

Dominican Republic

Mid-term Implementation Assessment



*Promoting and strengthening
the Universal Periodic Review*
<http://www.upr-info.org>

Introduction

1. Purpose of the follow-up programme

The second and subsequent cycles of the review should focus on, inter alia, the implementation of the accepted recommendations and the development of the human rights situation in the State under review.

A/HRC/RES/16/21, 12 April 2011 (Annex I C § 6)

The Universal Periodic Review (UPR) process takes place every four and half years; however, some recommendations can be implemented immediately. In order to reduce this interval, we have created an update process to evaluate the human rights situation two years after the examination at the UPR.

Broadly speaking, *UPR Info* seeks to ensure the respect of commitments made in the UPR, but also, more specifically, to give stakeholders the opportunity to share their opinion on the commitments. To this end, about two years after the review, *UPR Info* invites States, NGOs, and National Institutions for Human Rights (NHRI) to share their comments on the implementation (or lack thereof) of recommendations adopted at the Human Rights Council (HRC) plenary session.

For this purpose, *UPR Info* publishes a Mid-term Implementation Assessment (MIA) including responses from each stakeholder. The MIA is meant to show how all stakeholders are disposed to follow through on, and implement their commitments. States should implement the recommendations that they have accepted, and civil society should monitor that implementation.

While the follow-up's importance has been highlighted by the HRC, no precise directives regarding the follow-up procedure have been set until now. Therefore, *UPR Info* is willing to share good practices as soon as possible, and to strengthen the collaboration pattern between States and stakeholders. Unless the UPR's follow-up is seriously considered, the UPR mechanism as a whole could be adversely affected.

The methodology used by UPR Info to collect data and to calculate index is described at the end of this document.

Geneva, 21 June 2012

Follow-up Outcomes

1. Sources and results

All data are available at the following address:

http://followup.upr-info.org/index/country/dominican_republic

We invite the reader to consult that webpage since all recommendations, all stakeholders reports, as well as the unedited comments can be found at the same internet address.

10 stakeholders' reports were submitted for the UPR. 7 NGOs were contacted. The Permanent Mission to the UN was contacted. No domestic NHRI exists.

3 NGOs responded to our enquiry. The State under Review did not respond to our enquiry.

IRI: 17 recommendations are not implemented, 6 recommendations are partially implemented, and 2 recommendations are fully implemented. No answer was received for 74 out of 101 recommendations.

2. Index

Hereby the issues which the MIA deals with:

rec. n°	Issue	page	IRI
2	Racial discrimination, International instruments,	page 6	not impl.
3	Technical assistance, Migrants, International instruments,	page 7	not impl.
5	Torture and other CID treatment, International instruments,	page 7	fully impl.
7	Racial discrimination, Minorities,	page 6	not impl.
8	Impunity, Justice, Human rights violations by state agents, Human rights education and training,	page 8	partially impl.
10	Right to education	page 5	partially impl.
14	General	page 10	partially impl.
16	Women's rights	page 9	-
17	Migrants, Human rights education and training,	page 6	not impl.
18	Special procedures	page 7	partially impl.
20	Other	page 10	not impl.



rec. n°	Issue	page	IRI
21	Other	page 10	not impl.
23	International instruments	page 8	not impl.
25	Women's rights	page 10	not impl.
26	Special procedures	page 7	partially impl.
39	Right to education	page 5	not impl.
42	Sexual Orientation and Gender Identity	page 9	partially impl.
43	Racial discrimination, Human rights education and training,	page 5	not impl.
61	Special procedures, Extrajudicial executions,	page 8	fully impl.
62	General	page 11	not impl.
73	International instruments, Human rights defenders, Freedom of the press,	page 8	not impl.
76	Treaty bodies	page 8	-
82	Torture and other CID treatment, Rights of the Child,	page 10	not impl.
84	Other	page 6	not impl.
95	Racial discrimination	page 5	not impl.
96	Impunity, Human rights violations by state agents, Extrajudicial executions,	page 9	not impl.
97	Minorities	page 6	not impl.

3. Feedbacks on recommendations

ESC Rights

Recommendation nº10: *Continue providing access to quality education without discrimination for the population of school age throughout the country*
(Recommended by *Bolivia*)

IRI: *partially implemented*

Fundación Comunidad Esperanza & Justicia Internacional (FUNCEJI) response:
Although primary education is free for all, inequality is still an issue

Recommendation nº39: *Include intercultural education in school curricula*
(Recommended by *Egypt*)

IRI: *not implemented*

FUNCEJI response:
No ha sido incluida la educación intercultural en el currículo escolar.

