



**International Covenant on  
Civil and Political Rights**

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**Human Rights Committee**

**Consideration of reports submitted by States  
parties under article 40 of the Covenant**

**Fifth periodic report**

**Dominican Republic\***

[12 November 2009]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

## Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction.....	1–5	4
II. Article 2. Implementation of the rights set forth in the Covenant.....	6–9	5
A. Domestic legislation.....	6–9	5
III. Article 6. The right to life.....	10–14	6
A. Domestic legislation.....	10–12	6
B. Institutional measures.....	13–14	7
IV. Article 7. Combating torture and other cruel, inhuman or degrading treatment or punishment.....	15–30	7
A. Domestic legislation.....	15–25	7
B. Institutional measures.....	26–30	9
V. Article 8. Prohibition of slavery, servitude and forced labour.....	31–46	10
A. Domestic legislation.....	31–36	10
B. Institutional measures.....	37–46	11
VI. Article 9. The right to liberty and security of person.....	47–59	12
A. Domestic legislation.....	47–49	12
B. Institutional measures.....	50–59	13
VII. Article 10. Rights of persons deprived of their liberty.....	60–84	15
A. Domestic legislation.....	60–69	15
B. Institutional measures.....	70–84	16
VIII. Article 11. Imprisonment for non-fulfilment of contractual obligations.....	85–90	18
A. Domestic legislation.....	85–88	18
B. Institutional measures.....	89–90	19
IX. Article 12. The right to liberty of movement and residence.....	91–97	19
A. Domestic legislation.....	91–93	19
B. Institutional measures.....	94–97	20
X. Article 13. Due process in the expulsion of foreigners.....	98–99	22
A. Domestic legislation.....	98	22
B. Institutional measures.....	99	24
XI. Article 14. Equality of judicial guarantees.....	100–104	25
A. Domestic legislation.....	100–103	25
B. Institutional measures.....	104	25
XII. Article 15. The non-retroactivity of the law.....	105–107	26
A. Domestic legislation.....	105–106	26
B. Institutional measures.....	107	26

XIII.	Article 16. The right to recognition as a person before the law .....	108–115	26
	A. Domestic legislation .....	108	26
	B. Institutional measures .....	109–115	26
XIV.	Article 17. Respect for privacy (family, home, honour and reputation) .....	116–125	27
	A. Domestic legislation .....	116–125	27
XV.	Article 18. The right to freedom of thought and religion .....	126–129	29
	A. Domestic legislation .....	126–128	29
	B. Institutional measures .....	129	29
XVI.	Article 19. Freedom of expression .....	130–134	30
	A. Domestic legislation .....	130–133	30
	B. Institutional measures .....	134	30
XVII.	Article 20. Prohibition of propaganda for war or for national, racial or religious hatred .....	135–138	30
	A. Domestic legislation .....	135–137	30
	B. Institutional measures .....	138	31
XVIII.	Article 21. The right to peaceful assembly .....	139–140	31
	A. Domestic legislation .....	139	31
	B. Institutional measures .....	140	31
XIX.	Article 22. The right to freedom of association.....	141–148	31
	A. Domestic legislation .....	141–145	31
	B. Institutional measures .....	146–148	32
XX.	Article 23. The right to a family.....	149–157	33
	A. Domestic legislation .....	149–151	33
	B. Institutional measures .....	152–157	33
XXI.	Article 24. Rights of the child .....	158–165	34
	A. Domestic legislation .....	158	34
	B. Institutional measures .....	159–165	34
XXII.	Article 25. Political rights .....	166–183	36
	A. Domestic legislation .....	166–171	36
	B. Institutional measures .....	172–183	37
XXIII.	Article 26. Equality before the law and non-discrimination .....	184–211	38
	A. Domestic legislation .....	184–185	38
	B. Institutional measures .....	186–211	39
XXIV.	Article 27. The right to a cultural identity, religion and language .....	212–224	43
	A. Domestic legislation .....	212	43
	B. Institutional measures .....	213–224	43

## Country report

### International Covenant on Civil and Political Rights

#### I. Introduction

1. The Dominican Republic, as a representative democracy that operates under the rule of law and has a territory measuring 48,670.82 square kilometres, wishes to submit its fifth periodic report under article 40, paragraph 1, of the International Covenant on Civil and Political Rights to the Human Rights Committee for its consideration.

2. The present report covers all the measures adopted by the Dominican Republic to implement the rights set forth in the Covenant and the progress achieved in the implementation of these rights. The information was provided by the various policymaking institutions that make up the Inter-Agency Human Rights Commission, established in accordance with Decree No. 408-04 of 5 May 2004<sup>1</sup> in compliance with the Vienna Declaration and Programme of Action of 1993.

3. The report was produced on the basis of the guidelines and observations issued by the Human Rights Committee relating to the fourth periodic report of the Dominican Republic (CCPR/C/DOM/99/3).

