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Human Rights Committee

Concluding observations on the fifth periodic report of the Dominican Republic

Addendum

Information received from the Dominican Republic on follow-up to the concluding observations*

[Date received: 24 August 2015]

1. The Dominican Republic has taken note of all the comments and recommendations contained in the Committee's concluding observations on the fifth periodic report (CCPR/C/DOM/CO/5), adopted at the Committee's 104th session in March 2012. The Dominican Republic reiterates its commitment to continue to cooperate with the United Nations human rights mechanisms, in particular the Human Rights Committee, by maintaining a frank dialogue about these issues, based on respect for all States and peoples.

Follow-up to the issues raised in paragraph 8 of the concluding observations

2. Regarding the observations on the situation of refugees, between 2005 and 2014, decisions were taken on 475 applications for refugee status, or approximately 99 per cent of all applications received since 2000. The refugee claimants are from Haiti, Cuba, Colombia, Syria and Iraq.

3. The regulations of the National Commission for Refugees determine the confidentiality of archives and the terms of family reunification. Once an application is accepted, a certificate is issued to the applicant.

Follow-up to the issues raised in paragraph 11 of the concluding observations

4. One of the measures adopted and implemented to prevent and eliminate violence against women and provide assistance to victims of violence and sexual harassment is the promulgation of Act No. 24/97 on violence against women and domestic violence. The Act frames public policy on women, criminalizes violence against women, domestic violence, sexual assault, rape, incest, sexual harassment, procuring and

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discrimination on account of gender or other considerations, and sets out penalties for these offences. It also provides for the offences of breach of privacy, child endangerment, abandonment and ill-treatment, kidnapping, transfer or concealment of a child, breach of parental authority and family abandonment, as well as for the related penalties.

5. Since then, various legal instruments have been adopted in order to prevent and eliminate violence against women, including the following:

- The Constitution, adopted in January 2010, which for the first time emphasizes the fight against gender-based and domestic violence, in the framework of the charter of fundamental rights;
- The Public Prosecution Service's strategic plan for 2011-2015, whose third objective stresses the importance of providing effective assistance to victims of this offence;
- The Management Model for the Comprehensive Care of Victims of Gender-Based Violence, Domestic Violence and Sexual Offences, which was designed in mid-2012 to standardize care and ensure that wherever victims access the system, they always receive uniform care. This allows victims, without the need for any particular information, to find expert assistance and know in advance the sequence of treatment and its expected results;
- On 16 July 2012, pursuant to Decree No. 358-12, the Public Safety Observatory was established with a view to collecting, consolidating, processing and analysing data on offences committed in the country in order to guide and support actions and policies for the prevention, reduction and monitoring of crime and violence. In accordance with article 2 of the Decree, the Observatory has an information system through which the data submitted by the various institutions involved in maintaining public safety and preventing all forms of violence are entered, updated and disseminated;
- The Observatory consists of the Operational Technical Unit, itself made up of two working groups, one for operations and the other for data analysis. Article 5 of the Decree defines the Unit as a standing functional entity whose responsibility is to consolidate, compare, validate, process and periodically disseminate data on violent deaths (homicides and suicides), unintentional deaths (traffic and other accidents), bodily harm, offences against liberty (kidnapping), extortion and offences against financial assets (robbery and various forms of larceny) and violence against women and children, with a view to supporting and evaluating timely and effective decision-making on the prevention and control of crime and violence. The Unit is currently made up of representatives of the following institutions:
 - The Ministry of the Interior and Police (MIP);
 - The Attorney General's Office (PGR);
 - The National Police (PN);
 - The National Forensic Police (INACIF);
 - The Metropolitan Transportation Authority (AMET);
 - The National Drugs Control Department (DNCD);
 - The National Drugs Council (CND);
 - The National Statistical Office (ONE);
 - The Ministry for Women (MMUJER);

- The National District City Council (ADN);
 - The National Council for Children and Adolescents (CONANI);
 - The Ministry of Health (MSP).
- The Public Safety Council is responsible, under article 7 of the Decree, for analysing the results submitted by the Operational Technical Unit and issuing recommendations to the President regarding government policies and actions for the prevention and control of crime and violence. The Ministry of the Interior and Police coordinates the National Citizen's Council;
 - All of the institutions that provide data (the Attorney General's Office, the National Police, the National Forensic Police and the Ministry for Women) have their own data-collection system. The Public Safety Observatory is responsible for gathering the data from all these institutions, then validating and analysing them. The Public Safety Statistical Bulletin is published quarterly, based on the analysed data.
6. The various State entities have also rolled out specific operations to combat violence against women, including:
- A toll-free, nationwide 24-hour emergency helpline set up on 20 June 2012 by the Ministry for Women which provides information and guidance, organizes the rescue and protection of women whose lives are in danger and receives reports of violence against women and domestic violence;
 - The 911 emergency number has been available since 2015 as a means of reporting cases of gender-based violence and sexual offences;
 - Between 20 June 2012 and 31 July 2015, the emergency helpline took 6,989 calls, of which 1,040 were for the rescue of persons in danger, 3,249 for rescues carried out in coordination with 911 services, 634 for guidance, 1,783 for referrals and 283 for verification purposes;
 - In its first year, 2,050 cases were processed and there were 431 rescues of women in high-risk situations. This work is carried out jointly with the National Police Special Unit for Assistance to Women and the Public Prosecution Service's Comprehensive Assistance Units on Violence against Women;
 - The number of femicides has been falling since 2012. In 2011, there were 233 cases, compared with 196 in 2012 and 160 in 2013. This is the result of the combined efforts of all the entities involved in the prevention of violence against women, including the emergency helpline;
 - The National Gender-Based Violence Statistical System is currently being set up by the National Statistical Office, in coordination with the country's data-generating institutions.
7. The Public Prosecution Service has drafted guidelines on processing cases of violence against women in order to reduce the number of femicides. The guidelines include the requirement not to seek reconciliation in such cases and the development of the Service's management model and software for the registering of reports in a single file.
8. The work of the shelters is also noteworthy. They run a nationwide programme to protect women, and their children under 14, who are at high risk of being killed by their partners or ex-partners, until it is safe to return to their habitual residence.
9. The shelters were established pursuant to Act No. 88-03 and its implementing and operational regulations. The board is chaired by the Ministry for Women and also

consists of representatives of the Ministry of Health, the Attorney General's Office, the National Council for Children and Adolescents, a non-governmental organization (NGO) working on violence against women and a children's NGO.

10. The implementing regulations contain the rules regarding the accreditation, facilities and mandate of the shelters as well as the terms of access and stay in the shelters, safe houses and the model house. The operational regulations set out the general administrative principles, rules and policies governing the shelters.

11. The model shelter has a capacity of 12 women and their children under 14, or approximately 40 persons, while the safe house can take up to four women and their children, or about 16 persons. The shelters provide food, clothing, health care, personal hygiene, psychological support and assessment, legal aid, occupational therapy and social assistance, among other services.

