



# International Covenant on Civil and Political Rights

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## Human Rights Committee Seventy-first session

### Summary record of the 1907th meeting

Held at Headquarters, New York, on Friday, 23 March 2001 at 3 p.m.

*Chairperson:* Mr. Bhagwati

## Contents

Consideration of reports submitted by States parties under article 40 of the Covenant  
(*continued*)

*Third and fourth periodic reports of the Dominican Republic (continued)*

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01-30391 (E)

**\*0130391\***

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

**Consideration of reports submitted by States parties under article 40 of the Covenant** (*continued*)

*Third and fourth periodic reports of the Dominican Republic (continued) (CCPR/C/DOM/99/3 and CCPR/C/71/L/DOM)*

*List of issues (continued) (CCPR/C/71/L/DOM)*

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

2. **The Chairman** invited the members of the Committee to resume consideration of the delegation's answers to the questions regarding the issues relating to articles 7, 9, 10 and 14.

3. **Mr. Henkin** associated himself with the concerns expressed by previous speakers and wondered what measures had been taken to ensure that the provisions of the Covenant were fully implemented within the State party's legal system. He also requested more information on the length of trials and the current size of the prison population and the offences committed by the prisoners and, in that context, asked whether there was a public defender system and how legal aid was provided. He was also concerned about the role of the police and the military and wondered whether they, in particular the military, exerted too much influence on the civil and political life of the country.

4. Noting the repeated expulsion of individuals from the Dominican Republic, be they Haitians or others, he wondered what the expulsion procedure was and on what grounds an individual could be deported. In cases of refoulement, the host State had an obligation to ensure that any person repatriated would not be subject to torture in his home country and was also obliged to follow up the status of any person expelled or extradited to ensure that they were not subject to any improper treatment.

5. **Sir Nigel Rodley** expressed regret that the current report provided little new information and, like the previous report eight years before, was woefully insufficient and incomplete. He stressed that a report should advance the dialogue between the Committee and the State party so that the Committee could make a constructive contribution, yet the current report

virtually ignored the State party's previous dialogues with the Committee.

6. With regard to the special system of justice for the police and military, the reference to the change of premises used for that purpose was a rather derisory response to international concerns. It was important to know what the Government's attitude was with regard to that institutional anomaly. Although police officers had been convicted under their separate justice system for offences, including shootings, it was normal for such an institution to at times have to discipline its members. However, in cases where criminal behaviour might have had the approval of the institution, it was essential to ensure that prosecution, conviction and sentencing were appropriate to the crime.

7. There were signs of possible progress with regard to articles 7 and 10. In June 2000 the commission in support of judicial reform had raised the issue of ill-treatment of adolescents by the police and the military. The prosecutor had requested that the police personnel implicated be suspended during the inquiry, but that had not been done. The reporting State should indicate what the current status of that investigation was. In May 2000, the police court had investigated the beating of 12 prisoners in Santiago and the Chief of Police had announced the formation of a commission to investigate claims of ill-treatment of pre-trial detainees. He wondered what the outcome of those initiatives had been.

8. Although a special institution had been created for youth offenders, his information showed that it was being occupied by adult detainees, and youth offenders continued to be held in inappropriate conditions, confined for months at a time indoors and without adequate supervision or any programmes for health and rehabilitation. Also in the context of prison reform, he expressed concern that prisons were apparently staffed by police and military personnel, who received no specialized training appropriate to their role as prison guards, and he asked what was being done to rectify that situation.

9. **Mr. Vella** echoed other Committee members' comments about the unsatisfactory nature of the State party's report, which did not provide enough factual information for them to carry out their work properly. He expressed alarm at the number of police shootings in a relatively short time and wondered why the police were not tried by the regular courts, rather than by

special police courts. With regard to the latter, the reporting State should provide information about their composition, the basis on which their members were appointed, the procedures that they followed and effective guarantees to ensure that they were truly impartial and independent. He stressed that even when a police officer killed a person in the performance of his duty, he should be tried before the regular courts, in the interests of independence, impartiality and transparency and hoped that the State party would take into account the Committee's views on that issue.

