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

Dominican Republic

The present report is a compilation of the information contained in the reports of treaty bodies, special procedures, including observations and comments by the State concerned, and other relevant official United Nations documents. 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), other than those contained in public reports issued by OHCHR. It follows the structure of the general guidelines adopted by the Human Rights Council. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the four-year periodicity of the first cycle of the review. In the absence of recent information, the latest available reports and documents have been taken into consideration, unless they are outdated. Since this report only compiles information contained in official United Nations documents, lack of information or focus on specific issues may be due to non-ratification of a treaty and/or to a low level of interaction or cooperation with international human rights mechanisms.

I. BACKGROUND AND FRAMEWORK

A. Scope of international obligations¹

| <i>Core universal human rights treaties²</i> | <i>Date of ratification, accession or succession</i> | <i>Declarations /reservations</i> | <i>Recognition of specific competences of treaty bodies</i> |
|--|--|-----------------------------------|---|
| ICERD | 25 May 1983 | None | Individual complaints (art. 14): No |
| ICESCR | 4 Jan. 1978 | None | - |
| ICCPR | 4 Jan. 1978 | None | Inter-State complaints (art. 41): No |
| ICCPR-OP 1 | 4 Jan. 1978 | None | - |
| CEDAW | 2 Sept. 1982 | None | - |
| OP-CEDAW | 10 Aug. 2001 | None | Inquiry procedure (art. 8 and 9): No |
| CRC | 11 Jun. 1991 | None | - |
| OP-CRC-SC | 6 Dec. 2006 | None | - |
| <i>Core treaties to which Dominican Republic is not a party: OP-ICESCR,³ ICCPR-OP 2, CAT (signature only, 1985), OP-CAT, OP-CRC-AC (signature only, 2002), ICRMW, CRPD (signature only, 2007), OP-CRPD (signature only, 2007), and CED.</i> | | | |

| <i>Other main relevant international instruments</i> | <i>Ratification, accession or succession</i> |
|--|--|
| Convention on the Prevention and Punishment of the Crime of Genocide | No |
| Rome Statute of the International Criminal Court | Yes |
| Palermo Protocol ⁴ | Yes |
| Refugees and stateless persons ⁵ | Yes, except 1954 and 1961 Conventions |
| Geneva Conventions of 12 August 1949 and Additional Protocols thereto ⁶ | Yes |
| ILO fundamental conventions ⁷ | Yes |
| UNESCO Convention against Discrimination in Education | Yes |

1. The Committee on the Elimination of Racial Discrimination (CERD),⁸ the Committee on the Elimination of Discrimination against Women (CEDAW)⁹ and the Committee on the Rights of the Child (CRC)¹⁰ encouraged the State to consider ratifying ICRMW. The United Nations system in the Dominican Republic (SNU-RD) said that it was essential to ratify the convention as soon as possible.¹¹

2. CRC¹² and CERD¹³ encouraged the State to ratify the 1954 Convention on the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. CRC recommended that the State expedite the ratification of CAT¹⁴ and ratify CRPD, OP-CRPD¹⁵ and OP-CRC-AC.¹⁶ CERD also recommended ratifying the amendment to article 8, paragraph 6, of ICERD.¹⁷ It noted that the Dominican Republic has not made the optional declaration provided for in article 14 of the Convention and urged it to consider doing so.¹⁸

B. Constitutional and legislative framework

3. In 2009, SNU-RD reported that a process of structural constitutional reform was under way and warned that many of the principles to be incorporated in the Constitution could generate situations of discrimination.¹⁹ SNU-RD recommended that the constitutional reform should take into account the international human rights commitments entered into by the Dominican State.²⁰

4. In 2004, CEDAW noted with concern that passage of the Penal Code bill as it stood would constitute a reversal of some of the advances made in the area of women's human rights by, *inter alia*, reducing the penalties for domestic violence, eliminating incest as a defined crime, penalizing abortion in cases of rape and bringing criminal charges or suspending sentence in cases of rape if the perpetrator marries the minor victim.²¹ It urged the State to ensure that the new Penal Code will be in harmony with general recommendation No. 19 (1992) concerning violence against women.²²

C. Institutional and human rights infrastructure

5. As of 9 July 2009, the Dominican Republic did not have a national human rights institution accredited by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC).²³ In 2008, CERD invited the State to facilitate the prompt establishment of a national human rights institution in accordance with the Paris Principles.²⁴ The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and the independent expert on minority issues also made a recommendation in this regard.²⁵

6. In 2008, CRC noted that an Ombudsperson and an Assistant Ombudsperson for Children and Youth were established by law in 2001, but was concerned that both positions had remained unfilled ever since.²⁶

D. Policy measures

7. In 2009, SNU-RD recommended that the State should draw up and implement a national human rights strategy.²⁷

8. In 2008, CRC noted various action plans for the promotion of the rights of children. However, it was concerned that there is not one consolidated Plan of Action which ensures a coordinated approach to the implementation of children's rights.²⁸

9. In 2008, the Special Rapporteur on contemporary forms of racism and the independent expert on minority issues recommended that the Government establish a consultative body to assess the situation of racism and racial discrimination in the country and formulate a national plan of action in this area, inspired by the Durban Declaration and Programme of Action.²⁹

10. In 2004, CEDAW urged the State to develop and implement effectively a general policy of poverty eradication that incorporates a gender perspective and accords special attention to households headed by women.³⁰

