

Right of Migrants in the Dominican Republic

This report is presented by the Coalition for the Rights of Migrants (CRM)
On the occasion of the Universal Periodic Review (UPR)

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Recommendation accepted by the State during the 13th period of session of the Human Rights Council, during the exam of the UPR:

31. Establish mechanisms for dialog and raising awareness amongst the Dominican people, in the area of migration such as public campaigns and social fora of dialog in the areas of discrimination and racism, labour conditions, access to education and health care (Brazil).

1. The Regional Network of Civil Organization for Migration (RNCOM), with member of ten Central-American and Caribbean countries, was the result of the Regional Conference on Migration (RCM) of 1996. Part of this network consists of civil society organizations, such as; religious organizations, migrant organizations, academics, and other social sectors. The Dominican Republic is member to the CRM, and relies upon the National Table for Migration and Refugees in the Dominican Republic (NTMRDR), which is a group of representatives of various civil society institutions.
2. This report on the migration situation in the Dominican Republic, written on the occasion of the Universal Periodic Review and prepared for the UN Human Rights Council, is the result of work by organizations that are integrated within the National Table for Migration and Refugees in the Dominican Republic (NTMRDR) and the Network on Dominican Haitian Encounter, and the Network Jacques Viau; represented by **Movimiento Sociocultural para los trabajadores Haitianos, Inc. – MOSCTHA-; Fundación Étnica Integral,- FEI- ; Pastoral Haitiana; Centro Cultural Dominicano Haitiano CCDH. Alas de Igualdad, COMISION DE TRABAJO ECUMENICO DOMINICANO, INC. COTEDO, and AfroAlianza Dominicana.** The report is also supported by the participation of **Minority Group, and Centro Bono;** also part of NTMRDR.
3. Generally, with respect to the treatment of Haitian migrants, the following conducts are reported: acts of violence, burning of homes, intimidations, arbitrary detention on the streets or at the work space, arbitrary imprisonment, residential violations, collective repatriations, separations of families, obstruction of the access to justice, prohibition of the recuperation of goods, wages or personal belongings; labor exploitations, and human trafficking and trafficking of minors. All these conducts are conducted in a context of discrimination by the State and sectors of the Dominican population, with one of its elements being prejudice.
4. In the Dominican Republic there is a context of structural discrimination towards Dominicans of Haitian origin and Haitian migrants. This situation is demonstrated in the existence of general practices in the entire territory, systematic violations of various human rights directed towards the same said group of people.
5. In the report on nationality, it has been explained how this right is being denied to all Dominicans of Haitian origin; especially for political and legislative reasons and discriminatory practices, resulting in statelessness. Massive deportations and recollections of Haitians and Dominicans of Haitian origin are being realized without respect for the physical integrity, moral integrity, and property, and without a fair process. There are no institutions, nor public politics, in the country conform international standards. The detention and bureaucratic processes of the DGM towards Haitians in the process to acquire a residential permission with the end to employment and application for naturalization as a Dominican and residence. The deficient labor conditions and exploitation of Haitian migrants: undocumented, without social security and without their families.
6. The Inter-American Court of Human Rights confirmed the situation in its judgments against the country in 2005 and 2012; on nationality and proper migratory process. Recent UN reports also confirm the situation; a report from 2012 with a review of the compliance with the Pact on Civil and Political Rights, and in 2013 on the International Convention against Racial Discrimination.¹

¹Observations by the Human Rights Committee of the Dominican Republic. *Examen Periódico Universal del Pacto Internacional de los Derechos Civiles y Políticos*. 104th Period of Sessions. Session of the Dominican Republic 12 and 13 de March, 2012. Online available at: [http://media.ohchr.org/do/ONU_DO_web/517/posts/docs/0161475001333117105.pdf] [Consultado 2 de Junio 2013]; *Comité en la Eliminación de la Discriminación Racial*. 82 Período de Sesiones. Sesión de la República Dominicana, 11 de Febrero a 1ero. de Marzo, 2013. <http://www2.ohchr.org/english/bodies/cerd/cerds82.htm>

7. The situation is aggravated by the cultural prejudice coming from fractions of the Dominican population directed towards the Haitian population or the population of Haitian origin. Due to historic and political circumstances, the earthquake of 2010, and the lack of current border control a climate of violence, discrimination, and rejection.²
8. This report will briefly discuss: 1. Collective deportations; 2. Labor situation of the worker/migrant; 3. Trafficking of migrants; 4. And the deficiencies in the laws on migration. The presented information is derived from denouncements and first-hand information and from declarations of victims or reported situations in our monitoring. The organizations work under the social objective of working together with the migrant in the country; especially Haitians and Dominicans of Haitian origin because they are largest migrant population in the country.

