



General Assembly

Distr.
GENERAL

A/HRC/WG.6/6/DOM/3

Original: ENGLISH/SPANISH

HUMAN RIGHTS COUNCIL
Working Group on the Universal Periodic Review
Sixth session
Geneva, 30 November -11 December 2009

SUMMARY PREPARED BY THE OFFICE OF THE HIGH COMMISSIONER FOR
HUMAN RIGHTS, IN ACCORDANCE WITH PARAGRAPH 15 (C) OF THE
ANNEX TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1

Dominican Republic*

The present report is a summary of 11 stakeholders' submissions¹ to the universal periodic review. It follows the structure of the general guidelines adopted by the Human Rights Council. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. Lack of information or focus on specific issues may be due to the absence of submissions by stakeholders regarding these particular issues. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the four-year periodicity of the first cycle of the review.

* The present document was not edited before being sent to the United Nations translation services.

I. BACKGROUND AND FRAMEWORK

A. Scope of international obligations

1. The Open Society Institute Justice Initiative (OSI) noted that the Dominican Republic has signed but not ratified the Convention on the Reduction of Statelessness (1961) and it is not a party to the Convention relating to the status of Stateless Persons (1954).² La Red de Encuentro Dominicano Haitiano Jacques Viau (REDH-JV)³ recomendó que se ratifiquen ambas Convenciones, así como la Convención internacional sobre la protección de los derechos de todos los trabajadores migratorios y de sus familiares y el Protocolo Facultativo del Pacto Internacional de Derechos Económicos Sociales y Culturales.⁴ Amnesty International (AI) recommended the ratification and implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.⁵

2. La Red Dominicana de Personas que Viven con VIH+ (REDOVIH+) indicó que la República Dominicana es signataria de la Declaración de compromiso de la lucha contra el SIDA, en la cual se destaca el deber de salvaguardar los derechos humanos y las libertades fundamentales de las personas que viven con VIH.⁶

B. Constitutional and legislative framework

3. AI reported that a proposed reform of the Constitution put forward by the Executive in 2008 includes a reference to the inviolability of the right to life “from conception to death”, and that the Draft Penal Code, currently being discussed in Parliament, contains a provision specifically providing for the imprisonment of women pregnant as a result of rape, incest or involuntary assisted fertilization, who seek or cause their own termination of pregnancy.⁷ La Colectiva Mujer y Salud y la Iniciativa por los Derechos Sexuales (CMS-SRI)⁸ explicó que la reforma Constitucional propuesta prohibiría en adelante la aprobación de cualquier ley o modificación al Código Penal para despenalizar el aborto terapéutico por riesgo de vida de la mujer o malformaciones fetales incompatibles con la vida, entre otras cosas.⁹ El Comité de América Latina y el Caribe para los Derechos de la Mujer (CLADEM) sugirió despenalizar el aborto terapéutico y cuando es el resultado de una violación sexual o incesto.¹⁰

4. CMS-SRI también indicó que desde el año 2002 el Congreso está apoderado de una propuesta de reforma al Código Penal que contempla la no-imputación penal o suspensión de la pena al violador sexual que contrae matrimonio con la menor de edad víctima de una violación sexual y que resultare grávida. Dicha propuesta también contempla la leve imputación penal con carácter correccional a quien sin ejercer violencia, ni constreñimiento, ni amenaza cometa un atentado sexual contra un niño, niña o adolescente.¹¹

C. Institutional and human rights infrastructure

5. La Fundación Comunidad Esperanza y Justicia Internacional (FUNCEJI) indicó que la República Dominicana es una de las pocas naciones latinoamericanas que no tiene una institución nacional de derechos humanos, tal como prevén los Principios de París. A pesar de la disposición y posterior creación de la figura de un Defensor del Pueblo, dicha posición continúa vacante.¹²

D. Policy measures

6. FUNCEJI dijo que actualmente ningún Ministerio ha formulado políticas en materia de derechos humanos debido a que no existe un Plan de Acción en esta área.¹³

II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

A. Cooperation with human rights mechanisms

7. REDH-JV informó que el Congreso emitió una carta declarando su desagrado por la visita del Relator especial sobre formas contemporáneas de racismo, discriminación racial, xenofobia y formas conexas de intolerancia y la Experta independiente sobre cuestiones de las minorías.¹⁴

B. Implementation of international human rights obligations

1. Equality and non discrimination

8. FUNCEJI dijo que la mujer dominicana ha ido fortaleciendo su participación en las áreas económica, social y política, logrando una presencia destacada en los ámbitos de justicia y educación. A pesar de éstos avances, el orden cultural vigente aún mantiene y refuerza los roles tradicionales en hombres y mujeres. Añade que factores como la alta tasa de mortalidad materna, la transmisión del VIH/SIDA y la baja participación en la esfera política, inciden negativamente sobre la probabilidad de que el país alcance los Objetivos de Desarrollo del Milenio.¹⁵