II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

A. Cooperation with human rights mechanisms

1. Cooperation with treaty bodies

| <i>Treaty body³¹</i> | <i>Latest report submitted and considered</i> | <i>Latest concluding observations</i> | <i>Follow-up response</i> | <i>Reporting status</i> |
|---------------------------------|---|---------------------------------------|---------------------------|---|
| CERD | 2006 | Mar. 2008 | Due in 2009 | Combined thirteenth and fourteenth reports due in 2010 |
| CESCR | 1994 | Dec. 1997 | - | Third report overdue since 1999 and received in 2008. Fourth report overdue since 2004 |
| HR Committee | 1999 | Apr. 2001 | Overdue since 2002 | Fifth report overdue since 2005 |
| CEDAW | 2003 | July 2004 | - | Combined sixth and seventh reports overdue since 2007 |
| CRC | 2007 | Feb. 2008 | - | Combined third, fourth and fifth reports due in 2011 |
| OP-CRC- SC | | | | First report due in 2009 |

2. Cooperation with special procedures

| | |
|--|--|
| <i>Standing invitation issued</i> | No |
| <i>Latest visits or mission reports</i> | Joint visit of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and the independent expert on minority issues (23-29 October 2007). |
| <i>Visits agreed upon in principle</i> | - |
| <i>Visits requested and not yet agreed upon</i> | Special Rapporteur on extrajudicial, summary or arbitrary executions, requested in 2008. |
| <i>Facilitation/cooperation during missions</i> | The special procedures experts thanked the Government for its invitation to visit the country and for its assistance in the preparation and conduct of their visit. ³² |
| <i>Follow-up to visits</i> | - |
| <i>Responses to letters of allegations and urgent appeals</i> | During the period under review, 8 communications were sent concerning particular groups and 7 individuals, including 1 woman. The Government replied to 1 communication, representing replies to 12.5 per cent of communications sent. |
| <i>Responses to questionnaires on thematic issues³³</i> | The Dominican Republic responded to 1 of the 15 questionnaires sent by special procedures mandate holders ³⁴ within the deadlines. ³⁵ |

B. Implementation of international human rights obligations

1. Equality and non-discrimination

11. In 2004, CEDAW recommended that the State formulate policies and carry out programmes oriented towards the elimination of stereotypes regarding traditional roles in the family, the workplace and society in general.³⁶ It also urged the State to pursue and facilitate the process of reform of the Civil Code in order to eliminate discriminatory provisions that undermine the rights of women within the family.³⁷

12. CEDAW expressed concern about discriminatory practices such as compulsory pregnancy tests as a condition for employment in the free trade zones and the exclusion of women on the

grounds of pregnancy.³⁸ In 2008, the ILO Committee of Experts noted reports that workers were required to undergo HIV testing, often against their will, in order to be hired or to keep their jobs. The problem principally affected women workers in export processing zones and the tourist industry.³⁹

13. In 2008, the Special Rapporteur on racism and the independent expert on minority issues stressed in their joint report that there is a profound problem of racism and discrimination in Dominican society, generally affecting Blacks and particularly such groups as black Dominicans, Dominicans of Haitian descent and Haitians.⁴⁰ The experts identified manifestations of racism in the framework of expulsions and deportations⁴¹ and highlighted the discriminatory impact of certain laws, particularly those relating to migration, civil status and the granting of Dominican citizenship to persons of Haitian heritage born in the Dominican Republic.⁴² Both experts called upon the Government to officially recognize the existence of racism and racial discrimination in Dominican society and express, in the strongest terms, its political will to combat it.⁴³ The Government replied that the conclusions contained in the joint report are based on subjective and inaccurate statements.⁴⁴ It emphasized that there is no policy or practice of racial discrimination against nationals or foreigners either on the part of the Government or the institutions of Dominican society.⁴⁵

14. In 2008, CERD expressed concern about allegations of discriminatory or vexatious conduct towards dark-skinned persons by officials working in various national or local authorities.⁴⁶ The absence of general anti-discrimination legislation, including a definition of racial discrimination in line with the Convention, was also a matter of concern.⁴⁷ CERD recommended that the State adopt comprehensive legislation prohibiting discrimination on the grounds of race, colour, descent, or national or ethnic origin.⁴⁸ The Special Rapporteur on racism and the independent expert on minority issues stressed that officials should be given notice that acts of racial discrimination in the exercise of official functions will be severely punished.⁴⁹

15. In 2009, SNU-RD reported that 22 per cent of children under the age of five had no birth certificate, which hindered their access to social services and enjoyment of the right to health and education.⁵⁰ CRC was concerned that children of Haitian immigrants and Haitian descendents have restricted access to education, health and social services. It also noted that girls are not given the same status as boys in legal regulations, family and society as evidenced, for example, by the different legal age of marriage for boys and girls. Furthermore, poor children, children from remote rural areas and children living and working in the streets are excluded from the full implementation of child rights.⁵¹ CRC urged the State to review all laws and regulations in order to examine, whether they clearly prohibit any differential treatment of children with regard to race, colour, sex, national, ethnic or social origin, disability, birth or other status.⁵²

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

16. The Working Group on Enforced or Involuntary Disappearances reviewed a communication sent by the Government in 2006 regarding two outstanding cases and decided that the responses were not sufficient to clarify these cases.⁵³ In its annual report of 2007 the Working Group reported no activity.⁵⁴