Collective Deportations without fair process of law.

9. Haitian migrant or of Haitian origin, documented [with a passport, visa and/or, a card] or undocumented, are daily victims of collective deportations to Haiti. The system of raids and massive deportations has been generalized in the entire country over the years; systematic, after a certain amount of time, in a collective manner, arbitrary and illegal, without a fair process of law from the moment of the detention and the deprivation of liberty, to the expulsion from Dominican territory. This happens in a context of structural discrimination towards Haitians in the Dominican Republic. The General Direction of Migration [GDM] does not publish official data on the number of repatriations during the last decade. The numbers are preposterous because there is no existence of a register or migration control on entering and leaving migrants at the Dominican-Haitian border.
10. It is estimated that between 2004 and 2011 an average of 15,000 Haitian migrants have been repatriated each year.³ In 2009 a total of 8,553 deportations were registered; in 2012 3,006; and in 2011 40,071 of which 31% female and 13,5% child. In 2011 the level of deportations was five times higher than the levels of 2009 and 2010.⁴
11. The massive raids and deportations throughout the country are realized by the National Police, the armed forces, and migration officers. In the border provinces, the repatriation operations are realized by CESFRONT, the organ specialized in border security. These actions are applied with discriminatory criteria in its nature; the detentions are based upon xenophobic criteria: 'seemingly Haitian', entering homes without any form of authorization or prior notification. During the raids or massive deportations, the migrants are not asked, nor given the opportunity, to demonstrate their identity and migration status. They are mentally attacked. Last May 23th, a

² El Nacional. June 1st 2013. *Dominicanos expulsan decenas de haitianos tras asesinato compatriota*. http://www.diariolibre.com/noticias/2013/06/01/1386426_dominicanos-expulsan-decenas-haitianos-tras-asesinato-compatriota.html; *Comics en periódicos de circulación nacional que reflejan el sentimiento y un discurso anti-haitiano de los dominicanos*: <http://boquechivo.diariolibre.com/wp-content/uploads/sites/23/2013/05/20130522.gif>; <http://boquechivo.diariolibre.com/?p=5868>; <http://boquechivo.diariolibre.com/wp-content/uploads/sites/23/2013/04/20130411.gif>; <http://boquechivo.diariolibre.com/wp-content/uploads/sites/23/2011/11/20111119.gif>; <http://boquechivo.diariolibre.com/?p=521> [Consultado 2 de Junio 2013]

³ Centro Bonó. Observatory of Human Rights: Bulletin 12 y 13. Repatriaciones en República Dominicana, 2011. <http://bono.org.do/wp-content/uploads/2011/11/ODH11.pdf>] [Consultado 2 de Junio 2013]

⁴ Tomado de informaciones oficiales de la DGM. OBMICA. Riveros, Natalia. *Informes sobre la Cuestión de la Migración Internacional en la República Dominicana para el año 2011*, pgs. 30-31 [http://www.obmica.org/noticias/resena/b896d7_Informe_Anual_Obmica_2011.pdf] [Consultado 2 de Junio 2013]

Haitian migrant passed away in the hospital as a result of the blows she received from migration officers during a raid in San Pedro de Macorís.⁵

