



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Seventy-second session

SUMMARY RECORD OF THE 1864th MEETING

Held at the Palais Wilson, Geneva,
on Friday, 29 February 2008, at 10 a.m.

Chairperson: Ms. DAH

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The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Ninth to twelfth periodic reports of the Dominican Republic (continued)

1. At the invitation of the Chairperson, the members of the delegation of the Dominican Republic resumed their places at the Committee table.
2. Mr. NEWTON GUILLIANI (Dominican Republic), replying to a number of questions about nationality, citizenship and the constitutionality of legislation, said that his country did not indiscriminately grant citizenship to all persons born on its national territory, but based its action on a combination of *jus soli* and *jus sanguinis*, as was clear from the Constitution and all case law and legislation. The Migration Act (No. 285-04), which was based on article 11 of the Constitution, had been the subject of an action of unconstitutionality, but in a decision of 14 December 2005, the Supreme Court of Justice had held that the Act was constitutional. The Court had recalled that under article 37 (9) of the Constitution, Congress had the authority to establish all Dominican legislation on migration. The State was therefore obliged to enforce the Act. As to the pink birth declarations, he said that the different colour was simply an administrative procedure under Act No. 285-04, and in no way constituted racial discrimination.
3. Mr. CASTILLO (Dominican Republic), in response to the comment about a siege mentality in his country, recalled that it shared its single land border with Haiti, which had been suffering from a political crisis for over 20 years. Haitian human development indexes, including its unemployment rate, were worse than anywhere else in the continent, and its government apparatus was very weak. Influential and powerful countries such as the United States of America, France and the United Kingdom were not prepared to accommodate the Haitian migration flows despite having the capacity to do so, and would not commit to sending people to Haiti to help it recover.
4. There was great concern in the Dominican Congress that if the international community did not make a sustained commitment to aiding reconstruction in Haiti, the problem of Haitian migration would create even greater problems for the Dominican Republic. His country had its own institutional weaknesses and, like all developing countries, had limited resources and a high level of poverty. Adopting migration policies often involved sacrificing the poorest people in the Dominican Republic. Stability and prosperity in Haiti were therefore vital and the Dominican Republic was prepared to continue cooperating with the international community on the matter. His was an open and generous country, but it would not and could not accept a purely Dominican solution to Haiti's problems. Some sectors did not accept decisions by Congress and the Supreme Court of Justice, despite the importance of respecting the country's right to determine its own policies on migration and nationality. It was to be hoped that, with the help of the international community, a formula could be found that was fair for both peoples, respecting the identity of Haiti and the right of the Dominican Republic to its own development. However, he expressed regret that there had been a lack of communication between Congress and human rights organizations. The problem of migrants in the Dominican Republic must be seen as stemming from the major problem of the crisis in Haiti.

5. Ms. MERCEDES (Dominican Republic), responding to questions on labour and recalling that the Ministry of Labour was committed to protecting the rights of all workers in the Dominican Republic and ensuring dignified working conditions, said that the majority of migrant workers were employed in the construction sector, for which the National Salaries Committee, in its Decision No. 3/2007 of 12 June 2007, had set the minimum wage at approximately US\$ 295 or RD\$ 10,000 a month. That amount was higher than the minimum wage for the private sector, which was RD\$ 7,360 a month.

6. As to the question about black women workers in the duty-free zones, activities were being undertaken continuously to prevent discrimination against all women workers, including awareness-raising campaigns on issues such as the principle of equal pay for equal work by men and women and the fact that women must not be required to undergo pregnancy tests during the recruitment process. Progress was being made, and a recent ILO report had stated that the Dominican Republic was the best country in the region for carrying out regular inspections of workplaces. The Dominican Republic had been chosen as the headquarters for an ILO regional decent work programme in recognition of its efforts.

7. Mr. JIMÉNEZ (Dominican Republic), replying to questions regarding the contribution of Haitian immigrants and persons of Haitian descent to the sugar industry, said that there were 15 sugar plantations in the Dominican Republic, of which only 3 were in operation. There were 350 *bateyes* (company shanty towns on sugar-cane plantations) housing 250,000 people, predominantly Haitian immigrants or persons of Haitian descent, of whom only 11,000 currently worked in the sugar industry. They did various kinds of work, including cutting and collecting sugar cane as well as other more skilled tasks. The average wage earned by immigrant sugar-cane workers was US\$ 220 a month, which represented a total of US\$ 24 million a year for all immigrants. However, the sugar industry employed fewer immigrants than other sectors; of Haitian immigrants most worked in the construction, tourism or agriculture (other than sugar) sectors or in the informal sector. Immigrant workers' contribution to GDP for the sugar industry was 2.48 per cent, and 1.4 per cent to overall GDP. Workers enjoyed total freedom to choose where they worked, and given that agricultural workers earned US\$ 106 a month and construction workers US\$ 295 a month, it was clear why many immigrants chose to work in the latter sector. Immigrants sent US\$ 300 million a year back to Haiti in remittances.