17. In 2001, the HR Committee noted with concern reports of extrajudicial executions of prisoners in the custody of the State and of deaths at the hands of the National Police, the Armed Forces and the National Drug Control Office owing to the excessive use of force and the apparent impunity that they enjoy. It recommended that the State take urgent steps to have those responsible

for violations of the right to life prosecuted and punished, and to make redress.⁵⁵ In 2009, SNU-RD reported complaints of alleged extrajudicial killings of offenders, referring in particular to the events that took place in the “Mirador Sur” area of the capital in December 2008.⁵⁶

18. In 2009, SNU-RD also reported complaints of arbitrary arrests, particularly in the northern region and in some poorer areas of the capital. In addition, no specific acts had been attributed to the alleged offenders (most of whom were young), they had not been arrested in flagrante delicto and there was no written order by a competent authority.⁵⁷

19. In 2001, the HR Committee noted that the situation in prisons has worsened owing to, inter alia, enormous overcrowding, deplorable sanitary conditions and failure to separate juveniles from adults. It recommended that the State establish institutional mechanisms to supervise prison conditions and to investigate prisoners’ complaints.⁵⁸ In 2009, SNU-RD reported that the Government had designed a new penitentiary model,⁵⁹ and recommended continued support for its application in all prisons.⁶⁰

20. SNU-RD reported that gender-based violence was the fourth cause of death of Dominican women of reproductive age, and was on the increase.⁶¹ In addition, the victims of crimes and offences who faced the most obstacles and stigmatization in their search for justice were women.⁶² In 2004, CEDAW urged the State to investigate the causes of femicide and other forms of violence against women and take measures to prevent it. It strongly urged the State to allocate the necessary funds to ensure the implementation of programmes for the protection of victims of violence against women and to train and sensitize law enforcement officers, court officials, judges, journalists and health personnel in order to change attitudes that perpetuate violence against women.⁶³

21. In 2008, CERD was concerned at reports of Haitians being trafficked to the Dominican Republic owing to the high demand for cheap labour in the sugar cane, tourism and construction sectors. It urged the State to develop comprehensive policies and allocate adequate resources to prevent, investigate and punish human trafficking, and to provide assistance to and support for victims.⁶⁴ In 2005, two special procedures mandate holders sent a joint allegation letter regarding the situation of 25,000 minors exploited for prostitution, pornography, paedophilia and sex tourism, as well as some 45,000 minors exploited in domestic work, including minors of Haitian and Dominican origins.⁶⁵ The Government replied in 2006 mentioning, inter alia, the different laws in place for the protection of minors.⁶⁶

22. In 2008, CRC welcomed the fact that corporal punishment has been made unlawful in schools and abolished as a sentence in the justice system. However, no explicit prohibition of corporal punishment exists for all other settings, including in institutions of alternative care and in the family environment.⁶⁷

23. CRC was also concerned at the large number of children in street situations and at reported mistreatment by police and law enforcement officers.⁶⁸

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

24. In 2009, SNU-RD reported that access to the judicial system was hindered by factors including an overload of case files in the courts, the cost of the judicial system and the backlog of hearings meant that the system was inaccessible to most citizens.⁶⁹

25. SNU-RD stated that in order to combat impunity, it was necessary to take clear, concrete measures within the security forces, and provide for strict cooperation between the Public

Prosecutor's Office and law enforcement officials. The Office of the Procurator-General of the Republic should redouble its efforts and assign more resources to the prompt investigation and proper processing of the case files.⁷⁰

26. SNU-RD also believed that it was essential for the investigations and proceedings that had been initiated following allegations of links of members of the armed forces and the police with networks of organized crime and drug trafficking to be brought to a proper conclusion. In that connection, the Supreme Court of Justice should put its rulings on a sounder footing through, for example, the rigorous use of arrest warrants and warrants for pretrial detention.⁷¹

27. CRC was concerned in 2008 that current legal reform proposals might endanger the special protection provided to children, if they could be tried as adults. In this regard, it recommended that the State take into account the Committee's general comment No. 10 (2007) on the administration of juvenile justice.⁷²

4. Right to privacy, marriage and family life

28. In 2008, CRC was seriously concerned that a large number of children still remain unregistered⁷³ and recommended that the State establish an effective and cost-free procedure, which provides a birth certificate for all children up to the age of 18 who do not have a birth certificate.⁷⁴ Furthermore, it recommended that the State undertake effective measures to support single-parent households, particularly those headed by adolescent girls,⁷⁵ and extend its support to families by fully establishing the structures and procedures provided for by Law No. 136-03 on the System for the Promotion and Rights of Children and Adolescents.⁷⁶

5. Freedom of expression, association and peaceful assembly, and right to participate in public and political life

29. Concern was expressed by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression about reports that attacks and threats against journalists have increased since the beginning of 2007.⁷⁷

30. In 2006, two special procedures mandate holders sent a joint urgent appeal regarding a human rights defender who received death threats after publicly denouncing the lack of assistance to people living with HIV/AIDS.⁷⁸ Between 2005 and 2008 a number of communications were sent with regard to threats and acts of intimidation against human rights defenders working for the protection of the rights of Haitian immigrants and Dominicans of Haitian origin.⁷⁹ The Government did not respond to these communications. The Special Rapporteur on racism and the independent expert on minority issues received reports that human rights defenders working in this area face a climate of hostility, particularly from the political and economic elites.⁸⁰

31. A 2008 United Nations Statistics Division source indicated that the proportion of seats held by women in parliament increased from 26 per cent in 2005 to 35 per cent in 2008.⁸¹

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

32. As noted by the ILO Committee of Experts in 2008, women account for only 31 per cent of the labour force employed in national productive sectors.⁸² The 2005 Common Country Assessment (CCA) stated that women's salaries were on average 30 per cent lower than men's, for equal work.⁸³ CEDAW recommended that the State take the necessary action to guarantee equal pay for women and men in both the public and private sectors.⁸⁴

