



International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination Fifty-fifth session

Summary record of the 1364th meeting

Held at the Palais des Nations, Geneva, on Monday, 23 August 1999, at 3 p.m.

Chairman: Mr. Aboul Nasr

later: Mr. Yutzis

Contents

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

*Draft concluding observations on the fourth to eighth periodic reports of the
Dominican Republic*

Draft concluding observations on the initial report of Kyrgyzstan

*Draft concluding observations on the initial, second and third periodic
reports of Latvia*

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The meeting was called to order at 3.10 p.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (agenda item 4) *(continued)*

Draft concluding observations on the fourth to eighth periodic reports of the Dominican Republic (CERD/C/331/Add.1, document distributed at the meeting in Spanish only)

1. *At the invitation of the Chairman, Mr. Henry Garrido, Mr. Richard Benoit, Mr. Washington Gonzalez, Mr. Federico Alberto Cuello Camilo and Mrs. Ysset Roman Maldonado (Dominican Republic) took seats at the Committee table.*

2. **Mr. Garrido** (Dominican Republic), introducing his country's report, said that the Dominican Republic had ratified the Convention in 1983 and was committed actively to respecting its commitments thereunder.

3. The Dominican population was largely of mixed race and co-existed peacefully with the 700,000 Haitians who lived in the country, most of them in an irregular situation. The members of this group, who worked primarily in the construction industry or agriculture, had access to education, food and health care, like all Dominicans. They had the right to education, which could be dispensed to any child whose parents could produce a birth certificate. Relations between the Dominican and Haitian Governments had been improving markedly for some time.

4. With regard to education, in the northwest region, where more than 60 per cent of students were Haitian, there had never been any socio-ethnic conflicts in the schools between teachers and students, or among students. The main problem in the field of education was the absenteeism of Haitian children, probably because Haitian parents did not value education. The number of daily school lunch rations had risen from 200,000 to 1 million, and a chair on the culture of peace and human rights was soon to be established at the University of Santo Domingo. The Government had resumed its collaboration with UNESCO on a programme for peace and the respect of human rights, and was collaborating with UNICEF on a programme for children. An educational radio programme had been started and 155 computer-equipped laboratories had been set up in high schools. An additional 300 were planned before year-end.

5. Following his visit to the Dominican Republic in 1997, the representative of the Committee on Economic, Social and Cultural Rights had felt that the human rights situation there had changed radically. He had also noted that the country was working hard to overcome poverty. For the first time, the Dominican Republic was not on the list of countries in the Americas with serious human rights violations published in the 1999 annual report of Human Rights Watch. It was true that the report did mention one isolated act, an incident in which a parish priest had died following police intervention. According to the 1998 report of the United States Department of State, the Dominican Republic had made significant progress in the fields of justice, freedom of expression and religious freedom, as well as in the education of women.

6. The President of the Republic had recently promulgated two decrees on modernizing the State machinery and reforming the legal system. A non-governmental organization had been created — the National Movement for the Right to Peace — along with a national commission for the application of international law and international humanitarian law.

7. There was no institutional discrimination based on skin colour in the Dominican Republic. The latest census, from 1983, did not contain any question about skin colour.

8. **Mr. Valencia-Rodriguez** (Country Rapporteur) said that the Dominican Government was clearly anxious to renew its dialogue with the Committee. He welcomed the detailed statistics presented by the delegation, but said that it would have been preferable to include them in the written report. Since the previous report dated from 1988, the State party had not respected the obligation to report periodically to the Committee on the state of implementation of the Convention.

9. It was regrettable that the report had no statistics on the makeup of the population and its breakdown by race, except that 80 per cent of the population was apparently of mixed race. The country's next periodic report should present precise statistical information on the demographic and ethnic makeup.

10. According to paragraphs 15, 22 and 23 of the addendum distributed at the meeting without a symbol, between 500,000 and 1 million Haitians lived in the Dominican Republic, primarily employed in the sugar cane fields. Paragraph 6 of the report (CERD/C/331/Add.1) also stated that "there is no racial prejudice" and that "there is absolutely no foundation for the belief that there is discrimination against Haitians living in the country". He recalled the Committee's view that no country could claim to be free of racial discrimination. In the case of the Dominican Republic, there clearly was such a problem. One could not talk about blacks and whites, as the report did in paragraph 23, while at the same time claiming that there was no racial discrimination. The country should acknowledge the facts so as to facilitate a constructive dialogue with the Committee on this question.