12. The three shelters that currently provide nationwide coverage are supported by a 24-hour helpline and 12 rescue teams distributed throughout the country, and complemented by two model houses and a safe house. The latest shelter was opened in April 2015 and began to admit women in July; it has a capacity of 45.

13. From 2008 to 2015, 2,610 persons were admitted to the model house and the safe house, including 1,137 women and 1,473 children (520 boys and 520 girls).

14. In 2013, 609 persons at high risk of death, including 287 women and 322 children, received shelter.

15. In 2012, 492 persons in immediate danger of violent death, including 195 women and 302 children, received shelter.

16. Supreme Court resolution No. 3869-2006 of 21 December 2006 defines battered woman syndrome, a valuable tool for dealing with women victims of violence.

17. The current structure for the handling, assistance and monitoring of victims and assailants consists of:

- The Office of the Assistant Attorney-General for Women's Affairs, which is responsible for defining criminal policy on the comprehensive handling of gender-based violence, domestic violence and sexual offences and for bringing criminal action against assailants throughout the country;
- Thirty-five public prosecution services, including some at the local level, such as in the National District and the Province of Santo Domingo.

18. Some of the public prosecution services have set up so-called "hope areas" for children and relatives to wait while the victims file their complaints, as well as interview rooms (Gesell chambers) for taking statements from child victims of sexual offences or domestic violence.

- There are 18 local prosecution services in the National District, with one prosecutor dedicated to cases of gender-based violence, domestic violence and sexual offences in order to provide initial assistance to victims before referring their cases to the specialized unit;
- The State-run Care and Development Centre for Survivors of Violence was established to ensure the full recovery of survivors and their families from the effects of violence against women or domestic violence. A recovery centre is currently operating in Santo Domingo, under the District prosecution service. It provides psychological services (individual, physical and group therapy), social services (community follow-up and guidance, community prevention and watch groups), a peer sponsorship and training programme, economic and employment services (academic orientation and assistance, labour market reintegration,

survival fund, entrepreneurial prospects) and family services (childcare programmes for women in recovery, family integration);

- The Behavioural Intervention Centre for Men is the country's only such centre and is located in the National District. It aims to teach a new definition of masculinity through techniques taught by qualified behaviourists;
- *Línea Vida* (Life Line) is run by the District prosecution service (telephone number: 809-200-1202; toll-free from the Dominican Republic: 1-809-200-1202);
- Two interview centres handle cases of violence against women, thereby preventing revictimization or secondary victimization in the justice system. They are run by the judiciary and staff skilled in forensic interviewing techniques, gender, violence against women and child abuse;
- The Model Protocol developed by the Office of the United Nations High Commissioner for Human Rights and UN-Women is a technical and practical tool designed to provide guidance for judicial systems on the effective criminal investigation of gender-related killings of women, in keeping with the international obligations accepted by the States. It was prepared as part of the campaign of the Secretary-General "Unite to End Violence against Women";
- *An Introduction to Gender Perspective* is a manual providing legal officers with basic knowledge of gender and the relevant national and international commitments taken on the Government and of how to mainstream gender into their daily activities, based on the judiciary's gender equality policy;
- The training programme run at the Family Schools includes the topics of coexistence, peaceful conflict resolution and the prevention and treatment of domestic violence. Written materials are prepared for discussion of these topics, radio spots are aired through the Community Technology Centres and a television programme is broadcast weekly;
- The Attorney General's Office has also set up the National Directorate for Victims Services (DNAV), which oversees the State-run Centre for the Comprehensive Care of Children and Families, established with a view to ensuring the full recovery of survivors and their families from the effects of violence against women or domestic violence. It currently operates a comprehensive care centre in Santo Domingo providing the following services: psychological services (individual or family therapy), workshops for fathers, social services (community follow-up and guidance), medical services (paediatricians to assess the physical health of children) and family services (childcare programmes for women in recovery, family integration). The Directorate also oversees the Victim and Witness Protection Unit, which protects victims during criminal proceedings in cases of drug trafficking and complex crimes;
- The National Service for the Legal Representation of Victim Rights (RELEVIC) was also established in order to provide free legal assistance to victims of all criminal offences who cannot afford a private lawyer;
- A guide has been prepared on non-sexist and non-discriminatory codes of communication, revolving around the need to harmonize both the language and the focus of information gathering and dissemination processes;
- A guide is being distributed on the use of legal instruments to prevent violence against women and domestic violence, punish the perpetrators and care for the victims. Its purpose is to provide the necessary tools to the judiciary, the health sector and the institutions and organizations that raise awareness of the issue;

- The Attorney General's Office runs a training programme at the Family Schools that includes the topics of coexistence, peaceful conflict resolution and the prevention and treatment of domestic violence. Written materials are prepared for the discussion of these topics, radio spots are aired through the Community Technology Centres and a television programme is broadcast weekly.
19. The work of various national and international organizations, such as the Attorney General's Office, the Office of the First Lady, the Ministry for Women, the Ministry of Health, the judiciary, the National Police, the Vida Sin Violencia Foundation, the United Nations Population Fund, the Assistance for Battered Women Board (PACAM) and Profamilia, is coordinated in order to further the elimination of violence against women.
20. There are agreements to coordinate the actions of the Attorney General's Office, the Puerto Rican Justice Secretariat, the Spanish International Development Cooperation Agency (AECID) and Plan International. International agreements have been signed to respond swiftly and effectively to cases of violence.
21. Other efforts include the information and awareness-raising events run by the Ministry for Women and the Attorney General's Office, such as:
- *¡Tú puedes! Únete ahora para poner fin a la violencia contra las mujeres* (You can do it! Unite now to end violence against women), a campaign that the Ministry for Women has run annually at the national level since 2011. It consists of a day of national mobilization for peace and the prevention of violence against women and domestic violence, informational flyers and leaflets, the promotion of the 24-hour helpline, posters and billboards and informational radio and television programmes;
 - The campaigns *Tolerancia (0) hacia la Violencia Contra la Mujer* (Zero Tolerance for Violence against Women; in 2008, 2009, 2011 and 2012) and *Poder y Control* (Power and Control; in 2010) were also run to raise awareness and encourage victims and assailants to identify as such and seek expert help. *Cada día menos hasta llegar a 0* (Reaching Zero Day by Day) was also run in 2013 to counteract apathy and encourage individuals, irrespective of their status, to report any act of violence against women, even anonymously;
 - In 2008, 2009, 2011 and 2012, *Tolerancia (0) hacia la Violencia Contra la Mujer* walks were held to send the message that the State will not tolerate violence against women;
 - Since 2011, the Ministry of Education has been running *Hagamos un trato por el respeto y el derecho a la vida de las personas* (Let's make a deal on respect and the right to life), a campaign designed to improve awareness of the Ministry's approach to violence, describing its core activities to promote peace and coexistence in education centres and other interpersonal settings;
 - Pursuant to Act No. 46-07 (promulgated on 26 February 2007), the national campaign *16 días de Activismo contra la Violencia hacia las Mujeres* (16 Days of Action on Violence against Women) takes place every year from 25 November to 10 December. The Act also provides for a commission — composed of representatives of the Ministry for Women, the Ministry of Education, the Public Prosecution Service, the Ministry of Health and Social Assistance, and the Chamber of Deputies and Senate committees on gender — which is responsible for planning the annual events in connection with this campaign.
22. In addition, the *Progresando con Solidaridad* (Moving Forward Together) programme includes a social and educational component on the prevention of domestic violence and violence against women. It also fosters the economic

empowerment, health and well-being of families living in poverty and extreme poverty.