8. As to the reference to "modern slavery", it was clear that the term did not apply to the Dominican sugar industry. In addition to the wage, each worker received free accommodation, drinking water, electricity, leisure facilities, transport, education for children and young wives, private medical insurance and free medicine. Sugar company owners covered the costs of over 87 schools offering basic education, in which 80 teachers taught 3,125 pupils, mainly Haitians and persons of Haitian descent. In the area of health, in 2006 the sugar industry had paid for 173,000 medical visits, 124,000 dental visits, HIV care, including vaccination programmes, and services including prenatal and post-natal care. Workers also had the right to form and join trade unions.

9. Article 245 of the Labour Code explicitly prohibited employment of children under the age of 14, and the Dominican Republic was a signatory to the ILO Conventions on Minimum Age (No. 138) and the Worst Forms of Child Labour (No. 182); Decree No. 144-97 had created a committee to monitor compliance with those Conventions.

10. On activities to improve *bateyes*, he said that the sugar industry was investing US\$ 40 million in the construction and improvement of housing, playgrounds, football pitches, baseball fields, schools, hospitals, clinics, transport and other basic services to enhance the quality of life of sugar workers.

11. Mr. KJAERUM said he remained concerned at the discrepancy between the situation described in the periodic report and by the delegation, and the information received from numerous other sources. Those sources were genuinely concerned about the protection of the human rights of vulnerable groups. He asked whether there were sufficient mechanisms in place to facilitate the implementation of domestic legislation, particularly monitoring by independent institutions. That was especially worrying given that the vast majority of immigrants were employed in the agriculture, construction and tourism sectors, which were those with the highest prevalence of informal labour in many States. It was unclear how the State party monitored such informal employment.

12. Mr. KEMAL commended the delegation for its multi-ethnic composition. He drew the delegation's attention to the positive effects of the availability of migrant labour, the latent benefits of which included the abundant availability of labour for economic development. That also had a ripple effect on the country of origin. The Government should therefore withdraw the measures that discriminated against people of Haitian origin. In particular, it should amend its legislation regarding the denial of the right to a birth certificate to babies considered to be of Haitian origin who were born in Dominican hospitals.

13. While all States had the right to control their international borders and migration, justice must be done to the people who were already living in the State party, in accordance with the provisions of the Convention.

14. Mr. AVTONOMOV, Country Rapporteur, noted that the only prohibition against racial discrimination was in the Labour Code. He asked whether the State party planned to incorporate anti-discriminatory provisions based on the Convention into other domestic legislative instruments in order to eliminate all types of racial discrimination.

15. Mr. PROSPER asked whether the Government had addressed the United Nations Security Council to ask for its assistance in controlling the border from the Haitian side. The International Civilian Mission to Haiti could possibly play a more proactive role in that respect.

16. He reiterated his question about the Government's view of the existence of discrimination against the Haitian population. If such discrimination did exist, it would be useful to know on what grounds.

17. Mr. LINDGREN ALVES said that it was incumbent on the international community to improve the economic situation in Haiti, which lay at the root of the Dominican Republic's current problems.

18. Mr. MURILLO MARTÍNEZ agreed that it was the international community's duty to take action to attenuate the migration problems faced by the State party. That responsibility lay in particular with those economic Powers which for historical reasons had a duty to facilitate the

political, economic, and social reconstruction of Haiti. He urged the reporting State to examine the practical implications of the pink identity card for the situation of stateless persons, particularly the limitations it imposed on children's access to education and social services.

19. Mr. DIACONU said he failed to understand why the State party allowed immigration on such a significant scale but then discriminated against the immigrants. Its legal and administrative measures were inadequate and resulted in discrimination. The Government should take steps to strengthen its border controls, limit the number of work and residence permits granted, and oblige business firms to provide better living and working conditions for employees. He also asked for a reply to his questions regarding the number of Haitians who had been granted Dominican citizenship and residence permits.