11. He cited the 1998 report of the United States Department of State, according to which discrimination based on race did indeed exist in the Dominican Republic and the Government was not making any effort to combat this scourge. Other reports mentioned the existence of racial discrimination against Dominicans of Haitian origin and against Haitians resident in the Dominican Republic.

12. In its 1996 report (E/C.12/1/Add.6, para. 6), the Committee on Economic, Social and Cultural Rights had said it was "particularly concerned about the exploitation of Haitians, and their unacceptable living conditions in the *bateyes*", and also about the situation of women workers, "whose presence there is not administratively recognized". These women reportedly earned wages that were 50 per cent lower than men's, and they were apparently "often deprived of their rights and the most basic health and social services". The Committee believed that "the men and women in the *bateyes*, as well as Haitian workers in other sectors of the economy, live in perpetual insecurity and... constitute the principal national group in the Dominican Republic who are subject to deportation in inhuman conditions, often at the whim of employers who take advantage of the State's inaction to exploit the vulnerability of this group".

13. The Human Rights Watch 1998 report similarly reported discrimination against black Dominicans and Haitians. It said that 500,000 Haitians, or about 7 per cent of the Dominican population, lived in slums and shanty towns, with no water or electricity, and no schools. Human rights bodies also denounced the acts of police brutality to which immigrants, both legal and illegal, were apparently subjected.

14. The delegation should provide some clarification on the constitutional norms referred to in paragraphs 32 to 35 of the addendum, which concerned the implementation of article 2 of the Convention. More specifically, could the delegation specify which text or texts prohibited racial discrimination? How was the Convention incorporated into domestic law, and what was its constitutional status?

15. The assertions in paragraph 31 of the report, that the State party had never needed to condemn racial discrimination and could therefore not provide any information on the application of article 1, paragraph 2, or of article 2, were not acceptable: the Dominican

Republic was required to adopt specific legislation to give effect to article 2, paragraphs 1 d) and 2, as well as to articles 4 and 5, of the Convention, and to take steps to resolve the situation of the country's Haitian population.

16. It would also be useful for the delegation to clarify the meaning of paragraph 43 of the addendum, according to which the ban on ideas or theories proclaiming one race to be superior to another was guaranteed by the primacy of international conventions over the Constitution.

17. As to the application of article 5, paragraphs 45 to 55 of the addendum provided only general information, without any direct reference to the specific problem of racial discrimination. He would therefore appreciate receiving additional information on the right to nationality and the status of foreigners, particularly Haitians. What norms governed the expulsion of foreigners, and what were the concrete cases of expulsion, of Haitians in particular?

18. The delegation should clarify the information contained in paragraph 50 of the addendum, according to which the Land Reform Act recognized the same rights for women as for men, and it should provide an update on the social security scheme referred to in paragraph 34 of the report.

19. The Committee would appreciate seeing the text of the provisions referred to in paragraph 56 of the addendum (article 6 of the Convention). He welcomed the existence of recourse to habeas corpus and amparo as well as the State party's recognition of the competence of the Inter-American Court of Human Rights. Had those mechanisms been resorted to in cases of racial discrimination?

20. The information contained in the report and the addendum on education had been favourably received by the Committee, which hoped that the provisions applied to all ethnic groups.

21. According to paragraph 63 of the addendum, a compilation of treaties, laws and regulations on human rights had been published, and he recommended that the text of the Convention should be included in the next such publication. The compilation should also be published in Creole and French for the benefit of resident and immigrant Haitians.

22. In the next periodic report, he hoped the Dominican authorities would place greater emphasis on the implementation of articles 6 and 7 of the Convention.

23. **Ms. Zou** fully endorsed the Rapporteur's observation. No country could claim to be free of racial discrimination, and the Committee was always very sceptical about such assertions. She asked what steps the authorities intended to take to settle the question of the nationality of Haitians married to Dominican citizens and their children. Article 1 of the new Education Act guaranteed the right to education of all inhabitants of the country (paragraph 35 of the report). What percentage of young people attended university; up to what age was education compulsory; and what was the illiteracy rate?

24. She asked for more information on the social security scheme prepared by the Department of Labour and tabled before the Parliament (paragraph 34 of the report).

25. **Mr. de Gouttes** said that he also welcomed the renewal of dialogue between the Committee and the State party after 11 years without dialogue, but he nonetheless deplored the brevity of the report under consideration. Referring to the data provided on the population's ethnic composition, which in his opinion were inadequate, he asked how the 80 per cent of those of mixed race were divided, and what the percentage was of Haitians, whether in a legal or illegal situation, living in the Dominican Republic. Were Haitians more likely to be illiterate than the rest of the population?