10. **Mr. García Lara** (Dominican Republic), referring to the incident in which a police officer was killed apprehending four criminals, who later died, said that the officers implicated in their deaths had been tried by the police court of first instance and sentenced to two years in prison. However, upon appeal, again before a police court, they had been acquitted on the basis of legitimate self-defence. The Procurator-General, however, had appealed that decision to the Supreme Court on the grounds that legitimate self-defence had not been proved; and the case was currently before the Supreme Court. With regard to the case involving the killing of a number of Haitians by members of the armed forces, he said that the officers involved were currently being tried by a mixed police/military tribunal.

11. He noted the concerns raised by the Committee with regard to the existence of a separate judicial system for the police and military, a point which had also been raised by jurists and non-governmental organizations in the Dominican Republic, who had asked the Supreme Court to declare those special courts unconstitutional. That matter was still before the Supreme Court. He stressed, however, that the military code of justice and the police and military tribunals had been established by law and in accordance with the Constitution and had jurisdiction in cases involving members of the police or the military accused of criminal offences. Special courts also existed in other areas, such as traffic, land registry and cases involving minors.

12. **Sir Nigel Rodley**, in order to clarify the concerns expressed by the Committee, said that what the Committee was interested in was not a legal analysis of the State party's laws and Constitution as a possible justification for the existence of special courts for the police and military, but rather an analysis of the social and political need for such courts.

13. **Mr. García Lara** (Dominican Republic) said that the police and military tribunals had also been criticized because their members were appointed by the executive and not by the Supreme Court, but once again stressed that the appointment of members to such courts was done in accordance with the law. It was not a privilege or special treatment for the police and the military to be tried in special courts since it was only natural that they be tried by their peers, who were not only jurists but also had first-hand experience with crime and criminals. Members of the police and the military were not ordinary citizens, they had to give up many freedoms, such as the right to travel, the rights to freedom of speech and political opinion and others in order to serve their country and had to be ready to give their lives in order to protect their country and its citizens from criminals, who were in fact often the greatest threat to the freedoms of ordinary citizens.

14. It was outrageous to suggest that the police and military should be subjected to the humiliation of being judged in the regular courts like common criminals. Efforts to try to transform the police into some sort of ideal body ran the risk of crippling its effectiveness and leaving society defenceless. Furthermore, he did not agree that the sentences handed down by police and that military tribunals tended to be less severe; there had been many cases of long sentences. The police in the Dominican Republic were formally civilian and were under the responsibility of the Secretary of State for the Interior and the Police. However, until recently, the police had been the responsibility of the Secretary of State for the Armed Forces and therefore still had a military type of structure and discipline. Nevertheless, a reform designed to redefine the status of the police was being considered.

15. **Ms. Abreu de Polanco** (Dominican Republic), in response to a question raised with regard to the third report of the Dominican Republic, said that decree No. 223 (91) had been annulled.

16. **Mr. Cadena Moquete** (Dominican Republic) said that there were currently 31 prisons in the Dominican Republic, as the San Cristóbal prison had been destroyed by an explosion the previous year. As at 16 March 2001, approximately 15,300 persons were confined in those prisons, 63 per cent of them were in pre-trial detention and 37 per cent had been convicted. Pre-trial detention was ordered for individuals who had been accused of serious crimes. It had no specific duration, as it continued until a final judgement was

delivered and included the two stages of the criminal procedure: the investigation stage, which could take about two months, and then the trial stage, the length of which depended on the complexity of the case. The second stage could be prolonged if there was an appeal, because the final judgement was considered to be the one resulting from the appeal.

17. The excessive number of prisoners in pre-trial detention was also explained by the heavy caseload and the inadequate number of courts. However, Act No. 50 had recently come into force and, in order to accelerate the administration of justice and reduce the number of prisoners, it had doubled the number of criminal courts in several judicial departments. The number of trial courts and appeal courts was also being increased, and the Supreme Court was currently in the process of selecting the judges for the new courts.

18. Some progress had been made in reducing the number of prisoners in pre-trial detention. In 1997, 81 per cent of prisoners had been in pre-trial detention, and 19 per cent had been convicted; currently, the breakdown was 73 per cent and 27 per cent respectively. Various measures had been taken to improve prison conditions, including: the provision of increased resources for transporting prisoners between the prisons and the courts promptly and in an appropriate manner; improving health conditions through the provision of medical services and medicines; and better registration of prisoners, soon to be computerized, with all relevant personal information and records.

