hospitals, and the World Health Organization had hailed the success of the campaign to curb the epidemic through close cooperation between the Dominican and Haitian health services.

10. Since November 2011, the Directorate-General for Migration had managed to resolve many disputed asylum applications, and 389 pending cases should be settled in the coming months. All asylum seekers had been issued temporary identity documents and had been authorized to work while their cases were being dealt with.

11. The delegation welcomed the dialogue with the Committee but emphasized that information submitted to the Committee, whether by individuals, NGOs or institutions, should be openly debated. The Dominican Republic would consider all of the Committee's

recommendations but hoped that the Committee would take into account the country's culture and geography so as to better understand its specific immigration situation.

12. **The Chairperson** pointed out to the delegation that the Committee was neither a court nor a criminal investigation body, but rather a group of experts established by the States parties and invested with the authority to ask questions of those States' representatives, even if the questions sometimes made uncomfortable listening. The Committee's objective was to draft recommendations to assist the States parties in implementing the Convention, and certainly not to condemn them.

13. **Mr. Murillo Martínez** (Country Rapporteur for the Dominican Republic) said that in order to evaluate the prevailing situation in the Dominican Republic with regard to racial discrimination, the Committee must take into account greatly divergent information, provided by NGOs on the one hand and by the State party on the other. He urged the Dominican Republic to consider the situation objectively, giving due weight to similar information sent in by a great number of sources from outside the country. He pointed out that the head of the delegation had stated in the previous meeting that, according to data from the 2010 census, there were 371,000 Haitians living in the State party, while another member of the delegation had just mentioned a number between 1 and 2 million. That disparity in statistics required explanation.

14. **Mr. Diaconu** said that, while it was true that each State had the sovereign right to decide who met the criteria established for nationality and what mechanisms should be used for granting and withdrawing nationality, that right was not absolute to the extent that it must respect certain general principles, in particular the principles of non-discrimination and equality of rights. Article 1, paragraph 3, of the Convention recognized that fact by stating as follows: "Nothing in this Convention may be interpreted as affecting in any way the legal provisions of States Parties concerning nationality, citizenship or naturalization, provided that such provisions do not discriminate against any particular nationality." A State party's history and distinctive character could not be invoked to justify any discrimination in access to nationality.

15. The dialogue, while vibrant, had not led to a reconciliation of the differing views held by the Committee and the State party regarding the implementation of the Convention. The Dominican authorities cited the legal and legislative instruments established to combat discrimination but should perhaps be more concerned about how those instruments were implemented in practice. He did not believe it was possible that all the foreigners and migrant workers who had lived in the country and all the human rights treaty bodies that had considered the periodic reports of the Dominican Republic since 2008, namely the Committee on Economic, Social and Cultural Rights, the Human Rights Committee, the Committee on the Rights of the Child and the Committee on the Elimination of Discrimination against Women, all had a mistaken view of the situation there with regard to racial discrimination.

16. **Ms. Abreu de Polanco** (Dominican Republic) said that her Government would study the concluding observations on the Dominican Republic adopted by those treaty bodies and would submit its comments to the Committee in writing. The Dominican judicial authorities could not, by definition, prosecute acts of discrimination that had not been reported.

17. **Mr. Taveras** (Dominican Republic) explained that many Haitians avoided inclusion in censuses because, as most of them were in an irregular situation, they were afraid of being identified and deported. Statistics obtained through censuses were therefore unreliable, but the authorities were almost certain that there were between 1 and 2 million Haitians living in Dominican territory.

18. International and Dominican NGOs were waging a campaign of lies to give credence to the claim that the Dominican Republic practised segregation on the basis of nationality. That being said, the Dominican Republic did not shy away from recognizing that the situation of Haitian migrant workers could be further improved. His country was grateful to the Committee for pointing out areas where progress was needed, but it could not tolerate a distortion of reality intended to damage its image.

19. **Mr. Calí Tzay** said that, in order to provide a better understanding of the facts, the delegation might wish to indicate which were the poorest population groups in the Dominican Republic. He was concerned at the State party's assertion that racial discrimination did not exist there, because no country in the world was completely free of all forms of discrimination against minority groups. More specific information on the date of entry into force of the new regulations governing identity documents would also be welcome.

20. **Mr. Amir** said that the Committee would have been able to gain a clearer picture of the situation of Haitians in economic, social, poverty or employment terms if the report under consideration had included statistical tables. He wished to know more about the policy of regularizing the hundreds of thousands of undocumented Haitians, who lived in poverty and insecurity in the Dominican Republic.