9. CLADEM señaló que las mujeres son sometidas a las pruebas obligatorias de VIH en mayor proporción que los hombres, especialmente en las zonas francas de producción exportadora y en la industria de turismo. Las trabajadoras cuyas pruebas resultan positivas generalmente pierden su trabajo o simplemente no pueden acceder a él.¹⁶ AI noted reports of discrimination in the workplace against people living with HIV/AIDS. It added that in 2006 employees were reportedly being tested for HIV without their consent or as a condition of their employment.¹⁷

10. REDH-JV dijo que los Gobiernos dominicanos han utilizado diferentes argumentos con el fin de lograr una ideología de rechazo a la africanidad, existiendo una falta de políticas y acciones afirmativas por parte del Estado a favor del reconocimiento de orígenes africanos como parte fundamental de la sociedad dominicana. Aún más, se ha querido construir un sentido de identidad, o “dominicanidad”, que sólo reconoce un pasado netamente hispano e indígena.¹⁸ REDH-JV indicó que se sigue utilizando el color de la piel en los documentos de identidad y que el Estado impide que los dominicanos/as se reconozcan como negros, obligándoles a ser calificados como “indio”, aun cuando se solicite ser reconocido como negro/a.¹⁹

11. REDH-JV mencionó que aunque la legislación nacional promueve la igualdad y prohíbe la discriminación racial, no se han adoptado medidas eficientes para lograr esos objetivos y que la discriminación de las personas debido a su raza o etnia, tanto en el ámbito público como en el privado, continúa impune.²⁰ Añade que tras muchos años de negación hacia los afro-descendientes, es necesario un reconocimiento por parte del Estado, así como un marco normativo y legislativo y medidas administrativas a nivel nacional, que protejan contra la discriminación racial, étnica y de origen.²¹

12. Según REDH-JV, los migrantes haitianos al igual que los dominicanos de ascendencia haitiana están sometidos a las formas más graves de prejuicio racial y discriminación en el país.²² World Vision International (WVI) said that between 20,000 to 30,000 immigrants are expelled every year with no chance to appeal as a result of systematic discrimination because of

their race, skin colour, language and nationality, despite the fact that many have valid work permits and visas and some are in fact Dominicans with no family ties in Haiti.²³ REDH-JV indica que la mayoría de estas expulsiones se hacen basadas en criterios tan superficiales como el del color de la piel, expulsando muchas veces de forma arbitraria a ciudadanos dominicanos(as) por entender a priori que son haitianos basados en su color.²⁴

13. WVI stressed that unregistered children of Haitian descent cannot attend public school beyond 6th grade, are denied public health insurance and cannot get a work permit.²⁵ REDH-JV indicó que los niños sin certificado de nacimiento no pueden acceder a ningún tipo de protección por parte del Estado.²⁶

14. CMS-SRI indicó que existe amplia discriminación hacia las personas homosexuales, gays, lesbianas, transgénero y transexuales. Esta discriminación se evidencia a través de los insultos en las calles, la denegación de matrícula en escuelas públicas, el arresto a travestis y su despido de organismos privados y públicos como la Policía Nacional. CMS-SRI añadió que una propuesta de reforma constitucional plantearía reconocer solamente la unión legal o de hecho entre personas de diferentes sexos.²⁷

2. Right to life, liberty and security of the person

15. FUNCEJI indicó que el reporte de casos en los cuales los agentes de la Policía Nacional han dado muerte de manera ilegal a civiles y a sospechosos de crímenes, ha ido en aumento.²⁸ AI also expressed concern with regard to continued reports of fatal shootings by members of the security forces, some of which may amount to unlawful killings. It stressed that, according to the *Comision Nacional de Derechos Humanos*, more than 3,000 people have been killed by police in the last ten years. The official explanation frequently given for killings by the police is “exchange of fire” with armed criminal suspects. However, in many cases eyewitness testimony contradicts this version of events.²⁹

16. AI said that the military, in particular the Special Border Security Force (CESFRONT), has been questioned by local and international human rights groups for excessive or unlawful use of force.³⁰ It noted reports of Haitian migrants suffering ill-treatment, both physical and psychological, at the hands of migration officials and members of the security forces, including the CESFRONT, or being victims of extortion in order to be allowed to cross the border.³¹