20. Mr. PETER questioned the need for birth certificates and documents of different colours or that continued to identify individuals as mulatto, black, or white and granted individuals different rights in such areas as education and employment. While he recognized that, like all developing countries, the Dominican Republic had a fragile economy, it must make an effort to resolve the problem posed by high levels of immigration from Haiti. He encouraged it to pay closer heed to comments and criticisms from NGOs and civil society.

21. Mr. de GOUTTES asked whether identity documents still included the skin colour of the holder, and whether the State party had considered eliminating such references. He also asked whether the State party intended to put an end to the system of different birth certificates for children of Haitian parents, including undocumented Haitians, especially in the light of the decision of the Inter-American Court of Human Rights in the Yean and Bosico children v. Dominican Republic case.

22. Mr. AMIR recalled that at the beginning of the post-colonial era it had been hoped that the three continents of Asia, Africa and Latin America would work together and share the benefits of independence and development. Unfortunately the Central American countries were afflicted with the scourge of poverty and the legacy of slavery, colonization and evangelization, and the various groups in society were often in conflict. Given the close links between Haiti and the Dominican Republic the State party had a responsibility to find solutions to the problem of massive immigration from Haiti. Protection of the human rights, including the employment rights, of those immigrants would play a key role in resolving the problem.

23. Mr. LINDGREN ALVES asked whether the State party had considered the possibility of conducting a census which would, inter alia, identify the proportion of blacks, mulattos and whites in the population.

24. Ms. PIÑA (Dominican Republic), in response to questions on the need for legislation prohibiting discrimination, recalled that article 100 of the Constitution guaranteed equality for all. Although she acknowledged that it might be useful in certain situations to adopt specific laws and measures, she did not understand what aspects of current legislation the Committee considered discriminatory. She stressed that for 500 years the people of the Dominican Republic, no matter what their colour, had lived together and considered themselves part of the same community. The voter registration card, for example, which had a black and white picture, identified the individual as black or white solely to help confirm his or her identity, in much the

same way as an identity document might indicate mulatto, or eye or hair colour. A document might even include a person's blood type, which would be useful in a medical emergency. She did not see how that could be considered discriminatory and wondered whether the Committee would consider biometric passports discriminatory. There was a growing problem with identity fraud in the Dominican Republic and it was important that official documents should contain enough information to prevent fraud.

25. Mr. NEWTON GIULLIANI (Dominican Republic) said that the adoption of the Foreigners' Registration Book and special pink birth declarations had been an attempt to resolve the problem of the number of undocumented foreigners and their children. Those measures simply reflected the actual situation in the country and at least gave the individuals in question the possibility of having some official legal status. There was no discrimination or difference in the rights or benefits conferred by the different types of birth certificate with regard to health care, education, etc. Civil registry officials were available in hospitals to immediately issue birth certificates in order to ensure that all births were registered properly and the children had appropriate documentation. That also reduced the risk of fraud or simply failing to register a birth if the parents never took steps to do so.

26. Mr. PELEGRÍN CASTILLO (Dominican Republic) said that the proposed constitutional and Criminal Code reforms were aimed at strengthening guarantees of equality and eliminating discrimination. The new Criminal Code, for example, specifically criminalized all forms of discrimination, including discrimination on genetic grounds, in the area of health care. With regard to immigration reforms and the Migration Act (No. 285-04), he said that discussion was under way on whether or not, or to what extent, the situation of the enormous number of Haitians in the Dominican Republic should be regularized. He agreed with Mr. Kemal that the large number of immigrants contributed to the high unemployment rate and poverty because native-born citizens, especially the most disadvantaged, were unable to compete with the cheap labour provided by immigrants from Haiti, a much poorer country.

27. Mr. FAUSTINO JIMÉNEZ (Dominican Republic) reiterated that there was no discrimination in his country on the basis of colour, race, ethnicity, origin, nationality, etc. He noted, for example, that the Chairperson of the Dominican Republic-Haiti Cultural Committee was a Haitian and that the members of that Committee worked together to protect the rights of both Dominican and Haitian workers.

28. Mr. FAUSTO MOTA (Dominican Republic) said that all children living in his country, including undocumented foreigners, were authorized to enrol in compulsory education up to the fourth grade. Considerable efforts had been made to improve literacy, which was illustrated by the fact that the illiteracy rate had dropped from 17 per cent in 1996 to 10.8 per cent in 2007. The education authorities had set the objective of achieving total literacy by the year 2012.