12. Since there is only one migratory detention center in the country (Haina, San Cristóbal), the detained are massively transported in a truck (women, men, and children all together) towards the penal detention centers of the police or the armed forces. In these detention centers they face inhumane conditions, without sanitary provisions, without sufficient nutrition, without access to a lawyer, without translators, they are held for over 48 hours (which, according to the Constitution, is the maximum time to be detained), and there is no communication with the Haitian embassy or consulate. The females are victims of sexual harassment, and in the majority of the cases they do not wish to speak when they have been sexually violated.
13. There is no regulation on expulsion, nor a trial with an interpreter or lawyer present. There have been reports on cases of destruction of the documents of individuals who possess residency or a visa, and of individuals with Dominican identity papers. The corruption goes as far as asking money as a condition set to their liberty and they are threatened if they will talk or press charges on the facts.
14. The situation is aggravated by the fact that there are Dominicans who were born on Dominican soil, as children of undocumented parents, who never possessed documents [Dominican birth certificate] and are being deported or face the risk of being deported. There are cases of deportations or intents to deportations of Dominicans of Haitian origin, affected by Resolution 12-07 of the Central Elective Council, who are denied the remittance of a copy of their birth certificate [see report on Nationality]⁶
15. There have been no reports on other groups of migrants of other nationalities who are undocumented, detained, and expelled in the same humiliating manner. Reminding that the Dominican State was convicted by the Inter-American Court of Human Rights in the 2012 case *Nadege Dorzema and others*; precisely for the collective deportations without a proper process, abuse, and the lack of adequate medical attention to the Haitian migrant.⁷ This year there will be another hearing of the abovementioned international tribunal on the same issue of the collective deportations of Haitians and Dominicans of Haitian origin; as well as on the destruction of documents, which was the case *Benito Tide Méndez y others*.⁸

⁵Amnesty International 31 May 2013: <http://amnestiapr.org/2013/05/31/republica-dominicana-homicidio-de-un-migrante-haitiano-durante-expulsion-debe-alentar-al-gobierno-dominicano-a-que-finalmente-respete-sus-obligaciones-internacionales/>; Diario El Día, 29 May 2013: <http://eldia.com.do/nacionales/2013/5/29/115370/Muere-inmigrante-haitiano-golpeado-por-agentes-de-Migracion>. [Consulted 2 June 2013]

⁶Dominicanos registrados en el registro civil y deportados. May 2013. <http://www.24horas.com.do/Articulo/3076/Dominicano-menor-de-edad-fue-abandonado-en-Haiti-despues-de-una-redada>; <http://almomento.net/articulo.php?id=137463>; <https://www.youtube.com/watch?v=XU4BeSs-ASU>; Video taken by the Centro Bonó in April 2013 <https://www.youtube.com/watch?v=XU4BeSs-ASU> [Consulted 2 June 2013]

⁷“Respect for the duty to respect and guarantee the rights without discrimination, the Court observed various situations of vulnerability of the Haitian victims, due to their irregular migrant conditions. The situation of the special vulnerability of the Haitian migrants is due to, inter alia: a) The lack of preventive measures to adequately face those situations related to the control of migration on the border with Haiti; b) the violence deployed through the illegitimate use and disproportionate use of force towards the unarmed migrants; c) the lack of investigation with the aim of said violence, the lack of statements and participation of the victims in the penal process and the impunity of the facts; d) the detention and collective expulsion without the proper guarantees; e) the lack of adequate medical attention and treatment to the wounded victims, and; e) The humiliating treatment of the corpses and the failure to deliver them to the families”, Court IHD. *Case Nadege Dorzema and others Vs. República Dominicana*. Funds, Reparations, and Costs. Sentence of 24 October de 2012.

⁸Case No. 12.271, Benito Tide Méndez and others, República Dominicana. Commission IHD [<http://www.oas.org/es/cidh/prensa/comunicados/2012/091.asp>] [Consulted 2 June 2013]

Recommendations:

16. Require the Dominican State to apply the international Human Rights standards in the cases on expulsion or deportation of persons without the nationality, above all to those of Haitian origin and take absolute measures to cease the massive deportation or expulsion of Haitian immigrants and their families. Additionally, omit expulsion of Dominicans of Haitian origin by means of discriminatory criteria. Recommending the respect to a proper process handling the deportations of Haitian immigrants and their families. Eliminating the application of whichever political discrimination of the Dominican State.
17. Adopt public politics designed to establish institutions specialized in migration, guaranteeing a proper process. These institutions should include: a public attorney's office with an attorney specialized in the topic of migration, a specialized tribunal, psychologists, translators, individual examination of each case, capacitated migration personnel, special attention to women, women carrying a child, and children, The creation of these institutions specialized in migration, guaranteeing the minimum conditions of detentions and the rights of the detained, should include an official register of the deportations, using the technology and capacitated personnel, especially in the border regions.
18. Eliminate the detention practices based upon xenophobic grounds, the physical, verbal, and mental violence; as well as the elimination of the extortion of money and the threats to silence the violations to the migrants.
19. Comply with the binational protocol, signed between the two countries in 1999, and the la won migration; adopting the pertinent adaption to said law.
20. The State ought to comply with the judgment given by the Inter-American Court of Human Rights in the case *Nadage Dorzema and others*; which entails the adoption of public politics and plans for the sensibilization of the authorities regarding the treatment of migrants without discrimination.
21. Ratify the UN Convention on Migrant Workers and their Families.
22. Execute collaboration agreements with Haiti, in such a manner that the Haitian State and its consulates and embassies located in the Dominican Republic will proactively participate in the process and the accompaniment of its nationals.
23. 6. Ratificar la Convención de las Naciones Unidas sobre Los Trabajadores Migrantes y sus Familiares.

Labor Situation of the Migrant Worker

24. Regarding labor, the situation is the structural lack of documentation of the Haitian migrant worker; they are not declared and/or do not possess a passport in Haiti. Additionally, without visa they will find work, whereas the total costs if a working visa is about US\$400.00 Consequently, the administrative costs are so high that it incites to illegality Furthermore, this increases the costs of the employees who compete on the labor market with others who wish for undocumented cheap manual labor. The undocumented implies that the workers are also unable to apply for social security; and so solely being able to acquire insurance through residence and foreigner identification documents. In reality, on occasion Migrations grants them a card that does not permit them to apply for social security.
25. The undocumented constituted a longstanding practice in constructions, agricultural zones, and sugar plantations, of a high rate of contracting Haitians as cheap manual laborers; which violates the labor law which demands a maximum 20%

of the employees to be foreigner. However, according to information from the same employees in the agricultural zones and construction, it is difficult to find Dominican manual labor, even when paying them higher wages than the minimum wages. This is the motivation behind the contracting of Haitian manual labor, thus the violation of the labor law on the quota of Dominicans and foreigners. Equally, there is a common practice of the employers to refuse to collaborate in the process of documentation and residence of his migrant employees, especially Haitians, which in turn increases their vulnerable conditions; staying undocumented.

26. In this same line of reasoning, there is a discriminatory practice from the GDM towards Haitian migrants. By not granting residencies, the processes of the GDM are delayed or held up;⁹ while migrants with other nationalities do not suffer from the same situation. In cases of renovation of the residency of Haitians before the limitation date has been reached at the GDM, the delaying or holding up of the process of request result in the person finding himself in the illegality afterwards, and so facing the imminent risk of deportation. Additionally, if a migrant is HIV positive and Haitian, he will find himself in an aggravated situation, since the GDM does not grant renovations of residency to persons with HIV. Even though the law on migrations states that in cases of ‘catastrophic’ diseases residency will be denied; however HIV is not a ‘catastrophic disease’.
27. At the border one will encounter trafficking of Haitians; at night trucks with undocumented will pass and the police will tolerate these practices; participating in the illegal earning of money because they let the trucks pass the border. Consequently, the labor rights are not respected because of the same condition of vulnerability and undocumented. Furthermore, due to the absence of documentation the migrant will not have a pension nor social security and so the labor exploitation and forced labor will continue to exist. The migrants do not sign a formal labor contract in writing, minimal salaries, unjustified resignations, discrimination on the grounds of ethnicity or nationality, disobedience to the norms of hygiene and security, and sexual harassment.¹⁰
28. In reality, there are hundreds of cases of Haitian elderly sugarcane workers, most of them undocumented, who came to the country at ages 50, 60 and still on this elderly age continue working; despite being ill and many dying from inhumane conditions; due to the lack of pensions and social security.¹¹
29. In December 2012, over 100 Haitian citizens were protesting in front of the Ministry of Labor of the Dominican Republic. For 40 days they protested, demanding that the contracting person and company pay their wages according to their corresponding labor. The demonstration is known as “Los Coqueros”, since they were dedicated to cleaning coconuts at a farm. This case is emblematic, since it represents the reality of the Haitian worker in the country. The workers were deceived by the employer, when he declared bankruptcy, conform an authorization of the ministry of labor that ordered the closing of the company. Many of the workers were brought from Haiti as a minor