23. The Ministry for Women and other entities, including civil society organizations, conduct research and studies on the situation of Dominican women, such as the Women in Numbers study of 2012, which looked at the political participation of women and sexual harassment in the workplace, and the study on gender gaps in information and communications technology. In 2010, the Ministry for Women published the study *Acoso a la Mujer en el Mercado Laboral de la República Dominicana* (The harassment of women in the Dominican labour market).

24. The bill on the Criminal Code provides for perpetrators of sexual harassment to be punished as follows:

Subsection 4. Protection orders. Article 103. Protection orders are the temporary and preventive obligations that may be imposed under the Bill on the Amended Criminal Code;

Protection orders may be imposed in cases of domestic violence, gender-based violence, rape, sexual harassment and other sexual assaults against one or more members of the family, against any person with whom the assailant cohabits or has cohabited or against a person with whom the assailant shares a child.

[...]

Article 115. Sexual harassment shall be defined as the act of pressing, hounding, pestering or compelling a person through demands, promises, orders or threats committed by a person who abuses their position of authority, hierarchical superiority, function or any other advantage over the victim for the purpose of sexual favours for themselves or a third party;

Sexual harassment shall incur 2 to 3 years' short-term ordinary imprisonment and a fine equal to seven to nine wages;

Where sexual harassment is committed against a child or a person made vulnerable by a disability, the penalty shall be 4 to 10 years' medium-term ordinary imprisonment and a fine equal to 4 to 10 wages;

A victim of sexual harassment shall be justified in resigning their post or in refusing to perform a task or service for, or accept it from, the person committing the harassment, in accordance with the Labour Code.

25. Legal framework: the specialized treatment of cases of gender-based and domestic violence is grounded in the fundamental rights of victims and the State's duty to ensure that violence is prevented and eradicated and that offenders are punished.

26. Elements of the framework include: the Convention on the Elimination of All Forms of Discrimination against Women; the World Conference on Human Rights, held in Vienna in 1993; the International Conference on Population and Development, held in Cairo in 1994; the Fourth World Conference on Women, held in Beijing in 1995; and the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belém do Pará).

27. The following legislation should be noted:

- Article 42, paragraph 2, of the Constitution, which condemns all forms of domestic violence;
- Act No. 24-97 on gender-based violence, domestic violence and sexual offences, which amends the Criminal Code by introducing new offences, namely violence

against women (art. 309, para. 1) and domestic violence (art. 309, para. 2). The Act also introduces into the criminal justice system protection orders as a measure to benefit victims, set out in article 309, paragraphs 4, 5 and 7;

- Act No. 136-03 on the system for the protection of children's fundamental rights, whose article 396 sets out the penalties for the physical, psychological and sexual abuse of children;
- The Code of Criminal Procedure, of which article 83 defines the concept of victim, article 84 sets out the rights of victims and chapter 2 deals with the claimant (art. 85 on quality, art. 86 on action and representation, art. 87 on responsibility, art. 38 on mediation and art. 39 on effects);
- Act No. 88-03 on shelters;
- Act No. 176-07 on the National District and Towns, whose article 21 (d) stipulates that the municipal authorities should channel their own income and funds received through the various modalities established by national law into fulfilling their mandates while allocating 4 per cent to educational programmes on gender and health.

28. Regarding case law, Regulation No. 3869-2006 recognizes battered woman syndrome, and the ruling of 27 October 2007 gives the Public Prosecution Service the authority to issue protection orders.

29. The Public Prosecution Service is the judicial entity responsible for formulating and implementing Government crime policy, conducting criminal investigations and initiating legal action on behalf of the people. As part of its functions, the Public Prosecution Service guarantees individuals' fundamental rights, promotes alternative forms of dispute settlement, arranges the protection of victims and witnesses and defends the public interest, guided by the law.

30. The Office of the Assistant Attorney-General for Women's Affairs was established in December 2006 with the mandate to coordinate criminal justice policy on the approach to and treatment of victims of gender-based or domestic violence and sexual offences and the prosecution of assailants.

31. The current structure for the handling, assistance and monitoring of victims and assailants consists of:

- The Assistant Attorney-General for Women's Affairs, which is headed by Judge Roxanna Reyes, who was appointed at the end of 2006, and is responsible for defining the nationwide criminal policy on the comprehensive handling of gender-based violence, domestic violence and sexual offences and for bringing criminal action against assailants;
- Thirty-five public prosecution services, some of which are at the local level, such as in the National District and the Province of Santo Domingo;
- Seventeen units for the comprehensive management of gender-based and domestic violence and sexual offences spread out across the country (National District with 17 ancillary local prosecution services, Province of Santo Domingo, San Cristóbal, Peravia, Azua, San Juan de La Maguana, San Pedro de Macorís, La Altagracia, Monseñor Nouel, La Vega, Espaillat, Hermanas Mirabal, Santiago, Puerto Plata, Province of Duarte, Dajabón and La Romana);
- The units are tasked with providing swift, comprehensive and effective assistance to victims, ensuring that legal and specialist services are available on the same premises. These services include prosecutors, lawyers, clinical and forensic doctors, forensic psychologists who draw up reports and clinical psychologists who care for victims in crisis in order to avoid revictimization.

The units also have police and administrative personnel to receive reports of gender-based or domestic violence and sexual offences;

- The National Directorate for Victims Services, which offers free psychological support during legal proceedings to victims of all types of offences;
- The National Directorate for the Legal Representation of Victims and Witnesses, whose mandate is to provide free legal assistance to victims;
- The Centre for Women Survivors of Domestic Violence, which is the country's only such centre, is located in the National District and is responsible for providing psychological and medical assistance to victims who are getting out of abusive relationships;
- The Behavioural Intervention Centres for Men, of which there are two, one in the National District and one in San Juan de la Maguana, with two more planned in Santiago and the Province of Santo Domingo. They aim to teach a new definition of masculinity through techniques taught by qualified behaviourists.

32. The units for assistance to victims of violence provide swift services. Each unit consists of prosecutors, lawyers, forensic doctors, gynaecologists, psychologists, police officers and administrative staff to receive reports of gender-based or domestic violence and sexual offences.

33. So-called "hope areas", which were funded by the Office of the First Lady and managed by the current Vice-President, Margarita Cedeño de Fernández, who continues to support the project, have been set up to care for children while victims file their complaints. Interview rooms (Gesell chambers) have also been put in place to take statements from child victims of sexual offences or domestic violence.