19. Lastly, the Government had used its powers under the Constitution to pardon more than 500 prisoners, and prison capacity was being increased in order to end overcrowding. Efforts had also been made to separate prisoners according to sex and age. There were two prisons solely for minors, one in San Pedro de Macoris and the Children's Prison in San Cristóbal. Although women prisoners were held in mixed institutions, they were now kept totally separate at all times.

20. The country was also endeavouring to make changes in prison management by providing specific training to civilian personnel, so that they could replace the police and members of the armed forces in the administration of the prisons and the care of prisoners. Torture had generally been eliminated from prisons and police stations, where, at times, it had been used during investigations. A civilian lawyer, member

of the Public Prosecutor's Office (Ministerio Publico), was now on duty in each major police station on a 24-hour basis. No one could be arrested for more than 48 hours without being taken before a judge to have charges brought against him.

21. For many years, the Committee had expressed its concern about the State's investigation into the assassination of the journalist, Orlando Martínez. Two years previously, the alleged perpetrators had been arrested, tried and convicted, and had received the most severe sentences. However, the sentences were now being appealed. With regard to Narciso González, there had been an investigation into those suspected of being involved in his assassination, including prominent members of the police and the army. Two people had been arrested, but had been freed following a petition for habeas corpus, since the judge had decided that there was insufficient evidence against them. Obviously, the State bore no responsibility for decisions by the judiciary, in the view of the principle of the separation of powers.

22. **Mr. Castaños Guzmán** (Dominican Republic) said that, in the Dominican Republic, the Covenant could not be overruled by a law, because it was an international treaty. The Constitution was the highest-ranking law in the country, followed by international treaties, domestic legislation and, lastly, decrees and regulations. The Covenant could not be considered unconstitutional since many of its provisions had been included in article 8 of the Constitution. There was concern as to whether the rights of foreigners were equal to those of nationals of the Dominican Republic. Article 11 of the Civil Code established that all foreigners had equal rights while they were in the Dominican Republic, and article 13 provided that all foreigners who had been granted permission to reside in the country enjoyed the same civil rights as nationals. With regard to the applicability of the Covenant, in the specific case of Dr. Ramón Martínez P., the recommendations of the Committee had been fully implemented.

*Protection of children (article 4) of the Covenant*

23. **The Chairperson** read out the questions relating to article 24: information on the situation of street children, in particular, the commercial sexual exploitation of children and measures to protect them; the de facto and *de jure* situation of children of Haitian immigrants born in the Dominican Republic.

24. **Mr. Cadena Moquete** (Dominican Republic) said that Act No. 14 had established the courts for children and adolescents, with jurisdiction to hear any case involving harm against minors; the courts were now fully operative in the principle judicial districts. He had no statistics readily available, but several men had already been tried and given heavy sentences by those courts. For example, the previous week, a man had been sentenced to 20 years for raping a 12-year old girl. The Attorney General's Office frequently conducted police raids in tourist centres to determine whether minors were being sexually exploited. Several foreigners who had operated centres where minors were employed had been convicted and, once they had served their sentences, they had been deported under Law No. 91 on immigration.

25. **Mr. Castaños Guzmán** (Dominican Republic) said that, according to article 11 of the Constitution, all children born in the Dominican Republic were granted Dominican nationality, unless their parents were in transit in the country at the time of birth. Article 93 of the 1995 law on immigration defined foreigners as: visitors, those in transit, those temporarily in the country by reason of employment, and temporary workers and their families.

26. The Dominican Republic and Haiti had formal agreements regarding the terms under which "day labourers" (brazeros) and agricultural workers were engaged. However, the river which formed the frontier between the two countries could be crossed on foot, and many Haitians entered the country illegally on either a temporary or permanent basis. Therefore, some Haitians resided legally in the Dominican Republic — legal Haitian immigrants — and, in principle, their children were granted Dominican nationality in accordance with *jus soli*. However, in the case of those who were in transit or illegally in the country, their children would not qualify for Dominican nationality, but would evidently have Haitian nationality, because article 11 of the Haitian Constitution established that any child born of Haitian parents had Haitian nationality. The system of registering births had recently been improved, and now the parents had to present their passports or identity cards when registering a child's birth.

