4-10-2014

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Crosby Girón

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IACHR On-Site Visit Fails to Make Progress on Plight of Haitian Migrants

by Crosby Girón
Category/Department: Dominican Republic
Published: 2014-04-10

In late December 2013, the Inter-American Commission on Human Rights (IACHR) visited the Dominican Republic to investigate alleged human rights violations committed after the country’s Tribunal Constitucional issued ruling 168/13.

These on-site visits seek to ascertain whether it is true that a human rights violation has been committed and are a mechanism generally used by international organizations, such as the Organization of American States (OAS), which the IACHR is part of.

However, as political analyst César Medina points out, the recommendations issued following these visits "are not legally binding for the Dominican Republic or even for the multilateral organization that issues them, in this case the OAS, and they interfere with sovereignty issues that are nonnegotiable for member states."

The delegation that arrived in the Dominican Republic included IACHR president José de Jesús Orozco Henríquez; vice presidents Tracy Robinson and Rosa María Ortíz; commissioners Felipe González, Dinah Shelton, and Rose Marie Antoine; secretaries Emilio Álvarez Icaza and Elizabeth Abi; and rapporteur Catalina Botero.

Although ruling168/13 appeared to solve some problems related to nationality and the right to citizenship, a number of civil-society groups have raised their voices and said that the ruling constitutes a human rights violation (NotiCen, Nov. 21, 2013, and April 3, 2014).

Although a country is not bound to accept the on-site visit, on this occasion, the IACHR delegation was allowed to carry out the visit and it met with representatives of the Dominican government. Nevertheless, critics expressed a number of doubts regarding the role of the IACHR. This procedure, says Medina, "shows scant regard for human rights, and most countries refuse to accept it because it has serious political implications".

This is the fifth time that the Dominican Republic has received an on-site visit; the first one took place following the death of former dictator Rafael Leónidas Trujillo (1930-1961). Since the IACHR was created, it has resorted to this procedure on 79 occasions. This includes 11 visits to Haiti, 10 visits to Guatemala, and four visits to Peru.

However, Medina says that, although on many occasions the on-site visits have managed to ascertain that human rights violations are being committed, "nothing happens" once the IACHR issues its report.

Long-standing problems take turn for the worse
In March, the IACHR said that the measures taken by the Dominican Republic regarding the violations to the right to citizenship that had been reported were contrary to the principles laid out
by the Inter-American human rights system and demanded an explanation from the administration of President Danilo Medina.

Spanish new agency EFE reported that, during a public hearing, the IACHR demanded that the Dominican government issue an "immediate" response to the observations made by the IACHR after its visit to the Dominican Republic last December.

The IACHR said the problem in the Dominican Republic has "worsened" following the ruling issued in September last year by the Tribunal Constitucional, according to which the children of illegal immigrants are denied Dominican citizenship, which the IACHR regards as discriminatory.

Commissioner Felipe González has publicly stated that it is unfortunate that the Medina administration has failed to respond to the IACHR's observations and that during the hearing the Dominican government's representative insisted that the authorities are trying to solve the problem by implementing a "a plan to legalize foreigners."

"You can't expect that people who've got the right to obtain [Dominican] citizenship should register as foreigners as a prerequisite to obtain rights," González told EFE. "The government is taking a series of measures that fly in the face of what the IACHR has pointed out in its preliminary observations and of the principles of the Inter-American justice system".

The delegation's vice president Rosa María Ortiz told EFE that the Dominican government has made an efforts to improve a number of aspects but points out that these efforts are not "a step in the right direction," meaning that they don't abide by the principles of the Inter-American system and the principles laid out by the UN commissions during the past ten years.

Rhady's Abreu de Polanco, head of the Department of Human Rights of the Ministerio de Relaciones Exteriores and the main representative of the Dominican government during the hearing, told the IACHR representatives that the government would respond to all of its concerns in writing.

Abreu expressed concern regarding the repeated requests to hold hearings on the issue and said that using data supplied by the Junta Central Electoral (JCE), a list of foreigners, both legal and illegal, that appear on the country's civil registry, had been compiled.

Natanael Santana, director of the Centro de Asesoría e Investigaciones Legales (CEDAIL), said that insisting on that point shows that the Dominican government lacks the political will to solve the problem.

And even though the problems related to human rights, citizenship, and illegal immigrants have been sticking points in the bilateral relationship between Haiti and the Dominican Republic for years, the lack of authority that the delegation was able to exert illustrates the weakness of international organizations such as the IACHR, which depends directly on the OAS. It also illustrates the existence of an underlying problem that is far from resolved.

In this context, in March, 48 African nations announced that they were preparing a report that would "expose the alleged human rights violations committed against Haitian citizens," according to an article by Claudia Fortuna published in Horizonte newspaper.

Fortuna’s article says that the report is supported by the UN, Canada, the US, and the EU member states, according to Juan Bolívar Díaz, an activist who demands that Haitians be given Dominican citizenship.

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"If the country’s image has been tarnished by these allegations, this has been the result of our own actions, as we have allowed them [Haitian citizens] to enter the country illegally, we’ve given them documents, and then we’ve denied them residence status. The Dominican government is the main culprit here," says Bolívar Díaz.

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