Child Rights References in the Universal Periodic Review

Summary:
A compilation of extracts featuring child-rights issues from the reports submitted to the first Universal Periodic Review. There are extracts from the 'National Report', the 'Compilation of UN Information' and the 'Summary of Stakeholder's Information'. Also included is the 'Final Report' and 'Conclusions and Recommendations' from the Review.

Dominican Republic - 6th Session – 2009
1st December 2009, 10.00am - 1.00pm

National Report

27. Information on a newborn child or minor whose nationality is unknown is not entered in the Immigration Registry. Instead, in view of the fact that every person has the right to a nationality, in such cases the Dominican Republic confers Dominican nationality upon that person in accordance with the Convention on the Reduction of Statelessness, adopted by the United Nations in 1961.

28. In order to rectify the situation of the some 600,000 nationals whom the Government found to be lacking a birth certificate and/or identity card in 2004, JCE signed an inter-agency agreement with the Office of Social Policy Coordination to strengthen and relaunch the Late Registration Unit (Unidad de Declaraciones Tardías). Between 2004 and 2008, a total of 363,967 people’s previously unreported births were registered; 81,680 of these people were over the age of 16 and the other 282,287 were under 16 years of age. In August 2007, Congress passed Act No. 218-07, which established a three-year amnesty for late birth registrations for nationals below the age of 16.

49. The sexual exploitation of minors represents a very particular type of trafficking in human beings. The Inter-Agency Commission to Combat Abuse and Sexual Exploitation for Commercial Purposes is headed up jointly by the Ministry of Labour and the National Child and Youth Council (CONANI), with support from the ILO International Programme on the Elimination of Child Labour. The Commission joins forces with the Public Prosecutor’s Office and the Special Prosecutor for Children and Youth in combating the sexual exploitation of adolescents in tourist spots such as Boca Chica, Sosúa and Las Terrenas.

50. A clarification is called for in respect of these efforts, however. The entry into the Dominican Republic of children and adolescents from Haiti is not necessarily yet another case of trafficking in minors. In 2004, UNICEF explained that most of the estimated 2,000 Haitian minors entering the country each year are not victims of human trafficking but are instead either joining their families or are coming because someone has agreed to take charge of them in order to help give them access to better opportunities and life prospects.

61. Act No. 136-03 emphasizes intersectoral coordination, planning, supervision, monitoring, civil participation and civil enlistment mechanisms through the National System for the Protection of Children’s Rights: CONANI is the governing body. The Labour Code and subsequent regulations issued by the Ministry of Labour prohibit the employment of children aged under 14 years, restrict the employment of children under 16 and protect children under 18 from the worst forms of child labour.63 Still, despite a gradual decline over the period 2003–2008, breaches of the law have given the Dominican authorities and various civil society organizations concerned no respite.64 Child labour occurs principally in the informal, not formal, sector, in small businesses, domestic labour and agriculture.

62. To counteract and stamp out this undesirable practice, the national steering committee on action to combat child labour, chaired by the Ministry of Labour, has 31 municipal and 3 local committees which in turn have set up watchdog networks bringing together institutions from the government sector, business, trade union and civil society. The steering committee is running the national strategic plan for the eradication of the worst forms of child labour, 2006–2016, under which 27,300 children have already been removed from dangerous situations and work exploitation; another 5,574 children have benefited under the programme of educational initiatives.
to eradicate child labour.

63. In response to recommendations by the steering committee, the authorities have launched an extra programme seeking an ultimate end to child labour and, meanwhile, the withdrawal of 8,500 minors from labour exploitation.67 One result has been an appreciable reduction in the number of children and teenagers exposed and subjected to the worst forms of child labour, falling from 9.3 per cent in 2004 to 6.4 per cent in 2008. In conjunction with civil society organizations, the Ministry of Labour has continued to cooperate with the ILO International Programme on the Elimination of Child Labour.68 It conducts systematic checks to ensure that minors are not employed.69

64. In support of the campaign against child labour, the Ministry of Education, acting alone and in consort with a variety of private businesses and civil society organizations, has been improving its services so as to ensure that all minors are at school, not at work. In 2003 it gave permission for undocumented school-aged children to attend the compulsory basic years of education:70 this benefits both Dominican nationals and foreigners lacking proper identity papers.