33. With respect to the rights of female domestic workers, CEDAW urged the State to take practical measures to monitor closely and enforce compliance with Act No. 103-99 and assess its effectiveness.⁸⁵ It also recommended that steps be taken to ensure the implementation of labour legislation in free trade zones.⁸⁶

34. In 2006, the ILO Committee of Experts noted that it had on several occasions expressed concern at the conditions governing the hiring and work of Haitian workers in sugar cane plantations. It considered that the uncertainty related to the legal status of these workers placed them in a situation of vulnerability which facilitated abuses.⁸⁷ The Special Rapporteur on racism and the independent expert on minority issues stressed that workers in the communities attached to the sugar cane plantations (*bateyes*) live in pitiable conditions and can find work only in dangerous and degrading jobs for substandard pay and without contracts.⁸⁸ They also noted accounts of deportations being arranged between employers and authorities to enable employers to avoid paying wages.⁸⁹ The Government provided information about the situation in the *bateyes*, including renovation projects and the working conditions in the sugar cane industry.⁹⁰ It recalled that the Department of Migration has suspended repatriation on Fridays, when wages are usually paid.⁹¹

35. The experts noted reports that black Dominicans face difficulties in having access to skilled employment, particularly to high-visibility positions, and that the requirement for a “good presence” in job advertisements is understood to be code for a white or non-black person.⁹² The Government replied that the Labour Code prohibits any form of discrimination.⁹³ In 2008, CERD recommended that the State 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.⁹⁴

38. CRC and the ILO Committee of Experts noted that child labour is still a major problem in the Dominican Republic.⁹⁵ CRC added that an increasing number of children aged between 5 and 14 years are working, especially in services in urban areas and agriculture in rural areas.⁹⁶

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

37. In 2009, SNU-RD reported that poverty, extreme poverty and inequality continued to give cause for concern and particularly affected women, children, persons with disabilities, persons living with HIV/AIDS, and migrants, especially those of Haitian origin.⁹⁷ Despite sustained economic growth in recent years, there had been no significant drop in poverty, as measured in terms of income.⁹⁸ CRC recommended that the State expand the programmes that have been started that aim at a clear reduction of the poverty rates, and make sure that the most vulnerable children benefit from these programmes.⁹⁹ CERD recommended ensuring the right of non-citizens to an adequate standard of living.¹⁰⁰

38. SNU-RD noted with concern the lack of access to full enjoyment of the right to food and the limited access to housing.¹⁰¹ A United Nations Statistics Division source indicated that 27 per cent of the population was undernourished in 2002 and that 17.6 per cent of the urban population lived in slums in 2005.¹⁰² The 2005 Common Country Assessment noted that the quality of drinking water was one of the main problems that people faced,¹⁰³ adding that challenges in the area of housing included reducing the shortage thereof and regularizing property registration.¹⁰⁴

39. In 2008, CRC was concerned that a dual system in the health sector is developing affecting those living in poverty, and that the recently introduced national security system could exacerbate disparities as people without formal jobs are not covered.¹⁰⁵ SNU-RD reported high rates of maternal mortality, under-five mortality, infant mortality and neonatal mortality.¹⁰⁶ CRC

recommended that the State expand budget allocations for the health system, in particular for primary child health care and public health programmes; increase efforts to reduce neo-natal and maternal mortality; and expand the provision of integral care and development programmes in early childhood.¹⁰⁷ CEDAW recommended the adoption of measures to ensure that women have access to information and health services, particularly those relating to sexual and reproductive health and cancer prevention. It also recommended that the State health services provide an abortion when the pregnancy is a result of rape or when the mother's health is in danger.¹⁰⁸

40. According to a 2008 UNAIDS report, access to treatment for HIV is poor in the Dominican Republic: only 10 per cent of the people in need of antiretroviral treatment were receiving it in 2005.¹⁰⁹ CRC recommended that the State allocate more resources to combat HIV/AIDS and provide expanded antiretroviral treatment for the prevention of vertical transmission from mother to child.¹¹⁰ CEDAW also made recommendations in this area.¹¹¹

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

41. CRC noted that while the percentage of public spending on education has increased, it remains one of the lowest in the region. It recommended that the State continue to significantly increase the budget allocations for education and expand support to families unable to cover the indirect costs of school and learning.¹¹² CRC also recommended that the State strengthen efforts to enrol all children in school, including children of the migrant population and children in remote areas, and to reduce dropout rates;¹¹³ the State should also guarantee the enrolment in school at all levels of children who cannot present a birth certificate and make sure that they are not discriminated against in practice.¹¹⁴

42. Numerous young people of Haitian descent born in the Dominican Republic reported to the Special Rapporteur on racism and the independent expert on minority issues that it is not possible for them to obtain the required *cédula*, and hence impossible to pursue their education beyond the sixth grade or enter university.¹¹⁵ According to the experts, the Government noted that the lack of documentation necessary for university entrance is a problem that also affects many undocumented Dominicans.¹¹⁶

43. In 2008, CERD encouraged the State to include intercultural education in school curricula.¹¹⁷ The Special Rapporteur on racism and the independent expert on minority issues also made a recommendation in this area.¹¹⁸