17. The Inter-American Commission on Human Rights (IACHR) reported that in 2008, it considered admissible a petition alleging the death of six Haitian nationals and one Dominican, and the injury of several more, as a result of agents from the Border Intelligence Operations Department of the Armed Forces (DOIF) opening fire over a truck crossing a checkpoint in the Dominican Republic. The petitioners alleged that some survivors had been held arbitrarily and later expelled from the country, without any attempt to determine their legal status. They also alleged that the official investigation opened by military courts prevents the victims from seeking legal action in regular courts, causing proceedings brought by the family members of the victims to be suspended because of the existence of a proceeding in a military court.³²

18. IACHR also reported that in 2006, it considered admissible a petition alleging various types of torture committed by national police officers, including hanging by wrists in a cell, beatings and starvation, as well as the seizure of various belongings during searches. Regarding the case, the State asserted that two members of the national police would be subject to disciplinary investigation and that the police was willing to deliver the seized property to the petitioner.³³

19. FUNCEJI indicó que ciudadanos suelen atacar a malhechores tomando la justicia por sus propias manos; incidentes atribuibles al aumento de la pobreza, la falta de confianza en la policía y en el Poder Judicial.³⁴ AI also expressed concern at reports of lynching of Haitian migrants and Dominicans of Haitian descent in apparent reprisal for killings of Dominican citizens attributed to Haitians. AI cited indiscriminate mob attacks against Haitians which left at least two dead, several injured and numerous houses destroyed in November 2008.³⁵

20. WVI said that the Dominican Republic experiences an increasingly high level of social violence, estimating that approximately 50 per cent of teachers and parents physically punished children. Very few cases are taken to court due to a lack of economic resources, lack of knowledge about accessing legal assistance, and social norms.³⁶ The Global Initiative to End All Corporal Punishment of Children (GIEACPC) indicated that corporal punishment is lawful in the home, and that provisions against violence and abuse in the Code for the System of Protection of the Fundamental Rights of Children and Adolescents, the Law Against Domestic Violence, the Criminal Code and the Code of Criminal Procedure are not interpreted as prohibiting all corporal punishment in childrearing. Furthermore, there is no explicit prohibition of corporal punishment in all alternative care settings.³⁷

21. CLADEM informó que el *feminicidio* ha ido en aumento. La tasa de homicidios o muerte violenta de mujeres al inicio del milenio era cercana a 2.30 por 100.000 y en el año 2006 fue de 3.91 por 100.000. CLADEM indicó que esta tasa sitúa a la República Dominicana en un nivel alto en relación al resto de los países de Centroamérica.³⁸

22. AI expressed concern at the high incidence of violence against women in the Dominican Republic, including domestic violence and sexual assault. AI noted that, according to a survey, 20% of all Dominican women and girls over 15 had suffered physical violence at some time in their life and one woman in ten had been raped. It also noted that victims have inadequate access to State institutions, and referenced a report that found that the great majority of survivors of gender-based violence face discrimination by members of the judiciary and that 60% of victims abandon the legal process they have initiated.³⁹ The IACHR stressed that the Dominican Republic had taken several measures in favour of women victims of violence,⁴⁰ including launching a nationwide campaign on the radio and in the press for the prevention of violence against and trafficking of women.⁴¹ AI recommended, inter-alia, the establishment of Units for the Integrated Assistance for Victims of Violence against Women in each of the country's 32 provinces, as well as the immediate establishment of a minimum of one shelter for each of the country's nine regions.⁴²

23. WVI indicated that men, women and children are trafficked to, from, and within the country. Reports estimate that between 17,000 and 33,000 Dominican women abroad have been victims of trafficking, including women or adolescent children brought to urban or tourist areas for sexual exploitation.⁴³ AI said that according to human rights organizations working on both sides of the border, 1,353 Haitian children were trafficked into the Dominican Republic during the first six months of 2008, and exploited for agricultural and domestic work, begging, street-vending and prostitution.⁴⁴

24. WVI noted the establishment of the National Commission against Trafficking in Persons in 2007, charged with developing a national strategy to combat trafficking and improve victim protection. However, it was concerned that this Commission has not yet been allocated funding.⁴⁵ CLADEM reconoció esfuerzos del Estado por combatir la trata de personas, como la ley contra la trata y el tráfico de personas promulgada en el año 2003. A pesar de ello, informó que sólo se han dictado alrededor de diez sentencias condenatorias y que las labores de

protección y asistencia a víctimas están siendo llevadas a cabo mayormente por organismos de la sociedad civil con muchas precariedades.⁴⁶