*Freedom of movement, guarantees of due process in cases of expulsion, prohibition of discrimination (articles 12, 13 and 26 of the Covenant)*

27. **The Chairperson** read out the questions relating to articles 12, 13 and 26: measures taken since the previous report with regard to the degrading living and working conditions of Haitian labourers and end toleration of restrictions on their freedom of movement; official or estimated figures on the number of Haitian workers currently in the country and on the percentage with identity documents, and measures taken to regularize the status of undocumented Haitian workers; information on collective expulsions and steps taken to end or prevent them; regulations governing the expulsion of aliens and Haitians in particular, and the compatibility of the regulations with the Covenant.

28. **Mr. Nuñez Vargas** (Dominican Republic) said that the Department of Immigration estimated that there were some 340,000 Haitians in the country, ranging from simple day workers to legal residents. Thirty-five per cent of them had identification papers that allowed normal freedom of movement. The Bureau of Haitian Affairs, seeking to regularize the status of the remainder, had issued 1,600 six-month visas and a variety of other, more permanent, papers to about 40,000 other Haitians. It was therefore clear that the Dominican Republic was a country open to all nationalities without discrimination.

29. Regarding collective expulsions, which the Department of Immigration would term repatriation of illegal immigrants, the law governing them, regardless of nationality, was Migration Regulation No. 278. Those who had been expelled to their home countries were undocumented aliens wandering in bands throughout the country as beggars. Aliens who worked, even in the informal sector, were given an opportunity to regularize their status. Others, like migrant workers on contracts, received special facilities, six-month visas, and temporary identification papers. The expulsion of aliens was governed by the legal provisions indicated in the report (paras. 84 and 85).

30. The best outline of the action that the Government planned to take to establish more humane conditions in the sugar plantations and their outlying communities was to be found in a speech by the new President on 5 February 2001. In it he had pledged to build low-cost housing as needed, provide recreation

centres and the like and improve health care, schooling, and electrical, water and transport facilities and other basic services. The sugar plantation workers, many of them Dominican as well as Haitian, formed the poorest segment of the society, and the President had announced an anti-poverty plan aimed at them, in which, in coordination with community organizations, churches and other public institutions, priority would be given to the environment, health care and family nutrition.

31. There would also be a Government effort to ensure compliance with labour laws and immigration and naturalization laws. The National Sugar Council, moreover, had announced economic and social infrastructure projects to develop the sector. All those actions should have an immediate impact on the lives of the poorest in the Dominican Republic. The Migration Regulations were compatible with the Covenant and they applied to all immigrants — whether documented or not — who violated the laws. No alien living within the provisions of the law would be expelled.

#### *Dissemination of the Covenant*

32. **The Chairperson** read out the questions relating to the dissemination of the Covenant: any education and training programmes on the Covenant offered to public officials, especially judges, lawyers and members of the police force; steps taken to publicize the periodic reports and their consideration by the Committee and in particular the Committee's concluding observations.

33. **Ms. Abreu de Polanco** (Dominican Republic) said that the National Board of the Judiciary had established the National School of the Judiciary, which taught human rights standards in all its courses. The Human Rights Institute of the Armed Forces, established in August 2000, provided training to all members of the armed forces and the police. In addition, the Ministry of Foreign Affairs had published a comprehensive volume containing the texts of all regional and international human rights instruments and of national human rights legislation, which had been distributed to all schools and universities in the country as a way of promoting an awareness of human rights.

34. The Government was working with the United Nations Development Programme (UNDP) and the

United Nations Educational, Scientific and Cultural Organization (UNESCO) on field projects to promote and protect human rights. The many non-governmental organizations active in the field were encouraged. The Government had welcomed visits from representatives of human rights treaty bodies and in 2000 had, under the aegis of the Office of the United Nations High Commissioner for Human Rights, held a seminar on how to prepare periodic reports, which had been attended by the officials concerned and by many non-governmental organizations. She could therefore assure the Committee that the next report would be well done. The make-up of the delegation was indicative of the fact that the various government bodies were working together, as they did also with non-governmental organizations, to publicize the periodic reports.

35. **Ms. Chanet**, saying that she was doubly disappointed by the slightness of the report and the Government's complete disregard of the Committee's concluding observations on the previous report, observed that it was not clear how well the new constitutional provisions on police custody were being applied or in what instances they could be applied. There seemed to be a gap between the guarantees and the remedies actually available. In any case, articles 8 and following of the Constitution were not in full compliance with the Covenant.