9. Minorities and indigenous peoples

44. In 2008, the independent expert on minority issues noted that people of Haitian descent living in the Dominican Republic constitute a minority group with rights, as elaborated in the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.¹¹⁹ Included in that community are people of Haitian descent who have lived in the Dominican Republic for decades, as well as second and third generations born in the Dominican Republic when it was widely understood that the *jus soli* provision of the Dominican Constitution granted them citizenship.¹²⁰ The Government replied that the existence of such minorities cannot be recognized.¹²¹

45. The independent expert highlighted in 2008 that the Migration Law No. 285-04 is in conflict with the Constitution, and will have far-reaching discriminatory effects on the legal status of Dominicans of Haitian descent and Haitian migrants in regard to access to citizenship.¹²² The Government replied that according to the legal opinion issued by the Supreme Court, Law

No. 285-04 is constitutional.¹²³ The independent expert recommended that the State recognize the right of all persons born on Dominican territory, including the children of a Haitian parent, to Dominican citizenship without discrimination on the grounds of the nationality or status of the parents.¹²⁴ Furthermore, those who have been in the country for an extended period, including Haitian migrants, and who have established family and community ties should be naturalized regardless of inability to prove prior lawful status.¹²⁵

46. In 2007, the Central Electoral Board (CEB) issued circular No. 17 to all civil registry officers requesting them to remain vigilant with respect to fraudulent documents.¹²⁶ The independent expert noted reports that on the basis of this circular, *cédulas* have been denied to children of Dominicans of Haitian descent in possession of a Dominican birth certificate. Numerous cases were also reported of the refusal by CEB to renew documents or provide copies of previously issued documents, even to Dominicans of Haitian descent in possession of documentation attesting to their Dominican citizenship.¹²⁷ The independent expert recommended that circular No. 17 be withdrawn and replaced with one which encourages an official attitude of facilitation and trust; that any denial of a request to issue documents should be in writing and contain a full explanation for the denial; and that all denials of documentation or orders for deportation should be subject to appeal to the courts of general jurisdiction.¹²⁸ The Government replied that the purpose of circular No. 17 is to ensure that documents are authentic and to rectify any discrepancies in the civil registry records, irrespective of the nationality of the person concerned.¹²⁹ CERD also expressed concern with regard to the application of circular No. 17 and made recommendations.¹³⁰

10. Migrants, refugees and asylum-seekers

47. In 2009, UNHCR stressed that in practice, the national refugee procedure does not function and asylum-seekers and refugees lack the protections foreseen in the 1951 Convention and 1967 Protocol.¹³¹ Many of those refugees who were previously granted status by UNHCR and who continue to reside in the Dominican Republic have gradually fallen into undocumented status, as the Government has not been renewing their residency permits.¹³² The asylum seeking population is in an equally precarious situation. They do not receive proper documentation demonstrating their status as asylum-seekers and cannot exercise the minimum set of rights, including the right to work. As a result, many of them live on the edge of survival.¹³³

48. UNHCR recommended that the Government (a) issue legal residency documents for all long-staying refugees recognized under the mandate of UNHCR who have fallen into undocumented status, and ensure that this population is able to exercise the basic rights to which refugees are entitled, especially the right to work and the right to education; (b) reactivate the national refugee status determination procedure in order to take decisions on the backlog of pending refugee claims, in consultation with UNHCR; (c) ensure that asylum-seekers receive temporary identity documents which will ensure their protection from *refoulement* while the pending claims are being determined; and (d) ensure that all immigration and border officials receive training regarding the difference between a refugee and an economic migrant, and have clear instructions with regard to how to treat undocumented asylum-seekers who are intercepted or detained.¹³⁴

49. In 2008, CERD expressed concern 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.¹³⁵ In 2005, three special procedures mandate holders sent a joint allegation letter expressing concern about reports that more than 3,000 Haitians were detained and that over 1,000 of them were deported without consideration of their legal status in the country.¹³⁶ CERD recommended that the State ensure that non-citizens are not subject to collective expulsion¹³⁷ and have equal access to effective

remedies, including the right to challenge expulsion orders.¹³⁸ CERD further recommended that the State 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.¹³⁹

III. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS

50. SNU-RD stated that the national plan to combat trafficking and smuggling of migrants and the national plan for gender equity and equality were important steps that had been taken by the State.¹⁴⁰

51. UNHCR stressed that the complexity of the migratory environment in the Dominican Republic presents a challenge in the management of refugee issues, which unfortunately tend to be mired in political debates rather than being treated separately as a humanitarian issue.¹⁴¹

52. According to SNU-RD, the main challenge in the Dominican Republic was to implement legislation in an environment that promoted the full integration of all sectors and put an end to the historical exclusion of large groups of nationals.¹⁴² The issue of access to justice was another major challenge facing the Dominican State.¹⁴³ It was of vital importance that the Government should continue to strive to protect the rights of crime victims, in the broadest possible sense, especially those of women, children and migrants.¹⁴⁴

IV. KEY NATIONAL PRIORITIES, INITIATIVES AND COMMITMENTS

Specific recommendations for follow-up

53. In 2001, the HR Committee requested that the State provide information on action it has taken in relation to the Committee's recommendations on disappearances and extrajudicial executions; torture and the use of excessive force; police detention and detention pending judgement; prisons; and the status of Haitians.¹⁴⁵ In 2008, CERD requested information on the way the State has followed up on the Committee's recommendations related to the draft Penal Code, racial discrimination, and collective deportations of migrants of Haitian origin.¹⁴⁶ As of 9 July 2009, the Government had not submitted the follow-up reports.