3. Administration of justice, including impunity and the rule of law

25. AI recognized recent advances with regard to ending impunity for human rights violations committed by the security forces and welcomed the new Code of Criminal Procedure, which places all human rights violations committed by members of the security forces under civilian jurisdiction.⁴⁷ However, it recommended, inter-alia, that the State strengthen the coordination between the National Police and the Public Prosecutor's Offices to ensure that investigations into human rights violations are conducted promptly, independently and impartially; and establish a fully independent oversight body to receive and investigate complaints of police misconduct and reports of human rights violations.⁴⁸

26. FUNCEJI indicó que es preocupante que la población dominicana considere que no existe igualdad en la aplicación de la ley y que ésta diferencia depende de la clase social a la que el individuo pertenece. Añadió que son altamente preocupantes aquellos casos en que la parte que debe pagar por su falta no es sancionada, debido a que tiene un status económico alto o influencias políticas, militares o policiales. FUNCEGIL mencionó que es alarmante el crecimiento de la impunidad en sentencias que no llegan a cumplirse luego de haber sido dictadas por un juzgado, así como los indultos otorgados por el Gobierno Dominicano en ciertos casos.⁴⁹

4. Right to privacy, marriage and family life

27. According to WVI, an estimated 1 in 5 of children born in the country are not registered for a variety of reasons, including the unlawful status of their parents in the country, fear of expulsion, lack of parental documents, special requirements for certain groups of parents, high costs and bureaucratic inefficiency. Certain groups are particularly affected, including the extremely poor, Haitian migrants and teen mothers.⁵⁰ WVI recommended that all children be guaranteed the right to be registered at birth, through a simplified procedure, which is both free and available without discrimination.⁵¹ AI recommended that any denial of a request to issue identity-related documents is recorded and accompanied by a full written explanation.⁵²

5. Freedom of expression and right to participate in public and political life

28. AI noted periodic reports of intimidation and harassment of media workers by authorities and private individuals, often related to investigations of corruption. According to AI, the Dominican National Union of Press Workers found that between January and September 2008, 32 journalists had been physically attacked or threatened and 21 others had been subjected to spurious judicial proceedings related to their reporting.⁵³

29. REDH-JV indicó que existe hostigamiento a los/as defensores/as de derechos humanos por parte de las autoridades, particularmente aquellos que trabajan los temas de migración y derechos humanos. El Servicio Jesuita de Refugiados y Migrantes, el Movimiento de Mujeres Dominicano Haitianas y varios líderes de la comunidad dominico-haitiana habrían sido acusados por el Canciller y altos funcionarios del Estado de llevar una campaña de descrédito internacional contra el país.⁵⁴

6. Right to work and to just and favourable conditions of work

30. WVI said that at least half a million immigrants live in the Dominican Republic and work principally in agriculture and construction, carrying out low-paid and often hazardous work.⁵⁵ WVI added that child labour remains a serious concern, with estimations that 9.7 % of children between 10 and 17 work illegally in the informal sector. It also noted reports that school-aged children of Haitian descent are employed to work in the households or family businesses in conditions of indentured servitude.⁵⁶

7. Right to social security and to an adequate standard of living

31. CLADEM señaló que tras la crisis financiera del 2002-2004 un millón y medio de dominicanos/as cayeron en la pobreza y 670.000 de ellos se vieron forzados a reducir su consumo de alimentos por debajo de los niveles mínimos de subsistencia. Hacia fines del 2004, 42 de cada cien dominicanos eran pobres y de éstos 16 se encontraban viviendo en situación de pobreza extrema. A pesar de la permanencia de República Dominicana como un país con un excelente crecimiento económico, este no se constituye en un elemento de redistribución de las riquezas.⁵⁷ FUNCEJI indicó que el hecho de que el jefe de hogar sea mujer aumenta la vulnerabilidad ante la pobreza.⁵⁸

32. REDH-JV dijo que los *bateyes* (communities for sugar plantation workers) aún siguen siendo comunidades excluidas y en situación de pobreza extrema. En su gran mayoría los *bateyes* están compuestos por población afro-descendiente, dominicanos/as de ascendencia haitiana y migrantes haitianos, quienes sufren las mayores privaciones y carencias ante la indiferencia del Estado dominicano.⁵⁹ Un estudio diagnóstico sobre la situación en trece *bateyes* realizado en 2007, habría encontrado, entre otras cosas, que el 64.4% de las viviendas tienen entre uno y dos cuartos, el 59.2% no tienen cocina, el 54.9% no tienen baño, el 48.9% no tienen servicio sanitario y el 67.6% comparte el servicio sanitario con otras familias.⁶⁰