26. The claim that there was no racial discrimination in the Dominican Republic — a claim that the Committee could not accept — regrettably entailed a lack of information on the implementation of articles 2, 3, 4 and 5 of the Convention. He therefore wished to know what the criminal legislation was that made acts of racial discrimination, as defined in article 4 of the Convention, punishable offences. How did the delegation explain the complete lack of information on complaints filed or judgements rendered following acts of racial discrimination? Given the number of Haitians living in the Dominican Republic, it would be quite surprising if the competent authorities had not received any complaints about racial discrimination.

27. He also asked what steps had been taken to strengthen and improve the training of officers responsible for enforcing human rights laws and good inter-ethnic relations.

28. **Mr. van Boven** said that he regretted he had been unable to consider the addendum in depth as it had been distributed too late. He stressed the contradiction between paragraph 6 of the report and the information that had been made available to the Committee from other sources about racial discrimination in the Dominican Republic. The United States Department of State and the NGO Minority Rights Group, while they might not speak of racism against the black population, did refer to clear xenophobia against Haitians.

29. The Committee on Economic, Social and Cultural Rights, in its concluding observations on the country's second periodic report in 1997, had noted "the presence of racial discrimination in the Dominican Republic, although this seems to be denied by the authorities", and that "to combat and prevent racial discrimination in the enjoyment of economic, social and cultural rights, its existence must be recognized by the authorities", failing which "no effective anti-discrimination policies may be put in place" (E/C.12/1/Add.16, para. 14).¹ When a State party denied the existence of racial discrimination, it was often because it interpreted the concept very narrowly — as discrimination on the basis of skin colour — whereas, under article 1 of the Convention, the term "racial discrimination" meant "any distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin". That Committee had recommended that the Dominican authorities take steps to penalize acts of racial discrimination in domestic criminal legislation. The situation of Haitian immigrants in the Dominican Republic continued to arouse great concern, particularly the forced evictions to which they had been subjected, and the discriminatory treatment of women and children. Women were apparently the victims of sexual abuse and discrimination in the work place, and there were reported to be numerous obstacles to the enrolment of children in school.

30. He welcomed the resumption of the dialogue with the State party and hoped it would continue on a regular basis.

31. As the Chairman had wondered about the current ethnic makeup of the Dominican population, 80 per cent of whom were the result of the mingling of races over the centuries (paragraph 28 of the report), **Mr. Banton** returned to the expression "mixed race", which appeared in paragraph 23 of the English version of the report. He condemned the expression — an unfortunate translation of the Spanish term "mestizo" — which implied that there were pure races and thus also races that were clearly distinct from one another, which was in his opinion an anthropological aberration.

32. **Mr. Garvalov** agreed with the comments made by previous speakers. Since the State party had claimed that racial discrimination was not a problem in the Dominican Republic, and had accordingly not judged it useful to condemn it (para. 31), he recalled that States parties to the Convention were required to implement it and thus to adopt measures

¹ *Translator's note:* The correct document symbol is as given above, and not as in the original French.

to combat racial discrimination, if only on a preventive. The concept of racial discrimination as defined by the Dominican Republic did not cover all aspects of the definition in article 1, paragraph 1, of the Convention. He therefore asked the State party to revise the definition in order to bring it into line with the Convention. The report stated that a majority of the country's population did not fit into the classical racial typology (para. 28), whereas the Convention referred not to any particular type of racial discrimination, but to all forms of racial discrimination, including the most pernicious.

33. With regard to education, he asked what the State party had done not in general terms, but in terms of combating racial discrimination. Had the State party taken steps to encourage understanding, tolerance and friendship among nations and racial or ethnic groups? Were children taught about racial discrimination and how to combat it? There was a contradiction in paragraph 31 of the report, which stated on the one hand that the Dominican State had no need to condemn racial discrimination and on the other hand that its official policy was to eliminate all forms of racial discrimination. He asked for clarification on this point.

34. *Mr. Yutzis took the Chair.*

35. **Mr. Diaconu** said the Convention applied to all human beings, and that included ethnic and racial groups as well as individuals. If, as the report seemed to imply, no group had been the object of racial discrimination in the Dominican Republic, the State party was nonetheless obligated to take steps to protect individuals. It was important for the evaluation of a country's situation that the Committee have available demographic information on all the ethnic elements of the population.