Recommendation nº43: *Intensify programmes of human rights education with a view to fight racist prejudices and to start such programmes already at school level*
(Recommended by *Germany*)

IRI: *not implemented*

FUNCEJI response:
El estado solo tiene dos escuelas de derechos humanos, una dirigida a militares y otra a policías, la población en general tiene acceso mínimo a estas dos y el ministerio de educación no ha introducido en el currículo un serio programa de educación en derechos humanos e intercultural.

Recommendation nº95: *Strengthen the legal and institutional framework to combat racism and racial discrimination, ensuring that all legal provisions are applied and that active monitoring of patterns of racism and racial discrimination is carried out*
(Recommended by *United Kingdom*)

IRI: *not implemented*

FUNCEJI response:
Attorney General's office does not monitor or keep statistics to ensure the elements to promote legislation towards this aim.

Indigenous & Minorities

Recommendation n°2: *In compliance with the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination, establish actions aimed at promoting equality within the population so as to put an end to the existing discrimination and so that the national legislation is enforced* (Recommended by Algeria)

IRI: not implemented

FUNCEJI response:

State has not made any effort to apply the provisions of the convention; a general climate of racial and origin discrimination persist.

Recommendation n°7: *Adopt comprehensive strategies to combat racism, including specific measures on the status and protection of persons of Haitian origin* (Recommended by Belgium)

IRI: not implemented

FUNCEJI response:

State has not made any effort against racism. As an example the Central Electoral Board has been accused to retain the certificates of birth and other national identity documents to Dominicans of Haitian descendants, making the excuse of a supposed investigation on the migration status of the parents at the moment of the birth.

Recommendation n°17: *Establish mechanisms for dialogue and raising awareness amongst the Dominican people, in the area of migration such as public campaigns and social fora of dialogue in the areas of discrimination and racism, labour conditions, access to education and health care* (Recommended by Brazil)

IRI: not implemented

FUNCEJI response:

El gobierno no ha realizado ningún esfuerzo para sensibilizar a los dominicanos sobre el área migratoria.

Recommendation n°84: *Cancel all retroactive measures taken to replace the principle of jus soli with the principle of jus sanguinis for the acquisition of nationality* (Recommended by Spain)

IRI: not implemented

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Recommendation n°97: *Adopt measures to ensure that Dominican of Haitian descent are not denied citizenship or access to civil and birth registration procedures and are not arbitrarily subject to retroactive cancellation of birth and identity documents* (Recommended by United States)

IRI: not implemented

Open Society Justice Initiative (OSJI) response:

Since the completion of its first Universal Periodic Review, the Dominican Republic has not appreciably changed its discriminatory nationality policies against Dominicans of Haitian descent. Indeed, a January 2010 change to the national constitution solidified the “non-resident” nationality exception first introduced in the

2004 migration law. Although this same article guarantees nationality to those who “enjoyed it” prior to the entry into force of the new constitution, it is doubtful that this non-retroactivity clause will apply to those Dominicans of Haitian descent whose right to nationality was already compromised by the retroactive application of the 2004 migration law.

The Dominican Republic’s current nationality policies discriminate against Dominicans of Haitian descent, and therefore run afoul of its human rights obligations to ensure equal protection before the law in the granting of nationality and to prevent, avoid, and reduce statelessness.

International Instruments

Recommendation n°3: *Strengthen its approach in the area of migration by acceding to ICRMW and ask for the assistance of competent international institutions* (Recommended by Algeria)

IRI: *not implemented*

FUNCEJI response:

The Dominican Republic has not signed (and therefore ratified) the ICRMW under their assumption that the Migration Act covers all the social needs and is under international standards.

Recommendation n°5: *Ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol* (Recommended by Azerbaijan)

IRI: *fully implemented*

FUNCEJI response:

The Dominican Republic ratified the Convention in 2012.

Recommendation n°18: *Extend an open and permanent invitation to all United Nations special procedures in addition to the existing cooperation* (Recommended by Brazil)

IRI: *partially implemented*

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Recommendation n°26: *Extend an open and permanent invitation to all United Nations special procedures* (Recommended by Chile)

IRI: *partially implemented*

FUNCEJI response:

El estado invito en 2008 y 2009 al relator de ejecuciones extrajudiciales, aun este no ha hecho la visita, en 2001 hicieron la visita la experta en pobreza extrema y el relator de racismo y minorías. El estado no ha respondido a cartas de varios relatores y el grupo de trabajo de desaparición forzada, su cooperación con los procedimientos especiales es dudosa.

Recommendation nº23: *Ratify the Convention on the Reduction of Statelessness and sign and ratify the Convention relating to the Status of Stateless Persons* (Recommended by Canada)

IRI: *not implemented*

FUNCEJI response:

El estado no ha ratificado la convención.

Recommendation nº61: *Consider favourably the request for a visit by the Special Rapporteur on extrajudicial, summary or arbitrary executions* (Recommended by Netherlands)

IRI: *fully implemented*

FUNCEJI response:

El estado invito en 2008 y 2009 al relator, sin embargo este no ha realizado la visita.