65. Besides the efforts being made by the Ministry of Education itself to improve school coverage, prevent dropouts and improve teaching quality, the Cabinet has launched a programme of subsidies for needy families in exchange for acceptance that their school-age children will attend school and leave jobs. The “school subsidies” programme benefited more than 208,000 families in 2008, on condition that the children in those families attended more than 85 per cent of the classes they were supposed to.

66. A conglomerate of private-sector businesses and civil society institutions are working, in conjunction with the United States Department of Labor, on a project entitled “Teaching to avoid child labour exploitation”; the project is being run by EDUCA, a Dominican NGO.71 There are 14 “Spaces to Grow In” at just one sugar plantation in the San Pedro de Macoris region, functioning with assistance from Save the Children and other local NGOs such as the Instituto Dominicano para el Desarrollo Integral (Dominican Institute for All-Round Development).72

67. Although not everything is within the Government’s scope,73 the authorities keep producing incontrovertible proof of their commitment to the rights and well-being of all the children in the country.74

68. Both the Government and Dominican society recognize that education alone can supply the scientific, technical, humanistic and ethical knowledge needed to bring about genuine, major change and true economic and social advance, vanquishing poverty and affording the country a sustainable future. The great challenge facing education in the country is to improve quality, since the Dominican Republic has the second-highest school enrolment rate in Latin America, at 91.1 per cent of children between the ages of 6 and 18. The gross enrolment rate in the final (compulsory) year of preschool education in 2005–2006 was 83.7 per cent; the rate in primary education was 104 per cent, and the rate in secondary education, 71 per cent.86

69. Hence, having gone ahead in 2006–2007 with a national consultation on excellence in education and drawn up a 10–year plan for all levels of education in the country, the Government is now committed to putting the plan into operation over the period to 2008–2018 at all levels: preschool, primary, secondary, technical and university education.87 This is why the education budget for the year 2009 has been raised to RD$ 4,090 million (US$ 113.4 approx.), as a way of moving gradually towards the target of 4 per cent of GDP invested in the national education sector.

70. The budget figure does not include the annual amounts invested in bursaries for deserving graduate and postgraduate students at the most prestigious universities in America, Europe and Asia: 2,500 students were in university education at the end of 2008, at an average investment per student of US$ 12,500. Neither does the figure cover the series of projects that the Government is executing with international bilateral cooperation funds,88 nor yet a national scholarship fund which the Government and universities in the Dominican Republic use to meet the expenses of more than 4,000 Haitian university students studying in the country and sponsored, thanks to these funds, as though they were Dominican students.

71. There is a problem with undocumented minors, whether Dominican or foreign: in theory they should not, without proper identification, be allowed to attend school but, in order not to deprive them of their right to education, the Ministry of Education has since 2002 allowed them to attend the basic level of schooling while their situation is regularized. There has been an agreement between the Ministry of Education and the Central Electoral Board since 2005. The Ministry identifies undeclared children; the Board, being responsible for the civil registry, facilitates the process of arranging for each student to be supplied by his or her parents with a birth certificate. Since the academic year 2004/05, thousands of children have been provided with birth certificates. Sources in the General Schools Inspectorate indicate that between September and December of the school year 2008/09, a total of 31,979 children without birth certificates were found to be enrolled at schools and other educational facilities operated by the various regional education departments; altogether 21,152 of them (66.14 per cent) were given birth certificates during or at the end of the school year.

72. In summary, the commitment to education is a commitment to the young people of the country, and hence a national undertaking in
the interests of a better future in which risks will be better distributed and poverty will give way to social well-being.