⁹ Taken from official information of the GDM. OBMICA. Riveros, Natalia. *Informe sobre la Cuestión de la Migración Internacional en la República Dominicana para el año 2011*, p. 43 [http://www.obmica.org/noticias/resena/b896d7_Informe_Anual_Obmica_2011.pdf] [Consultado 2 de Junio 2013]

¹⁰ Centro Bonó. *Observatorio de Derechos Humanos 2012*. Boletín No. 8. <http://ono.org.do/wp-content/uploads/2011/11/ODDHH8.pdf>. [Consulted 2 de June 2013]

¹¹ Noticias en los Diarios de exigencias de trabajadores caneros en el pago de sus prestaciones laborales, especialmente ancianos: <http://www.hoy.com.do/el-pais/2012/1/21/411187/Critica-la-desatencion-a-ex-trabajadores-caneros>; <http://www.noticiassin.com/2012/10/trabajadores-caneros-protestan-frente-al-congreso-en-demanda-del-pago-de-pensiones/>; <http://www.acento.com.do/index.php/news/11813/56/Despojan-de-su-pension-a-cientos-de-ancianos-ex-trabajadores-caneros.html>; <http://uniondetrabajadorescanerosdelosbateyes.com/>

and had been working under conditions of labor exploitation for over 10 years. Furthermore, this case draws the attention towards constitutive elements of the crime of human trafficking and the crime of illicit trafficking of immigrants without the authorities taking serious measures to face the situation.¹²

30. In March 2013, a court of first interpellation ordered a sentence in favor of “los coqueros” to confiscate the goods of the employer; nevertheless, in this same sentence the court required a warranty of 3 million pesos from the workers to realize the confiscation; while the decision to impose a warranty upon the foreign worker is uncommon in the labor tribunals. More even, years ago the Supreme Court of Justice indicated it to be unconstitutional to demand the payment of a warranty by foreign workers to lend them access to justice. Recently, at the end of May, the tribunal welcomed the demand for labor loans to the workers, including the compensation for the lack of registration in social security. However, the court allegedly did not recognize the existence of labor exploitation and forced labor; allegedly due to the lack of evidence.
31. Those persons born on Dominican soil, children and families of the migrants, are unable to solicit to basic social services, living conditions, they have limited access to health care services, estate, sanitary, drinking water, and education; including primary education. Article 5 of the Law on Social Security 87-01 formally excludes undocumented migrants; contrary to the Dominican labor legislation, which establishes in its General Principles IV: *“the laws concerning labor are of a territorial character. Governing without distinction between Dominicans and foreigners, save the admitted derogations in international conventions. Concerning the relations between private persons, the lack of special dispositions is supplied by general law”*.
32. El prejuicio racial tiene un gran peso en el sector laboral, donde el **perfil físico** es ponderado como un elemento más de las capacidades para desempeñar un rol en la vida productiva y en muchos casos la apariencia pesa más que la capacidad. El prejuicio racial también aparece en la estructura laboral asociado al rechazo a los haitianos y las haitianas, toda vez que determinadas labores y oficios se considera como propios de esa población y se les llama “trabajos de haitianos”, como el corte de la caña de azúcar y la construcción de viviendas¹³. Según datos arrojados por dicha investigación cuyos resultados aún persisten en la actualidad, el 44% de la población encuestada manifestó que en su organización, con diferente frecuencia, se afirma que los negros desempeñan mejor los trabajos que requieren fuerza física. En ese mismo tenor, se comprobó, por un lado, la asociación estereotipada de la persona negra con el trabajo manual duro, y por el otro, la selección de personas con rasgos occidentales (europeos o americanos) para puestos asociados a imagen o representación de las empresas e instituciones como se indica a continuación¹⁴:
“...Es muy difícil que tú encuentres en una zona franca una cantidad importante de mujeres blancas, tú te vas a encontrar siempre mujeres mulatas y mujeres negras, hombres mulatos y hombres negros”. *“En la República Dominicana los trabajos más duros y forzados los hacen los haitianos”*.
33. In relation to domestic workers of Haitian origin, recent studies show that it is possible to determine the violation of the right to dignity and non-discriminatory practice; with a spectrum of practices that include the following: harassment, humiliation, insulting, abuse at the workflow, physical violence in the context of labor,

¹³ Servicio Jesuita a Refugiados y Migrantes (SJRM). La actitud racial en República Dominicana. Santo Domingo, RD. 2004.