33. CLADEM indicó que el Estado no cuenta con una política integral y efectiva para la reducción del hambre, la desnutrición y la inseguridad alimentaria, manteniendo un carácter asistencialista. A su vez, el aporte monetario para comprar alimentos y otros bienes básicos es reducido (poco menos de US\$ 20 por mes por hogar) considerando que el costo de la canasta alimentaria a febrero de 2009 era de poco más de US\$39 por persona por mes.⁶¹ CLADEM recomendó desarrollar políticas agropecuarias que promuevan la modernización de las unidades productivas y aseguren el acceso a los factores de producción de pequeñas empresas productivas y que además de aportar en el incremento de la productividad asegure la generación de ingresos de los hogares rurales pobres, basadas en un enfoque de derechos humanos y de género.⁶²

34. WVI noted that access to basic health services remains difficult for many poor and rural people due to the location and costs involved. It added that maternal and child mortality rates are high.⁶³

35. WVI indicated that the adult prevalence of HIV in the Dominican Republic is 1.1% and that it is estimated that 62,000 Dominicans are HIV+, 2,700 of them children under 14. It stressed that the level of knowledge that young people have as to how to protect themselves from HIV/AIDS remains low.⁶⁴ AI noted that although the HIV/AIDS epidemic has stabilized, it remains concerned by the Government's over-dependence on external funding for its response to the disease. It added that the HIV incidence among residents of *bateyes* remains high and there are concerns that the Haitian migrant population and Dominico-Haitians face obstacles in

gaining access to treatment. CMS-SRI indicó que recientemente se ha visto una feminización del VIH/SIDA.⁶⁵

36. REDOVIIH+ citó resultados de un estudio donde en el 23% de los casos un profesional de la salud le habría recomendado a la paciente no tener hijos a partir del diagnóstico de VIH+, y el 11% habría sido coaccionado para esterilizarse después de saber que es VIH+, existiendo ocasiones en las que se esterizaron mujeres sin su consentimiento informado.⁶⁶

37. AI was alarmed by the high number of forced evictions and noted 2008 reports from a network of local NGOs that claimed that more than 50.000 families in the country face this threat, either from the State or from individuals claiming the property of the lands. AI stressed that most evictions are executed without due process or consultation with the communities affected to make lands available for the construction of infrastructure, tourist estates or industrial complexes. It also noted that the lack of deeds and security of tenure, which is estimated to affect more than 50% of the population (75% in Santo Domingo Province), are among the main arguments used by the authorities to justify forced evictions.⁶⁷ A joint submission presented by five organisations (JS1)⁶⁸ provided information on evictions and threats of evictions carried out in La Zurza, Municipio de Santo Domingo Este, Villa Venecia de Pantoja, La Caleta y Valiente, and Boca Chica, affecting hundreds of families each.⁶⁹ JS1 indica que durante las demoliciones de viviendas se pone en peligro la vida de las personas y que no se garantiza la reubicación de las familias desalojadas ni la indemnización de sus bienes. Añade que los desalojos son llevados a cabo tanto por reclamantes privados como por el propio Estado, y que se ha ido haciendo una constante la participación de civiles armados y encapuchados como fuerza de apoyo de policías y militares.⁷⁰ JS1 propuso que el Estado cumpla con los acuerdos de reubicación de comunidades y que cuando un desalojo deba producirse por causa mayor, se garantice consensuarlo con las comunidades.⁷¹ AI recommended ensuring that evictions are carried out in accordance with guidelines, drawn up by the UN Special Rapporteur on Adequate Housing, on development-based evictions and displacements.⁷²

38. JS1 indicó que el Estado no ha colaborado con las organizaciones comunitarias que promueven desde el 2004 un Proyecto de Ley de Vivienda, Hábitat y Asentamientos Humanos. Más aún, el Gobierno habría eliminado de la propuesta de Reforma Constitucional el artículo 8-15 b sobre el Derecho a la Vivienda.⁷³ JS1 propuso la creación de un Banco de Tierras y un Fondo de Vivienda y Tierra que permita el financiamiento de la vivienda social, acceso al suelo y la planificación del crecimiento urbano futuro.⁷⁴

8. Right to education and to participate in the cultural life of the community

39. WVI noted that although education is free for all minors up to 8th grade, in practice, free education is only provided for primary schooling up to the fourth grade.⁷⁵ Despite a recent decline in the dropout rate, it is still high, and referred to the Ten-Year Education Plan for the period 2007 to 2017, which indicates that only 68% of children are expected to complete eighth grade and less than half will complete secondary school.⁷⁶ WVI recommended that the Government establish administrative units responsible for monitoring and analysing the actual situation with respect to school attendance and the quality of education provided.⁷⁷

40. CMS-SRI recomendó incluir en la currícula de educación pública y privada los derechos sexuales y reproductivos, desde la perspectiva de los derechos humanos y de género.⁷⁸