29. Mr. GARCÍA (Dominican Republic) said that there was no doubt that education was the best way to ensure both the economic and human development of a society. In the Dominican Republic, the subject of history was taught in the same manner as the rest of the curriculum - i.e. through an open, participatory and critical approach. The education system was divided into three main categories: formal, technical/vocational and higher education. Steps taken to support the higher education of foreign students included the joint provision of

some 2,000 scholarships by the Dominican and Haitian Governments, and exemptions from visa, residence and travel costs. The education authorities had taken those steps in keeping with his country's commitment to engaging in mutual cooperation with its neighbour, Haiti.

30. Ms. BENCOSME (Dominican Republic) said that rules relating to migration between the Dominican Republic and Haiti were set out in a bilateral agreement that had been in force since 1998. That agreement governed mechanisms, procedures and regulations concerning the return of migrants. She denied reports that there were indiscriminate, mass deportations of migrants to Haiti. Rather, individual forms, containing a photograph and signature or fingerprints, were used for each migrant. Great care was taken when it was necessary to repatriate unaccompanied minors. It should be stressed that all Haitian nationals who applied for residence in the Dominican Republic were able to obtain it on presentation of their birth certificate. Plans to regularize the situation of Haitian nationals who had lived in the Dominican Republic for many years and an expedited procedure for acquiring Dominican citizenship were being considered as part of efforts to ensure respect for human rights.

31. Mr. FERRÁN (Dominican Republic) said that Dominicans were not defined by any particular ethnic group or race, but were one of the most mixed ethnic and racial societies in the world. Dominican nationality was based on a combination of *jus solis* and *jus sanguinis*. There was no public policy of discrimination in the Dominican Republic, nor was there a single piece of evidence to suggest that any public authority had committed such an injustice. Discrimination was not endorsed by society or by public opinion. If there was any discrimination, it was on the part of individuals.

32. Ms. de la CRUZ (Dominican Republic) said that any remaining questions would be answered in writing and transmitted to the Committee in due course. She wished to thank the multilateral organizations that had helped her country to establish an inter-agency commission to comply with the Plan of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and thereby strengthen the mechanisms to facilitate its implementation efforts. One of the tasks of the inter-agency commission was to consider issues relating to article 4 (1) of the Convention. The Dominican Republic had developed a methodology and budget for plans to meet the Millennium Development Goals. She thanked the Committee for its comments, which her Government would do its utmost to implement.

33. Mr. ABOUL-NASR requested information regarding the indigenous population of the Dominican Republic.

34. Mr. MURILLO MARTÍNEZ said that one of the outcomes of the World Conference against Racism had been to reaffirm the fact that racism affected all countries of the world and that no country was immune from that phenomenon. While it might be true that there was no State policy of discrimination in the Dominican Republic, elements of discrimination could be found in legislative and administrative texts and in institutional practices. Daily manifestations of racism and racial discrimination were, regrettably, a reality everywhere. It had also been observed at the World Conference that tools, such as censuses and quality-of-life surveys based on self-identification, were useful methods that States could use to study their demographic diversity and identify the situation of individual groups.

35. Ms. de la CRUZ (Dominican Republic) said it should be borne in mind that the indigenous population of the Dominican Republic had been decimated in the sixteenth century, giving rise to the subsequent importation of African slaves to work on sugar plantations. Although, in practice, there might be some vestiges of racial prejudice that the Government was trying to eliminate, there was no racial polarization in the Dominican Republic, given that most of the population was of mixed ancestry.

36. Mr. AVTONOMOV reiterated earlier comments by Committee members that no country in the world was free from discrimination. Racial prejudice did not always result from deliberate policies adopted by Governments but could result from social or ideological attitudes or historical circumstances, or it could re-emerge in a country from which it had apparently been eradicated. For those reasons, the State had the obligation to identify all forms of discrimination, including those of an involuntary nature.

37. The CHAIRPERSON said that, at a time when new forms of discrimination were constantly emerging, it was important to remain vigilant. In fact, the Committee did not like hearing that there was no racial discrimination in a particular country since that might imply that there was insufficient awareness of it, especially if it occurred in its subtler forms. She urged the delegation to engage in a self-examination exercise in order to reflect on the extent to which the realities of daily life in the Dominican Republic related to issues that had been raised by the Committee. She thanked the delegation for its participation in what had been a fruitful dialogue and hoped that the State would continue the dialogue on a regular basis.

The meeting rose at 1 p.m.