¹⁴ *Ibíd*

sexual harassment by the men of the household, prejudice, overburdening of work, and patronizing treatment by the mother of the household.¹⁵

34. In short, there are obstacles to the enjoyment of the right of the migrants, including difficulties having fair access to justice and to healthcare services and education.
35. Finally, in April 2013, the State presented a national survey on migrants in the Dominican Republic, indicating that 87.3% of the immigrants are born in Haiti;¹⁶ however, it did not indicate the quantity of deported persons. A draft of a plan of regulation presented to the General Direction of Migration, to which the civil society did not participate but criticizes. Recently, over 140 civil society organizations, church, companies, trade unions, and academics presented a Social and Political Compromise for a New Model of the Migration Policies.¹⁷

Recommendations:

36. Remind the Dominican State to coordinate with the Haitian embassy and the Haitian government the documentation of its nationals.
37. Adopt measures for the concession of labor loans to the migrant workers, and their families, who for years have been working undocumented.
38. Eliminate the practices where processes of residence are being held up by the GDM and grant Dominican nationality to those who apply to the naturalization process for residence without discrimination.
39. Eliminate the discriminatory practices of the DGM, the administrative and bureaucratic hold ups, and the high costs for labor licenses with the end of labor.
40. Supervise the conditions of labor exploitation and lack of registration at the Ministry of Labor and Social Security, sanctioning the employers.
41. Adopt the plan of migratory regulation of the migrant worker and his family, with consent of the civil society.
42. Supervise and eliminate the discriminatory practices towards the Haitian population or the population with a Haitian origin with respect to the labor conditions and hiring.
43. Eliminate administrative corruption at the border, aiming at labor exploitation.
44. Ratify the UN Convention on Migrant Workers and his Family.

Trafficking of Migrants

45. Since 2003 the Dominican Republic adopted law 137-03 to combat human trafficking and the illicit trafficking of migrants: which is seen as an important step. Recognizing the Dominican State's concern towards the issue, however the adoption of public politics to eradicate and prosecute. At times, even the public attorney does not typify the situation as human trafficking and/or trafficking of women and minors; or it is disguised as a labor situation The victims fear and the psychological results form a limitation to the system, as do the threats and corruption.
46. The authorities tolerate the illegal entrance of Haitians for the ends of human trafficking. Border control continues to be very weak. The situation on the undocumented increases the vulnerability of the migrant, who reasonably withholds

¹⁵ *Ibíd.*, p. 104.

¹⁶ <http://www.one.gob.do/> [Consulted 2 June 2013]

¹⁷ *Compromiso Social y Político por un Nuevo Modelo de Gestión de las Migraciones.* <http://elnuevodiario.com.do/app/article.aspx?id=329999>; [<http://bono.org.do/wp-content/uploads/2013/05/Compromiso-Social-y-Politico-por-un-Nuevo-Modelo-de-Gestiones-de-las-Migraciones.pdf>] [Consultado 2 de Junio 2013]

from rising up against the authorities out of fear for deportation or lack of confidence in the judicial system and the judiciary to assure his protection.

47. We equally express our preoccupation with respect to the actions on the prevention of human trafficking. There is little effective assistance offered to victims of human trafficking in the country. Despite the existence of the 2003 law against trafficking of migrants, it is unclear which level of protection is offered to the victims of human trafficking; and above all, the combat on the prevention of migrant trafficking: fundamentally trafficking of women and children.
48. According to the results of a 2011 study done by the Colectiva Mujer y Salud and OBMICA, conducted on the border: *“there are high levels against women, the various types: physical violence, sexual, economic, verbal/psychological, etc, and high risks of trafficking, including forced prostitution.”*¹⁸
49. The study describes the case of a Haitian adolescent, who was in custody of the National Council of children in Santo Domingo. Her parents were living in Comendador (Elias Piña) and had sent her to family who held her trapped and working without payment in a house in Santo Domingo. The conditions under which she was held resembled the practice of Restavèk in Haiti; which shows that the trafficking of women and children is not only done for sexual exploitation, as is commonly thought. Women and children are also trafficked with the aim of forced domestic labor in private houses on Dominican soil. The invisibility of the labor dynamics in domestic work remunerates there where cases of trafficking are suspected – as is the case with sexual work – which facilitates its detection. Besides, many authorities do not recognize forced labor without a sexual character as traffic.¹⁹