9. Migrants, refugees and asylum-seekers

41. AI noted that Article 22 of the General Migration Law (No. 285-04) approved in 2004, provides for the recognition of the civil rights of non-nationals living in the country only where their country of nationality accords similar recognition to Dominican nationals living there.⁷⁹

42. AI also indicated that the constitutionality of the General Migration Law has been questioned by Dominican human rights organizations. According to AI, the basis for their concerns are articles in the law which seek to limit the scope of the Constitution by defining all “non-residents” as persons “in transit”, and to impose limitations on their right to Dominican nationality.⁸⁰ WVI said the Government regularly uses the “in transit” exception to deny registration as nationals to children born in the country to parents of Haitian descent, even when their parents and grandparents have resided in the country for long periods of time.⁸¹ Similar concerns were raised by REDH-JV⁸² and OSI, which added that persons “in transit” for purposes of citizenship exclusion were until recently understood to be those who spent no more than ten days in the Dominican Republic at the time of their children’s births. However, OSI recalled that the General Migration Law, adopted in 2004, broadened the “in transit” exception, to include all children of “non-residents”. It added that “non-resident” is broadly defined to also include tourists, businesspeople, labourers with temporary visas allowing them to work in the Dominican Republic, residents of the Dominico-Haitian border, persons who entered the country legally but have overstayed their visas, undocumented migrant workers and persons who cannot otherwise prove their residence in the Dominican Republic.⁸³ OSI recommended developing, applying and publicizing due process guarantees with respect to nationality procedures, including written notifications and records of investigations, explanations for actions taken and opportunities for appeal, and adequately train all civil registry staff in these procedures. It also recommended ensuring that any changes to the law, particularly those related to nationality, not be applied retroactively.⁸⁴

43. AI indicated that a proposed reform of the Constitution was put before Congress in 2008 by the Executive. The proposal has alarmed civil society organizations working on behalf of Haitian migrants and Dominicans of Haitian descent because of the clause stating that Dominican nationality cannot be acquired by children born to parents residing “illegally” on Dominican soil. If adopted, this clause could be used to extend the parents’ irregular status and subsequent lack of documentation to children born on Dominican soil.⁸⁵

44. IACHR reported that in 2005, the Inter-American Court of Human Rights ordered the Dominican Republic to, inter-alia, adopt within its domestic law, within a reasonable time, the legislative, administrative and any other measures needed to regulate the procedure and requirements for acquiring Dominican nationality based on the late declaration of birth.⁸⁶ In 2007, the Court declared it would continue monitoring compliance with the obligations it found pending fulfillment, including the above order. It called on the State to promptly, effectively, and fully comply with the measures of reparation pending compliance ordered by the Court.⁸⁷

45. WVI noted reports that since April 2007, pink declarations confirming births had been issued and sent to the embassy of the country from which the mother or other members of the family might have come, even though the mother might have no ties to that country, which was often Haiti. WVI stressed that this measure results in a child being deprived of the right to a nationality, provided under article 7 of the Convention on the Rights of the Child.⁸⁸

46. WVI also said that in March 2007 the Government issued an administrative instruction ordering officials to refrain from issuing, signing, and providing official copies of birth

documents for individuals whose parents were foreigners and had not legally proven their residency.⁸⁹ AI indicated that the “Junta Central Electoral (JCE)” issued Circular 17, which instructs Government officials to examine whether identity documents presented for renewal or registration had been wrongly issued in the past. AI was concerned that this provision could be used to deny Dominicans of Haitian descent access to official documentation and consequently deny them access to education, the right to vote, the formal job market and a state pension.⁹⁰

47. REDH-JV indica que las autoridades de la JCE rechazan procesos de solicitud de documentos de identidad solicitados por dominicanos de ascendencia haitiana, con el argumento que los padres eran “no-residentes” cuando se registraron los nacimientos, y que entonces la nacionalidad dominicana les fue conferida por error.⁹¹ Similar concerns were expressed by OSI which added that in many cases the affected individuals were born 10 and 20 years prior to the creation of the category of “non-resident” by the 2004 General Migration Law.⁹² Además, REDH-JV señaló que en algunos documentos oficiales de casos particulares, los funcionarios de la JCE han reemplazado la frase “padres extranjeros” con la de “padres haitianos”.⁹³ OSI indicated that JCE officials have admitted to using impermissible criteria such as skin color and “Haitian-sounding” surnames to decide which individuals are likely to be carrying “suspect” identity documents.⁹⁴ OSI added that according to Dominican law, the JCE is not empowered to cancel or to prohibit the issuance of identity documents to Dominican nationals, a function reserved only for a judge.⁹⁵