Recommendation nº76: *Improve cooperation with the United Nations treaty bodies by agreeing on timelines for submitting overdue reports* (Recommended by Norway)

IRI: -

FUNCEJI response:

El estado a mejora la entrega de informes, un ejemplo ha sido la entrega a tiempo del reporte al comité contra el racismo, sin embargo la entrega al comité de derechos humanos de las respuestas a la lista de cuestiones fue el mismo día de la sesión y en español.

Justice

Recommendation nº8: *Establish an independent body to deal with complaints and investigations concerning impunity of the forces of law and order when they carry out heinous actions, and train the police to use force in accordance with international human rights standards* (Recommended by Belgium)

IRI: *partially implemented*

FUNCEJI response:

The figure of the Ombudsman has been created by law and it is stated on the new Constitution. So far the Senate has made one announcement and has a list of favourites but the election stills pending.

Recommendation nº73: *Effectively investigate and prosecute crimes and violations against human rights defenders and journalists, and ensure that those responsible are punished - furthermore adopt appropriate measures to disseminate widely and ensure full observance of the Declaration on Human Rights Defenders* (Recommended by Norway)

IRI: *not implemented*

FUNCEJI response:

Los acosadores de Sonia Pierre nunca fueron llevados a la justicia, la muerte del periodista Silvestre en San Pedro de Macoris no ha sido correctamente investigada, incluso en la cárcel asesinaron uno de los testigos principales del caso, la periodista

Nuria Piera ha sido amenazada de muerte y la policía no ha hecho nada al respecto, es muy común ver atropello de las fuerzas del orden a los periodistas y a manifestante en campanas de derechos humanos, el estado desconoce la declaración de los defensores de derechos humanos.

Recommendation nº96: *Take further steps to tackle impunity, including independent investigations of killings by security forces* (Recommended by *United Kingdom*)

IRI: *not implemented*

FUNCEJI response:

Las muertes extrajudiciales siguen aumentando, representan el 10% de los homicidios, el estado no lo ve como un problema, entiende que esas son mentiras de la sociedad civil, cuando los datos del ministerio publico arrojan las informaciones, a la vez el estado entiende que la razón de esto es el bajo salario de los policías, los asesinatos son contabilizados como homicidios o acciones legales, la figura penal de muertes extrajudiciales no existe, cuando se lleva a la justicia a los infractores por lo regular solo se acusa al policía de mas bajo rango, los policías al asesinar ciudadanos disfrazan el acto como un intercambio de disparos y ponen drogas a las víctimas, sin embargo es muy fácil identificar esta situación cuando se nota que no hubo ningún impacto de bala hacia los policías y no hay testigos que prueben lo que la policía dice.

Sexual Rights

Recommendation nº42: *Take all necessary measures to put an end to discrimination against gays, lesbians and transsexuals* (Recommended by *France*)

IRI: *partially implemented*

FUNCEJI response:

There are programs to support LGBT as a way to control the spread of HIV and AIDS; but stills a lack of legal guarantees or legislation which defend and protect these groups.

Women & Children

Recommendation nº16: *Adopt specific criminal legislation for the protection of women's rights* (Recommended by *Brazil*)

IRI: -

FUNCEJI response:

Civil Society has pushed the political actor frequently to introduce feminicides as a crime and also the raise of the punishments.

Recommendation n°25: *Earmark human and financial resources for combating violence against women by creating shelters for and providing assistance to victims* (Recommended by *Chile*)

IRI: *not implemented*

FUNCEJI response:

El estado no ha hecho la inversión necesaria para crear refugios y asistencia víctimas de violencia de género.

Recommendation n°82: *Prohibit corporal punishment of children in all settings* (Recommended by *Slovenia*)

IRI: *not implemented*

Global Initiative to End All Corporal Punishment of Children (GIEACPC) response:

There has been no change in the legality of corporal punishment of children: now, as in 2009, it is unlawful in schools and in the penal system but it is not prohibited in the home or in care settings.

FUNCEJI response:

No existe legislación que prohíba el maltrato infantil, es una costumbre dominicana pegar a los niños y someterlos a actos humillantes para disciplinarlos.

Other

Recommendation n°14: *Strengthen efforts to fill the existing gaps and accept the recommendations to draw up and implement a national human rights strategy with the aim of improving the overall human rights situation in the country* (Recommended by *Bosnia & Herzegovina*)

IRI: *partially implemented*

FUNCEJI response:

A step towards fulfilling this was the announce of the creation of the Ombudsman office: so far it has not been appointed.