36. The report gave very little space to the very serious issue of the situation of Haitians in the Dominican Republic, which actually seemed to have worsened recently and which involved violations of many articles of the Covenant, including article 8 prohibiting forced labour and article 16 regarding the right to recognition as a person. There were allegations that Haitians were being forcibly recruited, even kidnapped, by militias to work in the sugar fields, where the conditions of labour were deplorable. The figure cited by the delegation — 340,000 — possibly represented only half the actual number of Haitians in the Dominican Republic.

37. Reports indicated that only 5 per cent of the Haitians had a legal identity; and it was not clear if the 1990 decree allowing their status to be regularized was being applied. Most remained vulnerable to expulsion; and, indeed, it seemed that the Government practised mass expulsion of Haitians, most recently in a country-wide sweep in December 2000, during which several thousands were unlawfully repatriated. She would like clarification of the expulsion procedures: which

authorities administered them, how decisions were taken, what recourse was available and how often remedies had been sought, and how many Haitians had been expelled the previous year.

38. **Mr. Scheinin** asked, regarding the approximately 250,000 Haitians registered as aliens (report, para. 8), whether that figure encompassed both non-citizens and naturalized citizens, and how many there were of the latter. The Government claimed (report, para. 110) that there were no ethnic, religious or linguistic minorities, yet surely the Haitians were a linguistic and ethnic minority and perhaps even two separate minorities composed of citizens and non-citizens. The Government also claimed that there was no discrimination of any kind in the Dominican Republic. He would appreciate some comment on the serious allegations of discrimination against Haitians on the grounds of ethnicity and colour, and the allegations that Haitians were deported simply on the basis of colour. Did the Government deny that collective expulsions had occurred?

39. Article 13 of the Covenant laid down the ground rules for lawful expulsions, including, *inter alia*, rulings by two independent authorities, with the intervening possibility of recourse. He would like to know if the Dominican Republic was following that procedure, or whether it was simply rounding up Haitians and sending them across the border, which would constitute collective expulsion. Also, could the Government assure the Committee that naturalized citizens did not risk deportation to Haiti? Regarding the protection of Haitian children born in the Dominican Republic, it would be interesting to know whether there was any limit on how long non-citizens could be deemed to be in transit in the country, and whether there were any adults who had lived there their whole lives but were still deemed to be non-citizens because their parents or even grandparents had been in transit.

40. **Ms. Medina Quiroga** said that clearer information should be provided about detention and the use of habeas corpus (report, para. 78). More information was also required on the situation of minors generally, and especially of street children. A reference had been made to the Code on Minors, but no relevant provisions had been cited. She too wondered about the status of non-resident aliens, and whether that status could be handed on from generation to generation; and whether the children of such persons

received health care and education. She endorsed Ms. Chanet's comments regarding expulsion, noting that the excerpts just read out from the President's speech had pledged an effort to enforce the laws, especially the labour laws, which presumably meant that they were not now being enforced.

41. Observing that freedom of expression included the right to information from official sources, apparently very difficult to obtain in the Dominican Republic, she asked for clarification of the rules governing access to such data, especially with regard to Police Court trials and trials of public officials. Also, it would be interesting to know if it was a crime under the law to slander or insult a public official. The Committee had just been told that the police had no freedom of religion and did not have the right to vote, both of which constituted absolute violations of the Covenant; yet neither justified the creation of Police Courts. A further explanation of why they had been set up would be useful.

42. **Mr. Yalden** said that he had heard no answers to his own questions at the previous meeting about the Ombudsman, the status of women in the Dominican Republic, or the independent monitoring agencies supervising the activities of the police and public officials. The figures from the delegation and from outside sources regarding the number of Haitians in the Dominican Republic varied greatly, ranging from 250,000 to millions. However many there were, he could not accept the report's contention that there was no discrimination in the country: there was ample evidence that article 26 of the Covenant was being violated, in view of the poor living conditions and the expulsions of Haitians and the restrictions on their freedom of movement. He also could not accept that there were no minorities in the Dominican Republic, as the term was used in article 27 of the Covenant and in the Committee's general comment 23, paragraphs 4 and 5. The Haitians were indeed a minority, and the Dominican Republic was violating article 27 in its treatment of them.