34. The Attorney General's Office has carried out joint actions with various national and international organizations, such as the Office of the First Lady, the Ministry for Women, the Ministry of Health, the judiciary, the National Police, the Vida Sin Violencia Foundation, the United Nations Population Fund, the Assistance for Battered Women Board (PACAM) and Profamilia.

35. The Management Model for the Comprehensive Care of Victims of Gender-Based Violence, Domestic Violence and Sexual Offences was designed in mid-2012 to standardize care so that victims always receive uniform care wherever they access the system. This allows victims, without needing any particular information, to find expert assistance and know in advance the sequence of treatment and its expected results.

36. The Attorney General's Office of the Dominican Republic and the Government of Puerto Rico launched a joint campaign entitled *Pégale a la Pared* (Punch the Wall), designed to teach assailants to respect women's dignity and integrity. The campaign included a commercial involving artists Juan Luis Guerra (representing the Dominican Republic) and Gilberto Santa Rosa (representing Puerto Rico).

37. The Attorney General's Office, jointly with the judiciary, the Ministry for Women and civil society organizations, held a seminar on Act No. 24-97 where participants reviewed and discussed the relevant legal instruments, leading to a legislative proposal that:

- Recognizes and protects women's right to personal integrity in their public and private lives alike;
- Strengthens institutions in order better to tackle violence against women;
- Provides for a comprehensive response to the issue of violence against women;
- Sets out clear oversight, accountability and assessment mechanisms for public policies on violence against women;

- Punishes public servants who break the law.

38. In addition to Act No. 24-97, which punishes violence against women, Act No. 137-03 covers Migrant Smuggling and Trafficking in Persons.

39. The Attorney General's Office also established the National Directorate for Victims Services to provide psychological support, social assistance and medical care to victims of violence, together with the Victim and Witness Protection Unit to protect victims during criminal proceedings in case of drug trafficking and complex crimes.

40. As indicated previously, the National Service for the Legal Representation of Victim Rights (RELEVIC) was established to provide free legal assistance to victims of all criminal offences who cannot afford a private lawyer. The Ministry for Women currently employs at the national level a team of 51 female lawyers, specialized in gender-based violence, who provide free legal representation to those who request it.

41. The Attorney General's Office was involved in the drafting and preparation of the following agreements:

- The "Joint Declaration on Interinstitutional Coordination Principles for the System of Comprehensive Assistance for Victims of Violence" was made by the National Police, the Ministry of Health, the Ministry for Women and the Attorney General's Office, under the auspices of the United Nations Population Fund. Its goal is to optimize coordination of the efforts of the relevant institutions to prevent and respond to gender-based or domestic violence and sexual offences and to assist victims;
- The "Declaration of intent to establish an entrepreneurial alliance to foster a culture of peace and security" was made by the Attorney General's Office, the Ministry for Women, the National Council of Free Trade Zones and the Dominican Association of Free Trade Zones (ADOZONA). The main purpose of the alliance would be to administer the "Leader in preventing and handling violence against women in the home, society and workplace" certificate to be awarded to businesses working towards that goal, as well as to spearhead and implement joint strategic actions to promote a culture of peace and kindness in the private sector through the elimination of violence against women and gender-based violence and the adoption of corporate policies in line with this objective.

Follow-up to the issues raised in paragraph 22 of the concluding observations

42. State institutions have been faithfully observing the provisions of Act No 169-14, and assessments have shown that the Act is having a positive effect. The Central Electoral Board tallied the number of foreigners in the civil registry in order to ascertain the impact of Constitutional Court ruling No. 168-13 on regular and irregular status and found approximately 62,000 cases.

43. The Board is currently regularizing and/or entering in the civil registry, without burdening the individuals concerned with administrative procedures, the records for persons within the special regime for the children of non-resident, foreign fathers and mothers who were born in the country between 16 June 1929 and 18 April 2007 and are registered in the Dominican civil registry based on documents that were not recognized for this purpose under the laws in force at the time of registration, in accordance with article 1 of Act No. 169-14. Notwithstanding this irregularity, the Board is to recognize them as Dominican nationals.

44. Act No. 169-14 stipulates that persons entered in the civil registry who do not have Dominican nationality are to be considered nationals if they are undocumented or

are to have any document they might have had returned to them as they cannot be held responsible for the State's error in permitting their registration in the first place.

45. It should be noted that, under article 3 of the Act, those who were registered as a result of false information, identity theft or any other act constituting forgery of an official document, provided that the act is directly attributable to the person concerned, may not benefit from the provisions in the preceding articles. The Board decided that it would issue birth certificates to minors, even if their parents had made false statements, specifying that it would delete the information that they had provided at the time.

46. The records of persons who were adults at the time of registration are annulled, and a court rules on whether it is appropriate to issue them with an identity document. If the parents are not the biological parents, the document is entered and the person is requested to establish the identity of their real parents.

47. The Act will benefit children who are not yet registered in the civil registry, provided that their parents have been recognized under the law, in the same way as those who are registered, insofar as, once they are registered under the regularization plan and the two-year period has ended, they may apply for naturalization. Once naturalized, their descendants shall also be entitled to Dominican nationality.

48. Migration is considered a natural process that has been occurring since the beginning of human history. Migration flows can be more or less intense and are sparked by external and internal factors. Communication has unquestionably contributed to greater migration in general. The number of international migrants worldwide is estimated at 200 million (*source*: International Organization for Migration (IOM) and National Migration Institute, 2008).

49. The term immigrant is defined differently depending on the viewpoint. According to IOM and the National Migration Institute (2008), definitions of migration, and by extension migrant, are based on political, social, economic and cultural contexts that may vary widely. A typology of migration may be developed on the basis of various distinctions, from a geographic perspective (migration) or a human perspective (migrant). From a geographic standpoint, migration is the movement of a person or group of persons from one geographic location to another, across an administrative or political border, with the intention of settling indefinitely or temporarily in a place other than their place of origin. Furthermore, migration is not always direct from point of origin to destination but may include one or more countries of transit.

50. Given the above, we infer that there is no universal definition of migrant; rather, it depends on a specific context or the legal and political interpretation of a State, group of States or region. Therefore, it is not surprising that the International Labour Organization (ILO) defines migrant workers as persons who move from their place of residence (country of origin) to a host country to take up paid employment for a period of at least one year (ILO Conventions No. 97 and No. 143). Immigration, however, is the term that designates a person's permanent change of residence from one country to another (Arias, 2000).

51. The Constitution defines a foreigner as any person who does not have Dominican nationality. The Migration Act further specifies these concepts and divides foreigners into two main groups, i.e. residents and non-residents, describing who each category encompasses (Act No. 284-04, arts. 29 et seq.). Past migration law (Act No. 95 of 1939 and Regulation No. 279 of 1939) classified foreigners under two main groups, namely migrants and non-migrants. Article 3 of Act No. 95 of 1939 classified them as follows:

Art. 3 — Foreigners who wish to be admitted shall be considered immigrants, unless they come under any of the following categories of non-immigrants:

- (1) Persons visiting the country for purposes of business, study, recreation or personal interest;
- (2) Persons transiting through the territory of the Republic on their way to other countries;
- (3) Persons employed on ships or aircraft;
- (4) Seasonal workers and their families.