Recommendation n°20: *Apply consistent and non-discriminatory citizenship policies and practices* (Recommended by *Canada*)

IRI: *not implemented*

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Recommendation n°21: *Ensure that appropriate legal frameworks are in place in line with the international conventions governing the issue of nationality* (Recommended by *Canada*)

IRI: *not implemented*

OSJI response:

Since the completion of its first Universal Periodic Review, the Dominican Republic has not appreciably changed its discriminatory nationality policies against Dominicans of Haitian descent. Indeed, a January 2010 change to the national constitution solidified the “non-resident” nationality exception first introduced in the 2004 migration law. Although this same article guarantees nationality to those who “enjoyed it” prior to the entry into force of the new constitution, it is doubtful that this

non-retroactivity clause will apply to those Dominicans of Haitian descent whose right to nationality was already compromised by the retroactive application of the 2004 migration law.

The Dominican Republic's current nationality policies discriminate against Dominicans of Haitian descent, and therefore run afoul of its human rights obligations to ensure equal protection before the law in the granting of nationality and to prevent, avoid, and reduce statelessness.

FUNCEJI response:

La Dirección de Migración lleva más de 6 meses sin entregar residencias a haitianos ni colombianos, aunque estos ya hayan pagado y llevado a cabo todo el papeleo, conocemos un caso de una joven haitiana que se caso con un dominicano y no le entregan su residencia, le ofrecen un visado temporal. Actualmente se ha solicitado a todas las universidades e institutos de educación técnica sacar de las aulas a los que no estén al día con su status migratorio, el INFOTEP sacó a una joven que terminaba un curso por esta razón.

Recommendation nº62: *Ensure that all reports of human rights violations are investigated and that those suspected of violations are suspended from active duty and brought to justice* (Recommended by Netherlands)

IRI: *not implemented*

FUNCEJI response:

No todos los casos son investigados correctamente y la impunidad es frecuente cuando la víctima es pobre, el informe cállate sino quieres que te matemos de amnistía internacional presenta casos al respecto.

Methodology

A. First contact

Although the methodology has to consider the specificities of each country, we applied the same procedure for data collection about all States:

1. We contacted the Permanent Mission to the UN either in Geneva (when it does exist) or New York;
2. We contacted all NGOs which took part in the process. Whenever NGOs were part of coalitions, each NGO was individually contacted;
3. The National Institution for Human Rights was contacted whenever one existed.

We posted our requests to the States and NHRI, and sent emails to NGOs.

The purpose of the UPR is to discuss issues and share concrete suggestions to improve human rights on the ground. Therefore, stakeholders whose objective is not to improve the human rights situation were not contacted, and those stakeholders' submissions were not taken into account.

However, since the UPR is meant to be a process which aims at sharing best practices among States and stakeholders, we take into account positive feedbacks from the latter.

B. Processing the recommendations

The persons we contact are encouraged to use an Excel sheet we provide which includes all recommendations received by the State reviewed.

Each submission is processed, whether the stakeholder has or has not used the Excel sheet. In the latter case, the submission is split up among recommendations we think it belongs to. Since such a task is more prone to misinterpretation, we strongly encourage stakeholders to use the Excel sheet.

If the stakeholder does not clearly mention neither that the recommendation was “fully implemented” nor that it was “not implemented”, UPR Info usually considers the recommendation as “partially implemented”, unless the implementation level is obvious.

UPR Info retains the right to edit comments that are considered not to directly address the recommendation in question, when comments are too lengthy or when comments are defamatory or inappropriate. While we do not mention the

recommendations which were not addressed, they can be accessed unedited on the follow-up webpage.

C. Implementation Recommendation Index (IRI)

UPR Info developed an index showing the implementation level achieved by the State for the recommendations received at the UPR.

The **Implementation Recommendation Index (IRI)** is an individual recommendation index. Its purpose is to show an average of stakeholders' responses.

The *IRI* is meant to take into account stakeholders disputing the implementation of a recommendation. Whenever a stakeholder claims nothing has been implemented at all, the index score is 0. At the opposite, whenever a stakeholder claims a recommendation has been fully implemented, the *IRI* score is 1.

An average is calculated to fully reflect the many sources of information. If the State under Review claims that the recommendation has been fully implemented, and a stakeholder says it has been partially implemented, the score is 0.75.

Then the score is transformed into an implementation level, according to the table below:

Percentage:	Implementation level:
0 – 0.32	Not implemented
0.33 – 0.65	Partially implemented
0.66 – 1	Fully implemented

Example: On one side, a stakeholder comments on a recommendation requesting the establishment of a National Human Rights Institute (NHRI). On the other side, the State under review claims having partially set up the NHRI. As a result of this, the recommendation will be given an *IRI* score of 0.25, and thus the recommendation is considered as “not implemented”.

Disclaimer

The comments made by the authors (stakeholders) are theirs alone, and do not necessarily reflect the views, and opinions at UPR Info. Every attempt has been made to ensure that information provided on this page is accurate and not abusive. UPR Info cannot be held responsible for information provided in this document.

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