43. **Mr. Ando**, referring to child labour, asked the delegation to reconcile the statement in paragraph 106 of the report that children under the age of 14 were prohibited from working with the reference in paragraph 7 to an economically active population aged 10 or over. Also, since the Labour Code forbade night work by minors (report, para. 106), it meant that such work was done by adults, and he would appreciate

information on how their working conditions were regulated and on what the maximum work week was. Furthermore, it was not clear why article 230 of the Labour Code would prohibit minors from working as messengers.

44. Regarding trade union rights, he wondered if the constitutional guarantee of an unrestricted right to form labour organizations applied also to the Haitians working in the sugar plantations, and how many of them were union members; and if there was a farmers' union. He would appreciate more information on the Government's trade union policies in general, and a specific comment on two recent incidents in which the leader of a teachers' union in his village and a group of nurses demonstrating peacefully in hospitals for improved working conditions had been shot dead by the police.

45. **Sir Nigel Rodley** said that, notwithstanding the earlier outburst, the Committee was concerned with the human rights of all people everywhere, including police officers. Statements had been made suggesting that police officers did not have freedom of conscience and belief; further details should be provided.

46. **Ms. Abreu de Polanco** (Dominican Republic) said that the Haitian repatriation procedure consisted of three phases, namely, detention and identification, investigation and screening, and verification and confirmation. In the final phase, verification was conducted at the border to ensure that persons about to be repatriated did not have the legal right to remain in the country. Haitian consulates participated in the process by verifying whether such persons were in fact Haitian nationals. Non-governmental organizations were also invited to participate to ensure that the repatriation procedure was carried out in a transparent manner. Thus, there was no risk of denial of due process or human rights violations.

47. The Inter-American Court of Human Rights had held a preliminary hearing at which it had considered a complaint against her Government involving mass deportations. The Court had taken preventive measures in the case of five Haitians, whom her Government had agreed not to repatriate. It was providing the Court with periodic updates on their status.

48. Her country, like all States which shared a border with a less economically developed neighbour, was experiencing migration pressures. Hundreds of Haitians were attempting to enter the country illegally,

with disastrous results. For many years her Government had, for humanitarian reasons, allowed an untold number of Haitians to occupy most of the jobs in the informal sector. Her Government was endeavouring to promote economic development in the border areas so as to reduce the number of Haitians crossing the border.

49. An agreement had been signed between the immigration authorities of the two countries. Her Government had undertaken not to conduct repatriation between 6 p.m. and 6 a.m., to avoid separating nuclear families, and to carry out repatriation at specified border crossing points. It had also agreed to make every effort to ensure that persons being repatriated had their personal effects with them and to give them a copy of the deportation order. For its part, the Haitian Government had agreed to set up checkpoints along the frontier and to strengthen inspections in the border areas. The Haitian Government had also recognized the importance of its nationals being provided with proper identity documents.

50. **Mr. Nuñez Vargas** (Dominican Republic) said that a large number of Haitians were in the country on temporary work permits. The permits could be extended on request for an additional six months. Haitians had freedom of movement throughout his country. They received the same benefits as Dominicans. There were French-speaking primary and secondary schools that were attended mostly by the children of Haitian immigrants, including the undocumented. There was no discrimination on the basis of race or any other grounds. Haitians who were legal residents could marry Dominican citizens and participate in the life of the country on an equal basis.

51. It was not just Haitians who lived in precarious circumstances. Many Dominicans did so also, because the country's gross domestic product was not sufficient to provide for their needs. Most of the Haitians who lived in the sugar mill camps saved their money. They left the camps only to return to Haiti on visits.

52. **Ms. Abreu de Polanco** (Dominican Republic) said that her delegation was in possession of a document stating that Haiti recognized that the Dominican Republic was taking steps to improve conditions. In fact, her Government was doing so for all undocumented aliens, not just Haitians. With regard to Mr. Ando's question concerning child labour, the regional director of the International Labour



Organization had recently visited her country and had paid tribute to the Dominican programme to eradicate child labour, describing it as a model to be emulated. Her Government paid a monthly stipend to parents in return for taking their children out of the workplace and sending them to school. The results of the programme had been highly beneficial. As to the question concerning women and the Ombudsman's office, she said that, in view of the time constraints, her delegation would send its reply in writing.

53. **Mr. García Lara** (Dominican Republic), replying to a question concerning free access to information in the police courts, said that Act No. 285 provided that hearings in police courts should be oral and public and should afford the opportunity for cross-examination. What was not permitted in the police courts was to bring a criminal indemnity action. In his opinion, the police courts should be reformed, but not dismantled. Justification for that position would be submitted to the Committee in due course.