48. OSI also noted that the JCE recently ordered that all identity cards currently held by Dominican citizens be replaced by a new version that will contain biometric information; a process also intended to “clean” the civil registry system. Given the Government’s recent policy of refusing to grant Dominicans of Haitian descent copies of their birth certifications on the presumption of fraud or “irregularity”, this process threatens to disproportionately affect Dominicans of Haitian descent, as many will need to obtain certified copies of their birth certificates in order to be approved for a new identification card.⁹⁶

49. AI noted that Dominican NGOs have continuously denounced mass expulsions of Haitian migrants because those expelled have no recourse to appeal. Thousands of Haitians are deported arbitrarily every year. In May 2005, more than 3,000 Haitians and black Dominicans would have been forcibly expelled in three days, reportedly rounded up in the early hours of the morning, forced onto buses and left at the Haitian border, with many unable to collect their belongings and some allegedly separated from family members.⁹⁷ REDH-JV indicó que las personas expulsadas son a menudo víctimas de chantaje y extorsión por parte de los agentes de migración, que se separan madres de sus hijos, sin ningún tipo de mecanismo que contemple que hacer con los menores de edad, y que es común lanzar a las personas al río. REDH-JV Añade que a las personas expulsadas tampoco se les permite cobrar sueldos que tienen pendientes o avisar a sus familiares que están siendo objetos de deportación.⁹⁸

III. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS

50. REDOVIIH+ consideró como un éxito que la Unidad Técnico Laboral de Atención Integral en VIH y SIDA, de la Secretaria de Estado de Trabajo, haya logrado pactar conciliaciones y acuerdos entre empleadores y empleados, así como la firma de acuerdos de políticas de VIH en el lugar de trabajo, entre empresas y la Secretaria de Estado de Trabajo.⁹⁹

Notes

¹ The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org. (One asterisk denotes a non-governmental organization in consultative status with the Economic and Social Council.)

Civil society

AI	Amnesty International, London, United Kingdom*;
CLADEM	Comité de América Latina y el Caribe para los Derechos de la Mujer, Bogotá, Colombia;
CMS-SRI	Colectiva Mujer y Salud y la Iniciativa por los Derechos Sexuales, Santo Domingo, Republica Dominicana (joint submission);
JS1	Joint submission presented by five organisations, Santo Domingo, Republica Dominicana (joint submission);
FUNCEJI	Fundación Comunidad Esperanza y Justicia Internacional, Santo Domingo, Republica Dominicana;
GIEACPC	Global Initiative to End All Corporal Punishment of Children;
OSI	Open Society Institute - Justice Initiative, New York, United States *;
REDH-JV	Red de Encuentro Dominicano Haitiano Jacques Viau, Santo Domingo, Republica Dominicana (joint submission);
REDOVIH+	Red Dominicana de Personas que Viven con VIH/SIDA, Santo Domingo, Republica Dominicana;
WVI	World Vision International, Monrovia, United States *.

Regional intergovernmental organization

IACHR	Inter-American Commission on Human Rights, Washington, United States.
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² OSI, p. 2.

³ REDH-JV está compuesta por las siguientes organizaciones: Alas de Igualdad, Inc., Asociación Pro Desarrollo Mujer y Medio Ambiente (APRODEMA), Asociación de Pastores y Líderes Cristianos (ASOPALC), Centro Cultural Dominicano Haitiano (CCDH), Centro Dominicano de Asesoría e Investigaciones Legales (CEDAIL), Comisión de Trabajo Ecuménico Dominicano (COTEDO), Grupo Cristiano para el Desarrollo Comunitario de la Romana (GCDC), Instituto de Acción Comunitaria (IDAC), Instituto para el Desarrollo Social Comunitario (INDESOC), Movimiento Socio Cultural para los Trabajadores Haitianos (MOSCTHA), Movimiento de Mujeres Dominicano Haitianas (MUDHA), Centro por la Solidaridad, Oné Respe, Pastoral Haitiana de Barahona, Pastoral Haitiana Arquidiócesis Santo Domingo (PHSD), Fundación Étnica Integral (FEI), y Grupo de Pastores Interdenominacional (GPI).

⁴ REDH-JV, p. 9.

⁵ AI, p. 9.

⁶ REDOVIH+, p.1.

⁷ AI, p. 3-4.

⁸ CMS-SRI incluye: Colectiva Mujer y Salud y la Iniciativa por los Derechos Sexuales, (una coalición que incluye a Action Canada for Population and Development; Creating Resources for Empowerment and Action – CREA- India; Federación Polaca por las Mujeres y la Planificación Familiar; Mulabi – Espacio Latinoamericano de Sexualidades y Derechos y otros).