Foreigners admitted as immigrants may reside in the Republic indefinitely. Non-immigrants shall be granted only temporary admission, governed by the conditions laid down in Migration Regulation No. 279 of 12 May 1939, unless a foreigner admitted as a non-immigrant is subsequently entitled to be considered an immigrant through fulfilment of the relevant requirements.

Seasonal workers shall be admitted into Dominican territory only when agricultural enterprises so request, and in the numbers and under the conditions laid down by the Secretary of the Interior and Police, now the Ministry of the Interior and Police, in order to meet the needs of such enterprises and to monitor the workers' admission, temporary stay and return to their country of origin.

52. Regulation No. 279 expanded on article 3 of Act No. 95 of 1939 by fleshing out, in a number of sections, each of the categories of migrants, as follows:

Section II — Classification of foreigners

(a) The following categories of foreigners who seek admission to the country shall be considered non-immigrants:

- (1) Persons visiting the country for purposes of business, study, recreation or personal interest;
- (2) Persons transiting through the territory of the Republic on their way to other countries;
- (3) Persons employed on ships or aircraft;
- (4) Seasonal workers and their families.

(b) All other foreigners shall be considered as immigrants, except persons with diplomatic or consular status, as defined in article 16 of the Migration Act.

Section III — Passports and visas

(a) Non-immigrant foreigners seeking admission to the country shall be required to present a valid passport or, in the absence thereof, travel documents identifying them, except in the following cases:

- (1) Foreigners who arrive as passengers on a civilian ship or aircraft and will be continuing their trip on the said ship or aircraft;
- (2) Foreigners working in any capacity on a civilian ship or aircraft with the intention of leaving the country on the said ship or aircraft;
- (3) Foreigners returning to the country during the period of validity of a temporary residence permit;
- (4) Seasonal workers and their families who present documentary proof of their nationality for the purposes of repatriation at the end of their temporary stay;

(5) Citizens of States where Dominicans are not subject to such requirements.

(b) Immigrants seeking admission to the country shall be required to present a valid passport or, in the absence thereof, travel documents identifying them, except in the following cases:

(1) Foreigners returning to the country during the period of validity of a residence permit;

(2) Citizens of States where Dominicans are not subject to such requirements.

(c) Foreigners who are not exempt from passport or travel document requirements shall be required to present these documents, validated by a diplomatic or consular official of the Dominican Republic, unless they arrive at a location where there are no such officials or have not had the opportunity during the trip to obtain a visa;

(d) A ship's crew manifest shall include all the foreigners working aboard in any capacity who intend to exit the country on the same ship. The crew manifest shall be validated by a public servant or consular official of the Dominican Republic, unless the ship comes from a location where there is no such official and there has been no opportunity to obtain a visa on the ship's route. Where the crew manifest includes any other foreigners, a visa shall not be issued until the names of these other foreigners have been removed from the manifest, unless they have a valid residence permit or individual visa for the Dominican Republic;

(e) The flight manifest of civilian aircraft shall include all the foreigners working aboard in any capacity. In the case of aircraft operating a set route, the flight manifest shall not be required to include foreign crew who are continuing their journey outside the country, without leaving the airport. The flight manifest shall be validated by a diplomatic or consular official of the Dominican Republic, unless the aircraft is operating a regular route or comes from a location where there are no such officials or there has been no opportunity to obtain a visa during the journey;

(f) Visa applications shall be made under oath using form A-1. A formal application shall not be necessary for the validation of manifests. The fee for the validation of a passport, identifying travel document or manifest shall be \$2.00, except in the case of nationals of countries that benefit from reduced fees or a fee exemption under reciprocal agreements;

(g) Individual visas shall not be denied to foreigners who wish to enter the country temporarily. Where a temporary stay visa has been issued to a foreigner and his or her admission may pose a risk to public health and order, the case shall be reported to the Secretary of State for Foreign Affairs, by cable in urgent situations;

(h) A visa may be denied to an immigrant when he or she is clearly inadmissible under migration laws and where appropriate. The Secretary of State for Foreign Affairs shall be notified of such cases. In uncertain cases, a visa shall be issued but the recipient shall be informed of its revocability;

(i) No foreigner shall be admitted to the country without meeting the criteria contained in this section, except in emergency cases or where a child under the age of 2 was born during the mother's journey to the country;

(j) A visa shall not confer the right to enter the country if upon arrival it is demonstrated that the foreigner is not admissible under migration laws.

Section IV — Visitors (amended through Decree No. 4197 of 24 February 1947, Official Gazette No. 6593)

(a) Foreigners who come to the country temporarily for business, study, recreation or personal interest shall be considered as visitors;

They may receive temporary residence permits, provided that they fulfil, where applicable, the obligation under article 4 of the Migration Act and present return tickets so that they may be repatriated if they break the conditions of temporary admission or do not observe, during their stay, the control measures set by the Department of Migration.

Foreigners thus temporarily admitted may not obtain a residence permit unless they pay the appropriate duty and meet all the other requirements specified in the Migration Act and the regulations thereof.

Foreigners who arrive in the country as tourists shall be required to have return tickets to their country of origin or valid tickets to another country.

Sea transportation companies and airlines which facilitate the travel to the Dominican Republic of foreigners to whom the present provisions apply shall be responsible for ensuring that they have return tickets and be required to transport them back in the event that they do not or that they were reimbursed the cost of the tickets after arriving in the country.

(b) Wherever there are signs that the visit will exceed 60 days, visitors shall be required to credibly demonstrate that their stay is temporary. Foreigners' intentions in this regard may be determined by the purpose of their visit, whether or not they have family or business ties abroad and whether or not they keep a residence in a foreign country;

(c) Visitors shall be granted admission for the period of their choosing, except for the initial period, which shall not exceed 60 days. The Department of Migration shall authorize extensions when it is satisfied that the foreigner still intends to stay in the country for a temporary period of no more than six months. Reasoned applications for extension shall be submitted in writing to the Department. Extensions shall be revocable by the Director of the National Investigation Department when deemed appropriate. (This last section was added through Decree No. 3161 of 23 September 1957, Official Gazette No. 8169);

(d) Foreigners admitted as visitors shall be issued a temporary residence permit (form B-2). Foreign visitors who continue their trip on the ship or aircraft on which they arrived shall be issued with only a disembarkation card (form B-1), which the person to whom it is issued shall be required to have in their possession at all times during their stay in the country and to return to the Inspector of Migration. Permit extensions shall be issued on the payment of \$4.00 in Internal Revenue Department migration series stamps. There shall be no cost for the issuance of disembarkation cards.