54. The prohibition on voting by members of the armed forces and national police was in accordance with articles 14 and 15 of the Constitution. With regard to religious freedom, the police force was an organ of the political system. Political systems had an ideological basis. A member of a political system could not espouse views at odds with those of the system itself. While police officers had certain specific rights, they did not include freedom of association or collective bargaining rights.

55. **Ms. Abreu de Polanco** (Dominican Republic) said that there was a right to criticize public officials.

56. **Mr. Scheinin** asked whether the delegation was aware of the allegations that, when the immigration authorities rounded up Haitians, allegedly on racial grounds, they tended to destroy any documentation carried by such persons. If the members of the delegation had not heard that allegation, he would refer them to the relevant sources. It would be useful to learn whether the delegation would convey that information to the competent authorities.

57. **Ms. Medina Quiroga** said that she had received no reply as to how long Haitians retained immigrant status and whether that status was passed on to their children and grandchildren.

58. **Ms. Abreu de Polanco** (Dominican Republic) said that identity checks were conducted when persons were first detained, not only at the border.

59. **Mr. Castaños Guzmán** (Dominican Republic) said that it was necessary to distinguish among three groups of Haitians in his country. Some were agricultural labourers on temporary work contracts; it was expected that they would return to Haiti when the job was finished. Others were legal immigrants who could apply for permanent residence. Others, however — probably the majority, although that could not be stated with certainty because the most recent census figures were from 1993 — could only be called illegal immigrants, because they were violating rules of public order and public safety.

60. The Committee needed to examine the historical factors underlying the relationship between his country and Haiti. While other Spanish-speaking countries of Latin America had gained independence from Spain, his country had been invaded by Haiti in 1822 and occupied for 22 years. Dominican national identity had been forged through a political movement whose objective had been to separate from Haiti.

61. His Government was concerned about second-generation Haitians, children of immigrants who had not been able to regularize their status. That issue would be examined in the context of the next census. A survey had been conducted which showed that a large number of Haitian women gave birth in Dominican hospitals, taking advantage of free medical care. However, since they often lacked documentation, the births could not be registered.

62. The Government recognized that it was dealing with problems that had no easy solutions. However, in accordance with article 1 of the Covenant, his country had the right to self-determination and sovereignty. As one of the poorest countries in the world, the Dominican Republic could not assume the full burden of Haiti's problems. Dominicans wished to help their Haitian brothers and sisters, but they could not do so without support from the international community.

63. **Mr. Klein** said that Mr. García Lara's reference to the constitutional provisions regarding the rights of civil servants showed that there was an underlying misunderstanding as to the purpose of the reporting exercise. A provision might well be in conformity with domestic law, but what mattered was whether or not it was in conformity with the Covenant.

64. **The Chairperson**, summarizing the discussion, said that the Committee welcomed the opportunity to resume its dialogue with the Government. The submission of the fourth report was evidence of the Government's commitment to promote and protect human rights. Nevertheless, the report was inadequate and unsatisfactory. It merely set out legal provisions, and did so incompletely, while remaining silent as to the situation of human rights in practice. The Committee's guidelines stated clearly that what was required was information on how human rights were actually implemented. The Committee's work would have been greatly facilitated, had the delegation incorporated the information which it had provided in its oral replies into the report.

65. Materials made available to the Committee from other sources raised a number of serious concerns. Most had been expressed by the Committee in its concluding observations on the third report. Yet the concerns persisted, unattended. For instance, with regard to the police courts, the Committee had stated that all necessary steps should be taken to ensure that members of the armed forces and police who were accused of human rights violations should be tried in independent ordinary courts. Any justification for the continuation of police courts should have been set out in the report.

66. He requested the delegation to send to the Committee, by the middle of the following week, detailed replies to all the unanswered questions raised during the debate. That would enable the Committee to finalize its concluding observations, which would be sent to the Government. He trusted that the Government's next report would be fuller and in compliance with the guidelines. The point was not to criticize but to improve the human rights situation.

67. **Ms. Abreu de Polanco** (Dominican Republic) apologized for the shortcomings of the fourth report. Her Government sincerely desired to overcome the obstacles to full implementation of the Covenant and to move the country in the direction of a law-governed State.

*The meeting rose at 6.05 p.m.*