Recommendations:

50. Recommend the Dominican State to coordinate with the Haitian embassy and government to adopt effective plans to prevent and cooperate against the trafficking of women and minors.
51. Adopt public policies with the aim of assuring the security and integrity of victims of human trafficking.
52. Prosecution of the cases and effective punishment of those responsible. Equally, punish the accomplices and State agents who tolerate this practice.
53. Adopt public policies in shelters for female migrants; assuring the right to contact a family member, their consulate, a translator, health care and psychological assistance, as well as verifying the conditions not to deport.

Deficiencies in the Law on Migration: recommendations.

54. The Law on Migration No. 285-04 and its article 151, disposes a plan of regulation of undocumented foreigners in the country. As has been previously indicated, a proposal of a plan of regulation has been prepared by the GDM, without the consent of the civil society, and has been harshly criticized on its content. To this end, as has been indicated, the civil society presented a Social and Political Compromise for a New Model of the Migration Policies on May 14th 2013. This plan should serve as a

¹⁸ Petrozziello, Allison y Wooding, Bridgit. *Una mirada contra la violencia de Migrantes Haitianas, en tránsito y desplazadas en la frontera dominico-haitiana*. 2011. Observatorio Migrantes del Caribe (OBMICA) y Colectiva Mujer y Salud, p. 20 [http://www.colectivamujerysalud.org/files/libro%20mujeres%20de%20la%20frontera%20baja.pdf] [Consultado Junio 3, 2013]

¹⁹ Idem., p. 72

reference point for a plan of regulation conform international standards.²⁰ It is also necessary to adapt the functioning of various institutions that are mentioned in the said Law on Migration.

55. On the other hand, the derogation of article 139 of the abovementioned law, which was declared constitutional in a sentence of the SCJ in 2005: *“The expulsion could obviously be pronouncing all resources in case of absolute emergency when it is conflict with the security of the State or public security.”* The previous articles contain the standards of a judicial process dealing with migration and clarifies that the subject of Haitians is wrongly considered as a matter of national security. Therefore, this article is contrary to international dispositions and the Dominican constitutions, since a fair process should never be ignored, not even in a state of emergency.
56. After 6 year of announcing the Law on Migration No. 285-04, the Regulation of the Application of the Law, decree 631-11 was dictated. The two link the enjoyment and the exercise of the civil rights of foreigners to the condition of legality in the country. Article 32 disposes that the resident foreigner has the same rights as Dominican nationals. And article 34, paragraph 4, conditions the civil rights of foreigners in labor situations to be regulated.
57. The Regulation of the Law on Migration does not recognize the acquired rights of the migrants that entered the country before the adoption of the Law on Migration and its Regulation, and confuses the migratory legality or illegality with the following passage: *“For the ends of application of the Law and this Regulation, the foreigners who are not residents and the foreigners enter or have entered and who reside or will reside on Dominican territory without a legal migration status protected by the migratory laws, are persons in movement”* (art.68). Neither the 2010 Constitution, nor Law No. 284-04 define who move through the country, which conform the criteria of the jurisprudence of the Supreme Court of Justice of December 2005 are those who find themselves in conditions of illegality in the country. Which constitutes an irrational position leaving a normative space by the State and in reality on the concept, which already in 2005 the Inter-American Court of Human Rights has pronounced.

²⁰ *Compromiso Social y Político por un Nuevo Modelo de Gestión de las Migraciones*
<http://elnuevodiario.com.do/app/article.aspx?id=329999>; [<http://bono.org.do/wp-content/uploads/2013/05/Compromiso-Social-y-Politico-por-un-Nuevo-Modelo-de-Gestiones-de-las-Migraciones.pdf>] [Consulted 2 June 2013]