



**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
18 February-7 March 2008

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION**

**Concluding observations of the Committee on the
Elimination of Racial Discrimination**

DOMINICAN REPUBLIC

1. The Committee considered the ninth to twelfth periodic reports of the Dominican Republic, due in 2000, 2002, 2004 and 2006, respectively, and submitted in a single document (CERD/C/DOM/12), at its 1863rd and 1864th meetings (CERD/C/SR.1863 and 1864), held on 28 and 29 February 2008. At its 1873rd meeting (CERD/C/SR.1873), held on 6 March 2008, it adopted the concluding observations as set out below.

A. Introduction

2. The Committee welcomes the ninth to twelfth periodic reports of the Dominican Republic and the fact that the State party was represented by a high-ranking, multisectoral delegation. The Committee expresses appreciation to the Dominican Republic for its written replies to the list of issues and for the detailed answers provided by the delegation to the many questions put to it. Furthermore, the Committee appreciates the will of the State party to engage in a constructive dialogue on the progress made and challenges encountered in implementing the Convention.

B. Factors and difficulties impeding the implementation of the Convention

3. The Committee acknowledges the serious impact that the humanitarian crisis in Haiti has had on the State party, and which has resulted in an elevated number of migrants on its territory.

C. Positive aspects

4. The Committee notes with satisfaction that the State party has ratified the Convention without any reservation.
5. The Committee notes with satisfaction that the State party has ratified, in addition to the Convention on the Elimination of All Forms of Racial Discrimination, four United Nations human rights treaties, namely the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, and its Optional Protocol, and the Convention on the Rights of the Child and its Optional Protocol on the sale of children, child prostitution and child pornography.
6. The Committee takes note with appreciation of the anti-discrimination provision contained in principle VII of the Labour Code.
7. The Committee appreciates the information provided by the delegation that a draft Penal Code is under consideration to give effect to provisions of the Convention.

D. Concerns and recommendations

8. The Committee notes with concern that, in paragraph 67 of its report, the State party, when describing the composition of the population of the Dominican Republic, uses the expressions “racial purity” and “genetic characteristics” of different ethnic groups, which could lead to an erroneous interpretation of the State party’s policies. The Committee also notes the statement by the delegation that, although incidents of racial discrimination may occur, there is no racial discrimination on the part of public authorities, an assertion which the Committee rejects, bearing in mind that no Government is capable of knowing how each public official performs his or her functions (arts. 1, 2 and 5).

The Committee reminds the State party that it is an obligation under article 2 (d) of the Convention to prohibit and bring to an end, by all appropriate means, including legislation, racial discrimination by any persons, group or organizations.

9. The Committee notes with concern the absence of general anti-discrimination legislation, including a definition of racial discrimination in line with article 1, paragraph 1, of the Convention (arts. 1 and 2).

The Committee recommends that the State party adopt comprehensive legislation prohibiting discrimination on the grounds of race, colour, descent or national or ethnic origin.

10. While welcoming the information provided by the delegation on the envisaged establishment of a national human rights institution, in accordance with the Paris Principles relating to the status of national institutions for the promotion and protection of human rights (General Assembly resolution 48/134, annex), the Committee notes the current absence in the State party of a national human rights institution (art. 2).

The Committee invites the State party to facilitate the prompt establishment of a national human rights institution in accordance with the Paris Principles.

11. While noting the information provided by the delegation that the draft Penal Code under consideration by National Congress provides for sanctions against racial discrimination, the Committee notes with concern that the draft code has still not been adopted (art. 4).

The Committee reiterates the recommendation addressed to the State party in its previous concluding observations (CERD/C/304/Add.74, para. 10), that it ensure that the draft Penal Code take into consideration the provisions of article 4 of the Convention fully, and recommends that the draft code be adopted expeditiously. Furthermore, the Committee draws the attention of the State party to its general recommendation 15 (1993) on article 4 and recommends that it take effective steps to ensure the effective enforcement of the new legislation once adopted.

12. The Committee expresses concern over reports of racial discrimination in access to places or services and facilities to the general public, including leisure facilities (arts. 4 and 5 (f)).

The Committee recommends that effective measures be taken to ensure that access to places or services and facilities intended for use by the general public is not denied on the grounds of race, colour, or national or ethnic origin, contrary to article 5 (f) of the Convention. The Committee encourages the State party to include adequate provisions to prohibit and provide for sanctions against discrimination in relation to access to places, services and facilities intended for use by the general public in the draft Penal Code.