Compilation of UN information

1. The Committee on the Elimination of Racial Discrimination (CERD), the Committee on the Elimination of Discrimination against Women (CEDAW) and the Committee on the Rights of the Child (CRC) 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.

2. CRC and CERD 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 CAT and ratify CRPD, OP-CRPD and OP-CRC-AC. CERD also recommended ratifying the amendment to article 8, paragraph 6, of ICERD. 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.

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.

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. 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.

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

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.

38. CRC and the ILO Committee of Experts noted that child labour is still a major problem in the Dominican Republic. 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.

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. 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. 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.

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

Summary of Stakeholder Information

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.

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. 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.
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

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

Final Report

17. On the subject of children’s rights, the delegation reported that the Labour Code and subsequent regulations issued by the Ministry of Labour prohibit the employment of children under 14 and protect children under 18 from the worst forms of child labour. The State regretted that violations of the law and regulations in this area still occur.

18. Under the national strategic plan for the eradication of the worst forms of child labour, 27,300 children have already been removed from risky situations and work exploitation. The authorities have launched an additional programme, which has achieved a significant decrease in the number of children and teenagers exposed and subjected to the worst forms of child labour.

19. In its efforts to ensure that all minors attend school, in 2003 the Ministry of Education authorized undocumented school-aged children to attend the compulsory basic years of education. Furthermore, a programme that offers subsidies to needy families in exchange for acceptance that their children of school age will attend school has been established and benefited more than 208,000 families in 2008.

36. Canada welcomed the ratification by the state of the Convention on the Rights of Persons with Disabilities. Canada noted with concern reports of discriminatory denial of the right to nationality to Dominicans of Haitian descent. Canada also recognized the efforts of the State to combat trafficking of children, women and men and appreciated its cooperation with Canada in the arrest of human traffickers. Canada made recommendations.

63. Referring to the issue of child labour, the delegation noted that this practice is often accepted by certain parts of the population, perhaps because of poverty and the social fabric. Action in this regard needs to be taken not only in terms of the legal framework but also through education. The last study available, conducted by the International Labour Organization in 2000, found that there were about 434,000 working children. Current estimates show that number to have decreased to 156,000, mainly as a result of programmes such as “Eating Comes First” and the Solidarity Programme, but the Government is not satisfied yet. It is making efforts within the hemispheric agenda to eliminate the worst forms of child labour by 2015 and all child labour by 2020.

66. Bosnia and Herzegovina noted with satisfaction the ratification of numerous core human rights instruments and inquired about the obstacles to ratifying CAT and ICRMW. It also asked the delegation about steps being taken to fill the position of Ombudsperson and Assistant Ombudsperson for Children and Youth, established by law in 2008. With regard to minority issues and certain groups in Dominican society, such as Dominicans of Haitian descent and Haitians, affected by the application of the General Law on Migration, it inquired about the Government’s efforts to overcome the consequences of that law for the vulnerable groups. Bosnia and Herzegovina made recommendations.

85. The Dominican Republic further reiterated its commitment to addressing specific issues in which it had recognized difficulties, such as violence against women, the situation of children and child labour. It was also the goal of the Government to address the issue of
Conclusions and Recommendations

87. The recommendations formulated during the interactive dialogue have been examined by the Dominican Republic. The recommendations listed below enjoy the support of the Dominican Republic:

1. Improve further the situation of children, boys and girls alike, through the necessary review of laws and regulations (Holy See);

14. Prohibit corporal punishment of children in all settings (Slovenia);

23. Increase efforts to combat existing discrimination among children, as reported by the Committee on the Rights of the Child, by taking effective measures against any form of exploitation of children, especially girls, including for prostitution, pornography and domestic work (Italy);

34. Strengthen services aimed at protecting women and children, including through greater legal protection, and provide women and children with adequate information on how to gain access to support and medical care (United Kingdom);

39. Include all children in education regardless of their registration status, as recommended by the Committee on the Rights of the Child (Bosnia and Herzegovina);