21. **Mr. de Gouttes**, referring to article 4 of the Convention, asked what acts were criminalized under articles 336, 336-1 and 337 of the Criminal Code cited in paragraphs 26 and 27 of the report.

22. **Mr. Vázquez** pointed out that international human rights law required States to give consideration to human rights during procedures for granting nationality, and said that the Committee was concerned at the retroactive application of provisions on nationality, which effectively revoked the Dominican nationality acquired by some individuals. The delegation might wish to comment on that matter.

23. Based on reliable sources that complained of discrimination on grounds of skin colour in access to nightclubs and to employment, he wished to know if persons who believed they had been victims of racial discrimination had access to legal remedies. In the Committee's view, the absence of complaints did not signify an absence of discrimination; on the contrary, it might reflect a lack of faith in the judicial system or a lack of awareness of remedies.

24. **Mr. Saidou**, referring to paragraph 34 of the report under consideration, asked if the ruling on the inapplicability of article 16 of the Civil Code should be understood to mean that the article had been repealed. He also wished to know who carried the burden of proof in cases of discrimination in the Dominican Republic.

25. **Mr. Vargas Francisco** (Dominican Republic) said that he did not understand the charges of racial discrimination levelled against his country, given that almost all Dominican heroes were black and that skin colour was irrelevant. In addition, almost all (90 per cent) of construction workers were Haitians and they were recognized for their professional skills, as were many motorcycle-taxi drivers. Isolated discriminatory acts might take place, for example at entrances to nightclubs, but that did not mean they were commonplace. The Government did not pursue any policy of discrimination against any group of people, and if it became aware that racially discriminatory acts had been committed in its territory it would ensure that the perpetrators were prosecuted and received exemplary punishment. The new Constitution of 2012 also enshrined the principle of equality for all individuals, irrespective of their religion or skin colour.

26. Persons in an irregular situation and their children could not acquire Dominican nationality. At the same time, persons of Haitian origin who had been living in the

Dominican Republic for many years would not become stateless persons, because the Constitution of their country of origin granted them Haitian nationality. It was possible that the Central Election Board had rejected applications for regularization on the grounds that documents had been falsified.

27. **Ms. García** (Dominican Republic) said that, thanks to two surveys recently undertaken with support from the United Nations, a “hunger map” and a “poverty map” had been created and had served as guidelines for the development of social programmes. Those surveys had revealed that 46 per cent of the country’s population was living in poverty.

28. **Ms. Abreu de Polanco** (Dominican Republic) said that the Central Election Board had been keeping a register of foreigners (*libro de extranjería*) for the past five years, in which it recorded viable live births of children to non-nationals.

29. **Mr. Taveras** (Dominican Republic) assured the Committee that the delegation would later submit statistical data that would provide a clearer picture of the situation in the Dominican Republic.

30. With regard to criminalization of the acts referred to in article 4 of the Convention, he read aloud footnote 26 of the report under consideration, specifying that all elements of such offences would be covered by the new Criminal Code.

31. The Dominican Republic had never carried out mass expulsions of foreigners. Moreover, doing so would be very difficult from a logistical point of view, given that the Government had a total of only four buses available for deportations to the border.

32. Remedies in criminal law were available to persons who believed that they were victims of discrimination. To make their voices heard, those persons could also lodge a complaint before the Ombudsman, who would then forward it to the public prosecutor’s office.

33. In the Dominican Republic, the Supreme Court could declare legal provisions “unconstitutional” without repealing the corresponding law. Such was the case for article 16 of the Civil Code, which impeded foreigners’ access to justice.

34. **Mr. Murillo Martínez** (Country Rapporteur for the Dominican Republic) said that, during the consideration of the previous periodic report he had stated that the international community should take measures to alleviate the migration problems facing the State party, and that the responsibility for doing so should be shared with the economic powers that, for historical reasons, should facilitate the political, social and economic reconstruction of Haiti. His views on the issue had not changed; however, he believed that the State party must, as a matter of urgency, regularize all Haitians born in Dominican territory to Haitian parents, who had never acquired Dominican nationality. He urged the State party to take an introspective look at the situation, which would enable it to move forward and engage in a more constructive dialogue with the Committee.

35. **Ms. Abreu de Polanco** (Dominican Republic) said that she welcomed the frank dialogue held with the Committee. She assured the Committee members that the Government would take a closer look at the issue of regularizing persons born to Haitian parents in the Dominican Republic.

The meeting rose at 1.05 p.m.