36. *The CHAIRMAN invited the members of the delegation to respond to the Committee's questions at its next meeting.*

37. *The delegation of the Dominican Republic withdrew.*

38. *Mr. Aboul-Nasr resumed the Chair.*

*Draft concluding observations on the initial report of Kyrgyzstan
(CERD/C/55/Misc.44/Rev. 2 – English only)*

39. **The Chairman** invited the Committee to consider the draft concluding observations on the initial report of Kyrgyzstan.

Paragraphs 1 and 2

40. *Paragraphs 1 and 2 were adopted.*

Paragraph 3

41. **The Chairman** proposed deleting this paragraph and incorporating its substance into paragraph 9.

42. *It was so decided.*

Paragraphs 4 and 5

43. *Paragraphs 4 and 5 were adopted.*

Paragraph 6

44. **Mr. Rechetov** proposed amending the beginning of the first sentence as follows: "The Committee notes with appreciation the statement of the State party that Kyrgyzstan is a multi-cultural society...".

45. *Paragraph 6, as amended, was adopted.*

Paragraph 7

46. **Mr. Garvalov** and **Mr. Rechetov** proposed deleting this paragraph, given that the Committee had been unable to consider the law in question.

47. *Paragraph 7 was deleted.*

Paragraph 8

48. *Paragraph 8 was adopted.*

Paragraph 9

49. **The Chairman** proposed that this paragraph should be redrafted by Mr. Valencia-Rodriguez so that it could be incorporated into paragraph 3.

50. *It was so decided.*

Paragraph 10

51. *Paragraph 10 was adopted.*

Paragraph 11

52. **Mr. Diaconu** suggested inserting the phrase “persons belonging to” in front of “ethnic and national minorities” so as to stress that the rights concerned were above all individual rights.

53. *Paragraph 11, as amended, was adopted.*

Paragraph 12

54. **Mr. van Boven** said that the phrase “so as to prevent the recurrence of such incidents” should come at the end of the first sentence and not in the last sentence.

55. **Mr. Banton**, supported by **the Chairman**, proposed deleting the phrase “such as on the available remedies” from the last sentence.

56. *Paragraph 12, as amended, was adopted.*

Paragraph 13

57. **Mr. Garvalov** said that the adjectives “detailed” and “comprehensive” were redundant and suggested deleting one of them.

58. **Mr. Diaconu** proposed deleting the phrase “and for acquiring citizenship”, as it duplicated the term “naturalization”.

59. *Paragraph 13, as amended, was adopted.*

Paragraphs 14 to 16

60. *Paragraphs 14 to 16 were adopted.*

Paragraph 17

61. **Mr. Diaconu** suggested adding the word “concluding” before “observations”.

62. *Paragraph 17, as amended, was adopted.*

63. *The draft concluding observations on the initial report of Kyrgyzstan, as orally amended, were adopted.*

Draft concluding observations on the initial, second and third periodic reports of Latvia (CERD/C/55/Misc.39/Rev. 3 – English only)

64. **The Chairman** invited the Committee to consider the draft paragraph by paragraph.

Paragraphs 1 to 3

65. *Paragraphs 1 to 3 were adopted.*

Paragraph 4

66. **Mr. Garvalov** said that it would be better to mention the Convention before the other international treaties.

67. *Paragraph 4, as amended, was adopted.*

Paragraphs 5 to 8

68. *Paragraphs 5 to 8 were adopted.*

Paragraph 9

69. **Mr. Banton** proposed adding the phrase “the cultivation of” before “mutual tolerance”.

70. *Paragraph 9, as amended, was adopted.*

Paragraph 10

71. *Paragraph 10 was adopted.*

Paragraph 11

72. **Mr. Rechetov** asked that the clause “although the existence of such cases is widely reported” should be added at the end of the last sentence.

73. *Paragraph 11, as amended, was adopted.*

Paragraph 12

74. **Mr. Banton** suggested deleting the adverb “potentially” from the second sentence.

75. *Paragraph 12, as amended, was adopted.*

Paragraph 13

76. **Mr. Garvalov** suggested adding the words “may not” in front of “be” so as to make the second sentence more understandable.

77. *Paragraph 13, as amended, was adopted.*

Paragraphs 14 to 17

78. *Paragraphs 14 to 17 were adopted.*

79. **The Chairman** proposed that consideration of the Committee’s draft concluding observations on the initial, second and third periodic reports of Latvia should be continued at the next meeting.

80. *It was so decided.*

The meeting rose at 5.50 p.m.