Section V — Foreigners in transit (amended through Decree No. 4197 of 24 February 1947, Official Gazette No. 6593)

(a) Foreigners seeking to enter the Dominican Republic for the main purpose of travelling through the country on their way to other countries shall be afforded the privileges of transit. These shall be granted despite the fact that they may not be admitted as immigrants, provided that their admission does not pose a risk to public health and order. They shall be required to state their destination,

the means by which they have chosen to travel there and the date and place of their intended departure. A period of 10 days shall generally be considered sufficient to travel through the country;

(b) Foreigners admitted for the purpose of travelling through the country shall be issued with 10-day disembarkation cards, for which there shall be no fee. Cards must remain in the possession of the persons to whom they were issued at all times during their transit through the country and be returned to the Inspector of Migration upon departure.

Section VI — Crew members

(a) Foreigners employed in any capacity on a ship or aircraft shall be allowed entry to the Dominican Republic during the time at port or airport, provided that the Inspector of Migration is satisfied that the foreigners will leave aboard the ship or civilian aircraft. No migration document shall be issued to such foreigners;

(b) Foreigners employed in any capacity on a ship or civilian aircraft shall be admitted for medical treatment for a period exceeding the ship or civilian aircraft's stopover, if it can be demonstrated to the Inspector of Migration that admission will not cost the Treasury and that the foreigner will leave as soon as the medical treatment is completed. Admission shall be granted for the period deemed necessary, except for the initial period, which shall not exceed 30 days. The Inspector of Migration at the point of admission may approve an extension, provided that he or she is satisfied that an extension is necessary. Reasoned applications for extension shall be submitted in writing to the Inspector of Migration. These foreigners shall be issued with a temporary residence permit (form B-2), which the persons to whom the permit is issued shall be required to have in their possession at all times during their stay in the country and to return to the Inspector of Migration upon departure;

(c) The aforementioned privileges shall be granted even if a foreigner is inadmissible, provided that his or her admission does not pose a risk to public health and order.

Section VII — Seasonal workers and their families

(a) Day labourers required by agricultural enterprises for harvesting shall be admitted as seasonal workers;

(b) A request to bring in seasonal workers shall be submitted to the Secretary of the Interior and Police by the agricultural enterprises concerned at least one month prior to the date on which they are needed. The request should contain the number of seasonal workers to be brought in, their nationality, the port or ports of entry, the number estimated to be entering at each port, if more than one port is mentioned, the approximate date of entry and the departure date. The request should also state that the person bringing in the workers assumes responsibility for their transport from the port of entry to their place of work as well as responsibility for repatriation, and that repatriation shall take place within 15 days of the completion of the harvest and in such a way, if it is conducted over one of the country's land borders, that large numbers of workers are not dispersed in the border area;

(c) The permit for bringing in seasonal workers shall be subject to a payment by the enterprise concerned of a \$1,000-fee per 500 individuals to be brought in, or a portion thereof. The fee shall cover the amount incurred for non-compliance of \$25 per person who is not repatriated within 15 days of the harvest, at no cost to the State. The Secretary of State for the Interior and Police

may accept the payment of this fee by the enterprise, with no other guarantee, if it is satisfied of the enterprise's solvency;

(d) When seasonal workers see fit to have their families accompany them, the families shall be admitted, in addition to the seasonal workers whose entry is being authorized, but in no case shall family members be admitted in numbers exceeding the total number of persons agreed on by the enterprise and the Secretary of the Interior and Police. Admission of family members shall be subject to the same conditions as those laid down for the workers' transport, repatriation and security, provided, in addition, that they accompany the head of the family and reside and leave with him;

(e) Foreigners admitted as seasonal workers and the members of their families accompanying them shall be issued with a temporary residence permit for seasonal workers during harvesting (form B-3). The fee for issuance of such a permit is \$4.00, except in the case of children under 10 accompanying their father, who shall be exempt from payment of the fee. Permits shall be kept by the enterprise, whereas the documents attesting to their issuance shall be carried at all times by the persons to whom they were issued during their stay in the country. Permits shall be returned to the Inspector of Migration on departure from the country. (The following subparagraphs were added through Decree No. 4935 of 13 February 1948, Official Gazette No. 6753.);

(f) Any agricultural enterprise that invokes the rules laid down in article 3, paragraph IV, of the Migration Act, shall be required to give a complete account of all seasonal workers who have arrived in the country in each group, using a form prepared by the Department of Migration for that purpose, within 30 days of arrival;

(g) Within 30 days of the arrival of each group of seasonal workers or relatives covered by a permit, the enterprise that brought them into the country shall be required to transmit to the Department of Migration four portrait photographs of each worker, two profile and two front view;

(h) All agricultural enterprises shall submit to the Department of Migration, using a form prepared by the Department for that purpose, in the early months of every calendar year, a complete account of all foreign workers in its employ;

(i) Each time an agricultural enterprise hires a seasonal worker who has been brought into the country by another enterprise it shall submit a report to the Department of Migration and send four portrait photographs of the new workers in the manner described above. The report and photographs shall be submitted within 30 days of hire;

(j) In all of the above cases, the Department of Migration, on receiving a substantiated request, may grant extensions for the submission of the photographs;

(k) When the agricultural enterprise cannot attest to the fact that it has repatriated the workers or that they are employed by another person, it shall be required to pay the immigration tax in accordance with Act No. 95 of 14 April 1939.

Section VIII — Immigrants

(a) Foreigners admitted to the Dominican Republic shall be considered as immigrants, unless they come under one of the following categories of non-immigrants:

- (1) Persons visiting the country for purposes of business, study, recreation or personal interest;
- (2) Persons transiting through the territory of the Republic on their way to other countries;
- (3) Persons employed on ships or aircraft;
- (4) Seasonal workers and their families.

Immigrants may reside in the country indefinitely.

(b) Immigrants shall be required, at the time of their admission, to fill in an application (form C-1), under oath, for a residence permit. Foreigners who hold a valid residence permit shall be exempt;

(c) Applications shall include four recent photographs of the foreigner, two front and two profile view, head uncovered and against a light background, of no less than 3 cm² and no more than 4 cm²;

(d) (Amended through Decree No. 403 of 19 October 1939, Official Gazette No. 5371 and Decree No. 49 of 2 June 1942, Official Gazette No. 5759.) A \$6.00 fee, irrespective of the time of year of the payment, shall be payable in Internal Revenue Department migrations series stamps, to be submitted along with the application. A \$500 fee shall be paid in cash to the Internal Revenue Collection Service and the receipt attached to the application for admission. The migration authorities are prohibited from receiving cash payments for these fees;

(e) The application, photographs and stamps in the amount of \$6.00, or any portion thereof, or the receipt for the \$500 fee shall be transmitted by the Inspector of Migration to the Department of Migration, which shall issue the C-2 form residence permit. The permit shall be delivered to the location listed in the application as the immigrant's address in the Dominican Republic;

(f) (Amended through Decree No. 1776 of 17 March 1944, Official Gazette No. 6051 and Decree No. 4498 of 21 July 1947, Official Gazette No. 6666 and supplemented through Decree No. 4636 of 4 October 1947, Official Gazette No. 6697.) All residence permits are valid for the year in which they were issued and are subject to renewal by the Department of Migration in January of each year or earlier, but no earlier than 1 October. Applications for renewal (form C-3) shall be made in person at any migration office prior to the permit's expiry and shall contain a sworn statement by the applicant specifying their category under article 9 (a) of the Migration Act; a full description of their possessions or monthly earnings, irrespective of their nature, specifying their source; and the Internal Revenue Department migration series stamps in payment of the fees provided for by law.