V. CAPACITY-BUILDING AND TECHNICAL ASSISTANCE

54. The 2007-2011 United Nations Development Assistance Framework focuses on the following four areas of cooperation: democratic governance; equitable growth and development; quality social services for all; and a sustainable environment and risk management for emergency and disaster situations.¹⁴⁷

55. CRC recommended that the State seek technical assistance in the fields of juvenile justice¹⁴⁸ and violence against children.¹⁴⁹

56. UNHCR stressed the need for further capacity-building and training in relation to international refugee law and the standards and procedures for determining refugee status.¹⁵⁰

Notes

¹ Unless indicated otherwise, the status of ratifications of instruments listed in the table may be found in *Multilateral Treaties Deposited with the Secretary-General: Status as at 31 December 2006* (ST/LEG/SER.E.25), supplemented by the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, <http://treaties.un.org/>.

² The following abbreviations have been used for this document:

| | |
|------------|---|
| ICERD | International Convention on the Elimination of All Forms of Racial Discrimination |
| ICESCR | International Covenant on Economic, Social and Cultural Rights |
| OP-ICESCR | Optional Protocol to ICESCR |
| ICCPR | International Covenant on Civil and Political Rights |
| ICCPR-OP 1 | Optional Protocol to ICCPR |
| ICCPR-OP 2 | Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty |
| CEDAW | Convention on the Elimination of All Forms of Discrimination against Women |
| OP-CEDAW | Optional Protocol to CEDAW |
| CAT | Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment |
| OP-CAT | Optional Protocol to CAT |
| CRC | Convention on the Rights of the Child |
| OP-CRC-AC | Optional Protocol to CRC on the involvement of children in armed conflict |
| OP-CRC-SC | Optional Protocol to CRC on the sale of children, child prostitution and child pornography |
| ICRMW | International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families |
| CRPD | Convention on the Rights of Persons with Disabilities |
| OP-CRPD | Optional Protocol to Convention on the Rights of Persons with Disabilities |
| CED | International Convention for the Protection of All Persons from Enforced Disappearance. |

³ Adopted by the General Assembly in its resolution 63/117 of 10 December 2008, in which the General Assembly recommended that a signing ceremony be organized in 2009. Article 17, para. 1, of OP-ICESCR states that “The present Protocol is open for signature by any State that has signed, ratified or acceded to the Covenant”.

⁴ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

⁵ 1951 Convention relating to the Status of Refugees and its 1967 Protocol, 1954 Convention relating to the status of Stateless Persons and 1961 Convention on the Reduction of Statelessness.

⁶ Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Convention relative to the Treatment of Prisoners of War (Third Convention); Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II); Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). For the official status of ratifications, see Federal Department of Foreign Affairs of Switzerland, at www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html.

⁷ International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour; Convention No. 105 concerning the Abolition of Forced Labour, Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize; Convention No. 98 concerning the Application of the Principles of the Right to Organize and to Bargain Collectively; Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention No. 111 concerning Discrimination in Respect of Employment and Occupation; Convention No. 138 concerning Minimum Age for Admission to Employment; Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

- ⁸ Concluding observations of CERD (CERD/C/DOM/CO/12), para. 22.
- ⁹ Concluding comments of CEDAW (A/59/38), para. 314.
- ¹⁰ Concluding observations of CRC (CRC/C/DOM/CO/2), para. 77 (e).
- ¹¹ SNU-RD submission to UPR on Dominican Republic (hereinafter “SNU-RD submission”), para. 3.
- ¹² CRC/C/DOM/CO/2, para. 41.
- ¹³ CERD/C/DOM/CO/12, para. 14.
- ¹⁴ CRC/C/DOM/CO/2, para. 44.
- ¹⁵ Ibid., para. 60.
- ¹⁶ Ibid., para. 88.
- ¹⁷ CERD/C/DOM/CO/12, para. 24.
- ¹⁸ Ibid., para. 25.
- ¹⁹ SNU-RD submission, paras. 7-9.
- ²⁰ Ibid., para. 64 (a).
- ²¹ A/59/38, para. 284.
- ²² Ibid., para. 285.
- ²³ For the list of national human rights institutions with accreditation status granted by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), see A/HRC/10/55, annex I.
- ²⁴ CERD/C/DOM/CO/12, para. 10; see also A/HRC/7/19/Add.5 and A/HRC/7/23/Add.3, para. 119.
- ²⁵ A/HRC/7/19/Add.5-A/HRC/7/23/Add.3, para. 119.
- ²⁶ CRC/C/DOM/CO/2, para. 15.
- ²⁷ SNU-RD submission, para. 65 (a).
- ²⁸ CRC/C/DOM/CO/2, para. 11.
- ²⁹ A/HRC/7/19/Add.5-A/HRC/7/23/Add.3, para. 118.
- ³⁰ A/59/38, para. 283.

³¹ The following abbreviations have been used for this document:

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| CERD | Committee on the Elimination of Racial Discrimination |
| CESCR | Committee on Economic, Social and Cultural Rights |
| HR Committee | Human Rights Committee |
| CEDAW | Committee on the Elimination of Discrimination against Women |
| CRC | Committee on the Rights of the Child. |

³² A/HRC/7/19/Add.5-A/HRC/7/23/Add.3, para. 2.

³³ The questionnaires included in this section are those which have been reflected in an official report by a special procedure mandate-holder.