13. The Committee is concerned at information received according to which migrants of Haitian origin, whether documented or undocumented, are allegedly detained and subject to collective deportations (“repatriations”) to Haiti without any guarantee of due process (arts. 5 (a) and 6).

Taking into account its general recommendation 30 (2004) on non-citizens, the Committee recommends that the State party:

(a) Ensure that laws concerning deportation or other forms of removal of non-citizens from the jurisdiction of the State party do not discriminate in purpose or effect among non-citizens on the basis of race, colour or ethnic or national origin;

(b) Ensure that non-citizens are not subject to collective expulsion, in particular in situations where there are insufficient guarantees that the personal circumstances of each of the persons concerned have been taken into account;

(c) Avoid the expulsion of non-citizens, especially of long-term residents, that would result in disproportionate interference with the right to family life;

(d) Ensure that non-citizens have equal access to effective remedies, including the right to challenge expulsion orders, and are allowed to pursue such remedies effectively. The Committee further recommends that the State party take the

necessary measures to accelerate the approval of the provision of Migration Law No. 285-04 setting guidelines on the principle of due process in deportation or expulsion procedures.

The Committee invites the State party to adopt humane and internationally accepted measures in dealing with undocumented migrants.

14. The Committee is concerned at the fact that Migration Law No. 285-04 narrows the scope of article 11 of the Dominican Constitution establishing that any person born in the State party is entitled to Dominican citizenship, with the exception of, in particular, children of persons “in transit”. The law provides that only children of residents born on Dominican soil are entitled to Dominican nationality, and defines “non-residents” to include, inter alia, undocumented migrants living and working in the State party, and temporary workers, which considerably limits access to citizenship for children of migrants of Haitian origin born in the Dominican Republic, and may lead to situations of statelessness. The Committee is furthermore concerned at the retroactive application of this law. The Committee notes with concern the negative and artificial interpretation of the term “in transit” in the State party’s legislation, which has seriously affected the status of many families of Haitian origin who would otherwise be Dominican residents (art. 5 (d) (iii)).

The Committee strongly recommends that the State party take appropriate measures to guarantee respect for the principle of non-discrimination in children’s access to nationality. The Committee further recommends that the State party consider the possibility of acceding to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, which prohibit deprivation of nationality on discriminatory grounds and stipulate that a State party should grant nationality to persons born on its territory who would otherwise be stateless. The State party should reconsider the status of people who have been in its territory for a long period with a view to regularizing their stay.

15. The Committee is concerned about the fact that children of foreign mothers born in the Dominican Republic are provided with “pink” birth declarations by hospitals or clinics, and are registered in the Foreigners’ Book, which hampers their access to nationality, a birth certificate and subsequently a national identity card (“cédula”). Birth certificates and identity cards are key documents required for access to a wide range of services and for the equal enjoyment of rights including in the fields of employment, education, including university studies, and health services (art. 5 (d) and (e) (iv)). The Committee furthermore notes that this practice is in contradiction with article 11 of the Constitution of the State party.

The Committee emphasizes the existing link between the registration of births and the ability of children to enjoy civil, political, economic, social and cultural rights, in particular education and health, as enumerated under article 5 of the Convention. The Committee recommends that the State party take appropriate legislative and administrative measures to ensure equal access to birth certificates for all children in the country, including in the case of late request for birth registration, as ordered in the ruling of the Inter-American Court of Human Rights of 8 September 2005 in the case *Yean and Bosico Children v. The Dominican Republic*.

16. While taking note of the explanations provided by the delegation on the application of circular 17 of the Central Electoral Board regarding falsified documents, the Committee is concerned at reports alleging that Dominicans of Haitian descent, who are holders of a birth certificate, identity cards and electoral identity documents have had their identity documents confiscated and destroyed, or have been denied copies of these documents on the grounds of their ethnic origin (art. 5 (d)).

The Committee urges the State party to take immediate steps, including the removal of administrative obstacles, to issue all Dominicans of Haitian descent with identity documents, including those whose documents have been confiscated or destroyed by the authorities.

17. While welcoming the efforts of the State party to combat human trafficking for purposes of economic exploitation, the Committee is concerned at reports of Haitians being trafficked to the Dominican Republic owing to the high demand for cheap labour in the sugar-cane industry, tourism and construction sectors (art. 5 (e) (i)).