In the case of married couples with joint assets, the fee for the husband's permit renewal shall be calculated on the basis of the total value of the assets, including his monthly earnings, where applicable. The value of these assets shall not be taken into account for the renewal of the wife's residence permit.

The following foreigners shall be exempt from renewal fees for their residence permit:

- (1) The wives of foreigners who came to the country already married and who live under the protection of their husbands;
- (2) The children of foreigners and single persons under 16 whose parents reside in the Dominican Republic;

(3) Nuns living in convents or who work in hospitals, asylums, schools and other such institutions of public utility;

(4) Foreigners whose monthly earnings are less than 50 pesos, who have lived in the country for 10 years and who are or have been married to Dominican women;

(5) Foreigners whose monthly earnings are less than 50 pesos and who have lived in the country for 20 years;

(6) Dominican women married to foreign men who have chosen their husband's nationality.

The Department of Migration has the authority to assess the facts entitling individuals to the exemptions in paragraphs 4 and 5 on the basis of the available evidence.

(g) (Amended through Decree No. 1776 of 17 March 1944, Official Gazette No. 6051.) Every five years, applications for renewal shall be made through form C-1-Q and shall include two front and two profile view photographs of the same size as those submitted for the initial permit.

(h) Applications for a duplicate to replace a lost, damaged or destroyed permit shall be made in person, using form C-4, at any migration office and shall include a statement of the circumstances of the loss, damage or destruction; photographs, of the same number, format and size as for the initial permit; and Internal Revenue Department migration series stamps in the amount of \$1.00, if the replacement permit is issued.

(i) Foreigners shall keep their permit in their possession, except for the period needed to process the renewal application. Failure to renew a permit upon expiry shall place the bearer at risk of deportation.

(j) (Supplemented through Decree No. 3161 of 23 September 1957, Official Gazette No. 8169.) All foreigners coming to the country as immigrants shall be required to obtain in advance a temporary residence permit that is valid for one year and is subject to an \$8.00 fee in Internal Revenue Department migration series stamps. The permit may be revoked by the Director of the National Investigation Department, where deemed appropriate. Prior to the end of the aforementioned assessment period, the foreigner concerned may apply, in advance, for his or her permanent residence permit, provided he or she meets the relevant legal requirements.

53. Read as a whole, these articles show that Dominican case law has consistently applied the term "transit" to foreign persons who have not established their definitive residence in the Dominican Republic (see Supreme Court rulings of 1 December 1982, Judicial Bulletin No. 865, p. 2379, of 14 December 2005 and of 2 November 2011, Judicial Bulletin No. 1212 as well as Constitutional Court ruling No. 168-13). These interpretations are not isolated: this situation is considered as common in both doctrine and custom and, although children born to foreigners are entered in civil registries and are issued birth records, it should be recalled that these records shows a person's identity only (human right guaranteed by the State). A person's nationality, however, appears on their identity or voter card, which are issued as of the age of 16, or 18 for electoral purposes. It should be noted that it is the Constitution that determines who is and is not Dominican (see article 11 of the Constitution, in effect from 1929 to 2010, with regard to nationality).

54. Experts and judges, when considering the term “transit”, have agreed that the provisions of section V of Regulation No. 279 on foreigners in transit state the following:

(a) Foreigners seeking to enter the Dominican Republic for the main purpose of travelling through the country on their way to other countries shall be afforded the privileges of transit. The privileges shall be granted despite the fact that they may not be admitted as immigrants, provided that their admission does not pose a risk to public health and order. They shall be required to state their destination, the means by which they have chosen to travel there and date and place of their intended departure. A period of 10 days shall generally be considered sufficient to travel through the country;

(b) Foreigners admitted for the purpose of travelling through the country shall be issued with 10-day disembarkation cards, for which there shall be no fee. Cards must remain in the possession of the persons to whom they were issued at all times during their transit through the country and must be returned to the Inspector of Migration upon departure.

55. These texts give foreigners in transit (a subcategory of non-immigrants) 10 days to cross the territory. In other words, they set forth a limit, not a definition of the term “transit”. When various types of reasoning are applied (logical, dialectic, rational or empirical), the conclusion is that any person who infringes a statutory limit does not acquire a right but fails in a duty and undermines public order. The result is a penalty, not an acquired right, apparent status or adverse possession; these have never been provided for under Dominican nationality law.

56. The Dominican Republic respects the American Convention on Human Rights and the Convention on the Rights of the Child. The following situations regarding children born to foreign nationals between 1929 and 2010 warrant explanation:

- Children born between 1929 and 2010 on Dominican soil to foreign parents who were immigrants or residents (in accordance with Act No. 95 of 1939 or Act No. 285-04 of 2004, in effect since this date) are entitled to Dominican nationality;
- Children born between 1929 and 2010 on Dominican soil to foreign parents who were not immigrants or residents (in accordance with Act No. 95 of 1939 or Act No. 285-04 of 2004, in effect since this date) are not entitled to Dominican nationality but, rather, to that of their parents. Both these categories are considered as persons in transit (see article 36, paragraph 10, of Act No. 285-04 and the case law that defines as “in transit” all persons who do not have immigrant status). Nevertheless, they are entered in the civil registry and they are issued with a birth certificate (for foreigners) and a birth record in order to register with the consulate of their parent’s country of nationality. This prevents children from being deprived of their parents’ nationality, which would violate article 20 of the American Convention on Human Rights (right to nationality), which reads:
 1. Every person has the right to a nationality.
 2. Every person has the right to the nationality of the State in whose territory he was born if he does not have the right to any other nationality.
 3. No one shall be arbitrarily deprived of his nationality or of the right to change it.

57. The reasoning on this topic is simple. The American Convention on Human Rights in itself suffices: the principle is that individuals acquire the nationality of their parents (*jus sanguinis*) and, where that does not apply, the State party to the American

Convention has the duty to confer its own nationality on them. Failure to do so is a violation of Article 20, paragraph 3 of the American Convention because it deprives minors of their natural nationality, i.e. that of their parents, and because, under the Convention on the Rights of the Child and the Bustamante Code (Havana Agreement), a child's legal status depends on that of its parents.

58. With regard to the country's particular migration history, it should be noted that the statement above is strengthened by the principle of family unity, which would be highly compromised if a child were deprived of its parents' nationality. Moreover, granting children Dominican nationality could encourage persons in an irregular situation (undocumented, illegal) to use their children as a means of regularizing (legalizing) their status, in clear violation of children's rights.