³⁴ See (a) report of the Special Rapporteur on the right to education (A/HRC/4/29), questionnaire on the right to education of persons with disabilities sent in 2006; (b) report of the Special Rapporteur on the human rights of migrants (A/HRC/4/24), questionnaire on the impact of certain laws and administrative measures on migrants sent in 2006; (c) report of the Special Rapporteur on trafficking in persons, especially women and children (A/HRC/4/23), questionnaire on issues related to forced marriages and trafficking in persons sent in 2006; (d) report of the Special Representative of the Secretary-General on human rights defenders (E/CN.4/2006/95 and Add.5), questionnaire on the implementation of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms sent in June 2005; (e) report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (A/HRC/6/15),

questionnaire on the human rights of indigenous people sent in August 2007; (f) report of the Special Rapporteur on trafficking in persons, especially in women and children (E/CN.4/2006/62) and the Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/2006/67), joint questionnaire on the relationship between trafficking and the demand for commercial sexual exploitation sent in July 2005; (g) report of the Special Rapporteur on the right to education (E/CN.4/2006/45), questionnaire on the right to education for girls sent in 2005; (h) report of the Working Group on mercenaries (A/61/341), questionnaire concerning its mandate and activities sent in November 2005; (i) report of the Special Rapporteur on the sale of children, child prostitution and child pornography (A/HRC/4/31), questionnaire on the sale of children's organs sent on July 2006; (j) report of the Special Rapporteur on the sale of children, child prostitution and child pornography (A/HRC/7/8), questionnaire on assistance and rehabilitation programmes for child victims of sexual exploitation sent in July 2007; (k) report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises (A/HRC/4/35/Add.3), questionnaire on human rights policies and management practices; (l) report of the Special Rapporteur on the right to education (A/HRC/8/10), questionnaire on the right to education in emergency situations sent in 2007; (m) Report of the Special Rapporteur on the right to education (June 2009) (A/HRC/11/8), questionnaire on the right to education for persons in detention; (n) Report of the independent expert on the question of human rights and extreme poverty (June 2009) (A/HRC/11/9), questionnaire on cash transfer programmes sent in October 2008; (o) Report of the Special Rapporteur on violence against women (June 2009) (A/HRC/11/6), questionnaire on political economy and violence against women.

³⁵ The questionnaire on cash transfer programmes.

³⁶ A/59/38, para. 293.

³⁷ Ibid., para. 287.

³⁸ Ibid., para. 306.

³⁹ ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111), 2008, Geneva, doc. No. (ILOLEX) 062008DOM111, p. 2.

⁴⁰ A/HRC/7/19/Add.5-A/HRC/7/23/Add.3, p. 2.

⁴¹ Ibid., para. 44.

⁴² Ibid., p. 2.

⁴³ Ibid., para. 115 and p. 3.

⁴⁴ A/HRC/7/G/10, para. 130.

⁴⁵ Ibid., para. 105.

⁴⁶ CERD/C/DOM/CO/12, para. 21.

⁴⁷ Ibid., para. 9.

⁴⁸ Ibid. See also A/HRC/7/19/Add.5-A/HRC/7/23/Add.3, para. 120.

⁴⁹ A/HRC/7/19/Add.5-A/HRC/7/23/Add.3, para. 129.

⁵⁰ SNU-RD submission, para. 33.

⁵¹ CRC/C/DOM/CO/2, para. 27.

⁵² Ibid., para. 28.

⁵³ A/HRC/4/41, para. 160.

⁵⁴ A/HRC/7/2, para. 106.

⁵⁵ Concluding observations of the HR Committee (CCPR/CO/71/DOM), para. 8.

⁵⁶ SNU-RD submission, para. 52.

⁵⁷ Ibid., para. 51.

⁵⁸ CCPR/CO/71/DOM, para. 14.

⁵⁹ SNU-RD submission, paras. 53-54.

- ⁶⁰ Ibid., para. 64 (c).
- ⁶¹ Ibid., para. 19.
- ⁶² Ibid., para. 23.
- ⁶³ A/59/38, para. 295.
- ⁶⁴ CERD/C/DOM/CO/12, para. 17.
- ⁶⁵ E/CN.4/2006/67/Add.1, paras. 39-44; E/CN.4/2006/62/Add.1, paras. 34-39.
- ⁶⁶ A/HRC/4/31/Add.1, paras. 54-63.
- ⁶⁷ CRC/C/DOM/CO/2, para. 45.
- ⁶⁸ Ibid., para. 82.
- ⁶⁹ SNU-RD submission, p. 46.
- ⁷⁰ Ibid., para. 49.
- ⁷¹ Ibid., para. 61.
- ⁷² CRC/C/DOM/CO/2, para. 87.
- ⁷³ Ibid., para. 35.
- ⁷⁴ Ibid., para. 36 (d).
- ⁷⁵ Ibid., para. 51 (c).
- ⁷⁶ Ibid., para. 49.
- ⁷⁷ A/HRC/7/14/Add.1, paras. 187-188.
- ⁷⁸ A/HRC/4/28/Add.1, paras. 25 -26; A/HRC/4/37/Add.1, paras. 244-245.
- ⁷⁹ See for example: E/CN.4/2006/95/Add.1, paras.172-173; E/CN.4/2006/95/Add.5, para. 481; A/HRC/7/28/Add.1, paras. 742-746; A/HRC/10/12/Add.1, paras. 906-910.
- ⁸⁰ A/HRC/7/19/Add.5-A/HRC/7/23/Add.3, para. 50.
- ⁸¹ United Nations Statistics Division coordinated data and analyses, available at <http://mdgs.un.org/unsd/mdg> (accessed on 24 March 2009).
- ⁸² ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111), 2008, Geneva, doc. No. (ILOLEX) 092008DOM111, p. 1.
- ⁸³ Dominican Republic: Common Country Assessment (CCA) 2005, p. 18, available at <http://undg.org/unct.cfm?module=CoordinationProfile&page=Country&CountryID=DOM> (Spanish only).
- ⁸⁴ A/59/38, para. 303.
- ⁸⁵ Ibid., paras. 302-303.
- ⁸⁶ Ibid., para. 307.
- ⁸⁷ ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning ILO Forced or Compulsory Labour Convention, 1930 (No. 29), 2005, Geneva, doc. No. (ILOLEX) 062005DOM029, p. 1.
- ⁸⁸ A/HRC/7/19/Add.5-A/HRC/7/23/Add.3, para. 87.
- ⁸⁹ Ibid., para. 79.
- ⁹⁰ A/HRC/7/G/10, paras. 78-98 and 127.
- ⁹¹ Ibid., para. 66.
- ⁹² A/HRC/7/19/Add.5-A/HRC/7/23/Add.3, para. 43.
- ⁹³ A/HRC/7/G/10, para. 126.