⁹ CMS-SRI, p. 2.

¹⁰ CLADEM, p. 4.

¹¹ CMS-SRI, p. 4.

¹² FUNCEJI, p. 2.

¹³ FUNCEJI, p. 2.

¹⁴ REDH-JV, p. 3.

¹⁵ FUNCEJI, p. 3.

¹⁶ CLADEM, p. 2.

¹⁷ AI, p. 7.

¹⁸ REDH-JV, p. 2.

¹⁹ REDH-JV, p. 2.

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- ²⁰ REDH-JV, p. 2.
- ²¹ REDH-JV, p. 3.
- ²² REDH-JV, p. 3.
- ²³ WVI, p. 3.
- ²⁴ REDH-JV, p. 9.
- ²⁵ WVI, p. 4.
- ²⁶ REDH-JV, p. 8.
- ²⁷ CMS-SRI, p. 5.
- ²⁸ FUNCEJI, p. 3.
- ²⁹ AI, p. 4.
- ³⁰ AI, p. 4.
- ³¹ AI, p. 6.
- ³² IACHR, Annex 2, p. 309-318.
- ³³ IACHR, Annex 1, p. 326-331.
- ³⁴ FUNCEJI, p. 4.
- ³⁵ AI, p. 6.
- ³⁶ WVI, p. 3.
- ³⁷ GIEACPC, p. 2.
- ³⁸ CLADEM, p. 4.
- ³⁹ AI, p.5.
- ⁴⁰ IACHR, Annex 6, p. 99,106,107.
- ⁴¹ IACHR, Annex 6, p. 113.
- ⁴² IA, p. 9.
- ⁴³ WVI, p. 2.
- ⁴⁴ AI, p. 6.
- ⁴⁵ WVI, p. 2,3.
- ⁴⁶ CLADEM, p. 5.
- ⁴⁷ AI, p. 4-5.
- ⁴⁸ AI, p. 8-9.
- ⁴⁹ FUNCEJI, p. 2.
- ⁵⁰ WVI, p. 3.
- ⁵¹ WVI, p. 4.
- ⁵² AI, p. 10.
- ⁵³ AI, p. 6.
- ⁵⁴ REDH-JV, p. 3.
- ⁵⁵ WVI, p. 3.
- ⁵⁶ WVI, p. 2.
- ⁵⁷ CLADEM, p. 1.
- ⁵⁸ FUNCEJI, p. 3.
- ⁵⁹ REDH-JV, p. 4.
- ⁶⁰ REDH-JV, p. 5.
- ⁶¹ CLADEM, p. 2.
- ⁶² CLADEM, p. 2.
- ⁶³ WVI, p. 1.
- ⁶⁴ WVI, p. 1.
- ⁶⁵ CMS-SRI, p. 2.
- ⁶⁶ REDOVH+, p. 3.
- ⁶⁷ AI, p.7.
- ⁶⁸ Cooperativa De Producción Social De La Vivienda y El Habitat (COOPHABITAT), Consejo De Desarrollo Comunitario De La Caleta (CODECOC), Unión Pro Desarrollo De Brisas Del Este (UPROBRISA), Junta De Vecinos Los Ángeles De Villa Esfuerzo, Club Hábitat Del Ensanche Isabelita.
- ⁶⁹ JS1, p. 4-8.
- ⁷⁰ JS1, p. 8.
- ⁷¹ JS1, p. 9.
- ⁷² AI, p. 10.
- ⁷³ JS1, p. 8.
- ⁷⁴ JS1, p. 9.
- ⁷⁵ WVI, p. 1.
- ⁷⁶ WVI, p. 1.

⁷⁷ WVI, p. 5.

⁷⁸ CMS-SRI, p. 2.

⁷⁹ AI, p. 3.

⁸⁰ AI, p. 3.

⁸¹ WVI, p. 3.

⁸² REDH-JV, p. 7.

⁸³ OSI, p. 2-,3.

⁸⁴ OSI, p. 5.

⁸⁵ AI, p. 3.

⁸⁶ IACHR, Annex 4, p. 84.

⁸⁷ IACHR, Annex 5, p. 6,7.

⁸⁸ WVI, p. 4.

⁸⁹ WVI, p. 3,4.

⁹⁰ AI, p. 3

⁹¹ REDH-JV, p. 8.

⁹² OSI, p.3,4.

⁹³ REDH-JV, p. 8.

⁹⁴ OSI, p. 4.

⁹⁵ OSI, p. 4.

⁹⁶ OSI, p. 5.

⁹⁷ AI, p. 6.

⁹⁸ REDH-JV, p. 9.

⁹⁹ REDOVH+, p. 4.