59. The situation of the children of Haitian nationals in an irregular situation (undocumented, illegal) who were born in the Dominican Republic warrants discussion. Article 11 of the Constitution of Haiti stipulates that all children born to Haitians outside that country are Haitian nationals. Accordingly, the Government of the Dominican Republic notifies the Haitian consulate of all the births registered in the country that come under this category. It is the responsibility of Haiti to register its own nationals, particular since 1939 when a *modus operandi* was signed, establishing that each State should define the term "immigrant" in keeping with its domestic legislation. The agreement reads:

The Republic of Haiti

Signed on 21 November 1939

The President of the Dominican Republic, represented by Arturo Despradel and Anselmo A. Paulino Álvarez, and the President of the Republic of Haiti, represented by Léon Laleau and Joseph Raphael Noel.

Considering that article 10 of the Washington Agreement of 31 January 1938 provides for the conclusion of a *modus operandi* between the Governments of the Dominican Republic and the Republic of Haiti to regulate all aspects of the three points that, in a limited manner, are set forth in the said article, namely cross-border admissions, repatriation of the nationals of either of the two States who meet the criteria under article 10, paragraph 2, and the penalties each State shall impose on its nationals who, having committed offences in the other State, have taken refuge in their country of origin;

The High Contracting Parties have agreed on the following:

Article 1: From the moment of signing the present instrument, the Dominican-Haitian border shall be closed to any individual from either country who does not hold:

(a) An identification card duly issued by the competent authorities of his or her country which, in addition to photographs of the bearer, shall include the following information: a serial number, first and family names in full, age, gender, previous addresses and any distinctive features;

(b) An admission permit duly issued in accordance with the bilateral agreements between the two countries by the mission or consulate of the destination country which reproduces the information on the aforementioned card and identifies the bearer's destination; and

(c) A permit issued by the police of the bearer's country which states that an identification card and admission permit have been issued to the bearer.

Article 2: The card and the permits issued in accordance with article 1 of the present instrument shall be invalid and unusable by the bearer outside the period for which they were issued. The period of validity shall begin on 1 December and end on 30 November of the following year. Persons whose duly obtained card or permits are lost during the period of validity may be issued with duplicates by the officials empowered by both Governments to do so.

Article 3: Every office responsible for issuing the documents provided for under article 1 shall keep a register, in the same numerical sequence as the said documents, that includes all of the information required under article 1 for each of the registered documents.

Article 4: The interpretations of the term “immigrant” shall be determined exclusively by each State, in keeping with its laws, decrees and regulations.

Article 5: Both States reserve the right to verify the authenticity of the card and permits presented by the individuals concerned and to admit to their territory only those whose documents have been found compliant and bear the seal or signature of the competent authority.

60. In the same vein, the Dominican Republic and Haiti have signed two agreements on the hiring of temporary agricultural workers (*braceros*), in which the requirement that Haiti confer Haitian nationality on the children of its nationals is maintained as follows:

Agricultural enterprises that wish to use the services of Haitian seasonal workers for a limited period shall undertake in their written request to notify the Immigration Department and the relevant consulate of Haiti when any seasonal worker leaves his or her employ and of any deaths, marriages and births among seasonal workers.

61. Given the above, there is no doubt that persons born in the Dominican Republic to Haitians in an irregular situation are entitled to Haitian nationality; otherwise, Haiti would be violating at least three international agreements.

62. There are different theories explaining immigration that are grouped by school of thought. For neo-classicists, immigration is the consequence of a personal decision and arises from demographic disparities and economic inequalities among regions (Castles/Miller, 2004). The dual labour market theory sees the source of migration as the need of capitalist regimes for cheap labour to use for capital gain (International Organization for Migration (IOM) and the National Migration Institute, 2008). This theory plays down the significance of the personal decision, which is secondary to States’ macroeconomic structure. A multidisciplinary theory of migration has recently been developed, whereby migration is the result of a combination of interrelated factors that not only gives rise to migration but also sustains it over time and space (Castles/Miller, 2004). It can be inferred from these theories that the factors at the root of migration are of different types (economic, social, political, cultural, etc.).

63. The impact of migration on host countries and countries of origin alike is the subject of many studies by academics and international organizations. The phenomenon can be beneficial or prejudicial depending on the migration management policies adopted by a given country based on its specific situation (IOM and the National Migration Institute, 2009).

64. In some countries, the issue of migration is the subject of much discussion and is even a deciding factor in elections and legal regime changes (Stephen Castles, 2004). The Dominican Republic is no stranger to this debate, which is recurrent and a key to migratory policymaking (Lozano, 2009).

65. The Dominican Republic is not closed to migration. Over 85,000 residence permits are issued annually and the country receives more than 4 million visitors (Department of Migration, 2011).

66. Global economic growth has not been uniform and human development indices differ vastly, creating a huge gap between developed and developing countries. This pushes a portion of the population of poor countries to try to reach economically developed places (Castles/Miller, 2004). This is definitely true of migration in the Dominican Republic. The fact that the Dominican economy is more than seven times larger than that of Haiti causes an influx of Haitian migrants to meet the demand for unskilled workers in certain sectors of the Dominican economy.

67. It is easy to understand why individuals from the world's poorest regions wish to emigrate to more prosperous countries. People have always moved within their region or from one region to another in order to improve their standard of living, provide their children with greater opportunities to move up or escape poverty, war and hunger (Castles/Miller, 2004). This is the cardinal rule that has underpinned migration since the beginning of human history.

68. As can be seen, Act No. 285-04 does not deprive the children of foreigners in an irregular situation of their nationality. However, under the Constitution of 1929, the children of persons in transit in the Dominican Republic do not acquire Dominican nationality. Act No. 95 of 1939, in conjunction with Regulation No. 279, and Act No. 285-04 of 2004 and with Regulation No. 631 of 2011, state that non-immigrants and non-residents do not acquire Dominican nationality while in transit in the country, a point legally and semantically illustrated above.

69. In addition, it should be noted that the bilateral agreements between the Dominican Republic and Haiti are sufficiently clear on the fact that the term "immigrant" is to be defined independently by each State and that the children of Haitian seasonal and temporary workers born in the Dominican Republic should be declared as Haitians to the Haitian consular authorities.

70. The argument that the descendants of Haitians are stateless is groundless because, under the Constitution of Haiti, they have a right to the nationality of origin by virtue of *jus sanguinis*.

71. Lastly, it should be noted that the situation of the children born in the Dominican Republic to Haitians in an irregular situation who were unlawfully entered in Dominican registries is being resolved through Act No. 169-14 and its Regulation No. 250-14. Not only has Dominican nationality been conferred in these cases but the Act also allows for the children of foreigners in an irregular situation to be entered in the register of foreigners and to later benefit from the national plan on the regularization of foreigners and subsequently from naturalization after two years.