⁹⁴ CERD/C/DOM/CO/12, para. 19.

⁹⁵ ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning ILO Minimum Age for Admission to Employment Convention, 1973 (No. 138), 2007, Geneva, doc. No. (ILOLEX) 062007DOM138, p. 1; CRC/C/DOM/CO/2, para. 80.

⁹⁶ CRC/C/DOM/CO/2, para. 80.

⁹⁷ SNU-RD submission, para. 17.

⁹⁸ Ibid., para. 18.

⁹⁹ CRC/C/DOM/CO/2, para. 69 (b).

¹⁰⁰ CERD/C/DOM/CO/12, para. 18.

¹⁰¹ SNU-RD submission, para. 17.

¹⁰² United Nations Statistics Division coordinated data and analyses, op. cit.

¹⁰³ Dominican Republic: Common Country Assessment (CCA) 2005, op. cit., pp. 29-30.

¹⁰⁴ Ibid., p. 31.

¹⁰⁵ CRC/C/DOM/CO/2, para. 61.

¹⁰⁶ SNU-RD submission, para. 33.

¹⁰⁷ CRC/C/DOM/CO/2, para. 62.

¹⁰⁸ A/59/38, para. 309.

¹⁰⁹ UNAIDS, *2008 Report on the global AIDS epidemic*, Geneva, 2008, p. 58, available at www.unaids.org/en/KnowledgeCentre/HIVData/GlobalReport/2008/2008_Global_report.asp (accessed on 19 March 2009).

¹¹⁰ CRC/C/DOM/CO/2, para. 66.

¹¹¹ A/59/38, para. 309.

¹¹² CRC/C/DOM/CO/2, paras. 70-71 (a).

¹¹³ Ibid., para. 71 (b).

¹¹⁴ Ibid., para. 73 (b).

¹¹⁵ A/HRC/7/19/Add.5-A/HRC/7/23/Add.3, para. 82.

¹¹⁶ Ibid., para. 84.

¹¹⁷ CERD/C/DOM/CO/12, para. 21.

¹¹⁸ A/HRC/7/19/Add.5-A/HRC/7/23/Add.3, para. 123.

¹¹⁹ Ibid., pp. 2-3.

¹²⁰ Ibid.

¹²¹ A/HRC/7/G/10, para. 112.

¹²² A/HRC/7/19/Add.5-A/HRC/7/23/Add.3, para. 109.

¹²³ A/HRC/7/G/10, para. 150.

¹²⁴ A/HRC/7/19/Add.5-A/HRC/7/23/Add.3, para. 125.

¹²⁵ Ibid., para. 127.

¹²⁶ Ibid., para. 71.

¹²⁷ Ibid., para. 74.

¹²⁸ Ibid., para. 129.

¹²⁹ A/HRC/7/G/10, para. 154.

¹³⁰ CERD/C/DOM/CO/12, para. 16.

- ¹³¹ UNHCR submission to the UPR on Dominican Republic (hereinafter “UNHCR submission”), p. 1.
- ¹³² Ibid., pp. 1-2.
- ¹³³ Ibid., p. 2.
- ¹³⁴ Ibid., p. 3.
- ¹³⁵ CERD/C/DOM/CO/12, para. 13.
- ¹³⁶ E/CN.4/2006/73/Add.1, paras. 34-36; E/CN.4/2005/16/Add.1, paras. 28-30. See also A/HRC/7/19/Add.5-A/HRC/7/23/Add.3, para. 79.
- ¹³⁷ CERD/C/DOM/CO/12, para. 13 (b).
- ¹³⁸ Ibid., para. 13 (d).
- ¹³⁹ Ibid.
- ¹⁴⁰ SNU-RD submission, paras. 6 and 12-13.
- ¹⁴¹ UNHCR submission, p. 2.
- ¹⁴² SNU-RD submission, para. 59.
- ¹⁴³ Ibid., para. 46.
- ¹⁴⁴ Ibid., para. 67 (a).
- ¹⁴⁵ CCPR/CO/71/DOM, para. 24.
- ¹⁴⁶ CERD/C/DOM/CO/12, para. 29.
- ¹⁴⁷ Dominican Republic UNDAF 2007-2011, p. 6. Available at <http://undg.org/docs/8066/UNDAF%202007-2011%20DR.pdf> (Spanish only).
- ¹⁴⁸ CRC/C/DOM/CO/2, para. 87 (f).
- ¹⁴⁹ Ibid., para. 47 (c).
- ¹⁵⁰ UNHCR submission, p. 2.
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