The Committee urges the State party to develop comprehensive policies and allocate adequate resources to prevent, investigate and punish human trafficking, and to provide assistance to and support for victims.

18. Notwithstanding the information provided by the delegation on the progress made with respect to access of migrants of Haitian origin to basic social services, the Committee is concerned at reports received regarding the dire living conditions of undocumented Haitian migrants and their children, and their limited access to health services, housing, sanitation, drinking water and education, including university studies (art. 5 (e) (iv), (v)).

Recalling its general recommendation 30 (2004), the Committee recommends that the State party take all necessary measures to ensure the right of non- citizens, in particular migrants of Haitian origin, to an adequate standard of living, in particular their access to health services, sanitation, drinking water and education.

19. The Committee is concerned at information received according to which dark-skinned Dominicans working in free zones and in the informal sector, in particular women, and notably those employed as domestic workers, are allegedly victims of double discrimination, on the grounds of both colour and gender (arts. 2 and 5 (i)).

The Committee recommends that the State party take measures to eliminate discrimination against dark-skinned Dominicans in working conditions and work requirements, including employment rules and practices with discriminatory purposes or effects. Recalling its general recommendation 25 (2000) on gender-related dimensions of racial discrimination, the Committee recommends that the State party adopt all necessary measures to address the phenomenon of double discrimination faced by dark-skinned Dominican women working in free zones and the informal sector.

20. The Committee notes the State party's assertion that there have been neither complaints nor court decisions on the subject of racial discrimination, which is put forward as evidence of the absence of racial discrimination in the Dominican Republic (art. 6).

Recalling its general recommendation 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee reminds the State party that the absence of complaints and legal action by victims of racial discrimination may merely be an indication of the absence of relevant specific legislation, a lack of awareness of the availability of legal remedies, or of insufficient will on the part of the authorities to prosecute. The Committee requests the State party to ensure that appropriate provisions are available in national legislation and to sensitize members of the public on their rights, including all legal remedies in the field of racial discrimination.

21. The Committee is concerned at allegations of discriminatory or vexatious conduct towards dark-skinned persons, both Haitian and Dominican, and those of Haitian origin, by officials working in various national or local authorities (art. 7).

The Committee recommends that the State party provide awareness-raising training programmes for members of the judiciary, law enforcement officers, teachers, social workers and other public officials on the provisions of the Convention. Furthermore, the Committee encourages the State party to undertake national campaigns to raise awareness of human rights, and in particular of issues concerning racism, xenophobia and related intolerance, in order to prevent and combat all forms of discrimination, and to include intercultural education in school curricula.

22. The Committee encourages the State party to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (General Assembly resolution 45/158 of 18 December 1990).

23. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/CONF.189/12, chap. I), when implementing the Convention in its domestic legal order, particularly with regard to articles 2 to 7 of the Convention. The Committee also urges the State party to include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level. The Committee also encourages the State party to actively participate in the Preparatory Committee of the Durban Review Conference, in the regional preparatory meeting, in Brazil, in June 2008, and in the Durban Review Conference in 2009.

24. The Committee recommends that the State party ratify the amendment to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the 14th meeting of States parties to the Convention and endorsed by the General Assembly in its resolution 47/111 of 16 December 1992. In this connection, the Committee cites Assembly resolution 61/148 of 19 December 2006, in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

25. The Committee notes that the State party has not made the optional declaration provided for in article 14 of the Convention, and urges the State party to consider doing so.
26. The Committee recommends that the State party's reports be made readily available to the public at the time of their submission, and that the observations of the Committee with respect to these reports be similarly publicized in the official and national languages.
27. The Committee recommends that the State party consult widely with organizations of civil society working in the area of human rights protection, in particular in combating racial discrimination, in connection with the preparation of the next periodic report.
28. The Committee invites the State party to submit its core document in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted by the fifth inter-committee meeting of the human rights treaty bodies held in June 2006 (see HRI/GEN/2/Rev.4).
29. The State party should, within one year, provide information on the way it has followed up on the Committee's recommendations contained in paragraphs 11, 12 and 13, pursuant to paragraph 1 of rule 65 of the rules of procedure.
30. The Committee recommends that the State party submit its thirteenth and fourteenth periodic reports in a single report, due on 24 June 2010, and that the report be comprehensive and address all points raised in the present concluding observations.

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