4. Under the democratic system of government enjoyed by the Dominican Republic for more than 20 years now, the State has ratified the principal international human rights conventions and has embarked upon an intensive legislative and normative reform effort in this area. This democratic initiative reflects the major changes that are being made in order to place human rights issues on the national agenda.

5. As a State that upholds the rule of law, the Dominican Republic is currently carrying out constitutional reforms aimed at expressing the will of the people. The text of the proposed legislation is designed to protect fundamental rights, including civil and political rights, such as the rights to human dignity, equality and non-discrimination, personal rights, and the right to physical, intellectual and social communication.<sup>2</sup>

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<sup>1</sup> The institutions that make up the Inter-Agency Human Rights Commission are: the Ministry of Foreign Affairs, the Ministry of the Interior and Police (through the National Police Force's Institute for Human Dignity), the Ministry of Labour, the Ministry of Public Health and Social Welfare, the Ministry of Education, the Ministry of the Armed Forces (through the Human Rights Institute of the Armed Forces), the Ministry for Women, the Ministry of Culture, the Ministry for Youth, the Office of the Procurator-General, the Supreme Court of Justice, the National Congress (Senate and Chamber of Deputies), the Central Elections Board, the National Council for Children and Adolescents (CONANI), the Directorate-General of Migration, the Directorate-General of Prisons, the Directorate-General of National Assets, the Presidential Advisory Office on International Treaties concerning Women, the Commissioner for the Reform and Modernization of the Justice System, the National Sugar Institute, the Social Plan of the Office of the President and the National Housing Institute.

<sup>2</sup> Constitution of the Dominican Republic of 2009, art. 28, subsection 1, art. 29, arts. 30–36 and arts. 37–40.

## II. Article 2. Implementation of the rights set forth in the Covenant

### A. Domestic legislation

6. The implementation of the Covenant rights in accordance with Dominican domestic law is guaranteed under article 3 of the Constitution. The Human Rights Committee has pointed out<sup>3</sup> that this article recognizes and applies the norms of international law adopted by the Dominican Republic and that, since these instruments include the International Covenant on Civil and Political Rights, the Covenant has constitutional standing; it also noted with regret, however, that, in general, there had been a lack of progress in its implementation since the consideration of the third periodic report. In addition, it noted that a significant body of legislation was still incompatible with the Covenant, despite the fact that the latter has a higher standing and that over 21 years have elapsed since the Dominican Republic acceded to it.

7. In the light of this statement, the Dominican Republic wishes to make clear that, in its Resolution 1920-2003, the Supreme Court recognizes the constitutional status of international treaties once they have been passed by Congress and provides, in one of the preambular paragraphs, that: "Whereas the Dominican Republic has a constitutional system consisting of provisions of equal standing deriving from two fundamental sources of law: (a) the national source, consisting of the Constitution and constitutional precedents handed down by any of the nation's courts, including the Supreme Court itself, and the jurisprudence established by the highest court in the exercise of its exclusive jurisdiction; and (b) the international source, consisting of international conventions and agreements, and the advisory opinions and decisions of the Inter-American Court of Human Rights. Together, these sources of law make up the body of constitutional law which determines the substantive and formal validity of all procedural or secondary legislation."

8. Consequently, any person, without exception, who considers that he or she has been the victim of any adverse act or measure which does not uphold his or her rights under the Covenant may use the legal mechanisms existing in the Dominican judicial system to demand that those rights be respected in accordance with the Dominican Constitution and the international covenants and treaties ratified by the State. Should the authorities responsible for enforcing these instruments violate any of their provisions, they may be brought before the appropriate bodies and sanctioned for any such violation. This may occur, for example, when judges are brought before the plenary of the Supreme Court for a disciplinary hearing, which may lead to dismissal, suspension and/or sanctions.

9. With regard to the continued existence of laws which are incompatible with the International Covenant on Civil and Political Rights, over the last 8 to 10 years the Dominican Republic has made major progress in the development of policies and laws to uphold the human rights protected by the Covenant. These advances are discussed in the present report.

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<sup>3</sup> Concluding observations of the Human Rights Committee (CCPR/CO/71/DOM) of 26 April 2001, para. 6. (See the reply of the Dominican Republic in paragraphs 6–9 of the present report.)

### III. Article 6. The right to life

#### A. Domestic legislation

10. The Dominican Constitution is the primary legal instrument of the Dominican Republic and is in strict accordance with article 6 of the Covenant, since article 37 of the Constitution provides for the inviolability of life.<sup>4</sup> Similarly, article 10 of Act No. 76-02 (the Code of Criminal Procedure of the Dominican Republic) reinforces this provision of the Constitution.<sup>5</sup>

11. The initial section of the Code for the System for the Protection and Fundamental Rights of Children and Adolescents, otherwise known as Act No. 136-03 of 7 August 2003, provides, among other fundamental guarantees for children and adolescents, for the right to life.<sup>6</sup> Article 3 of the act also provides that all children and adolescents have the right to life and that the State must guarantee this right through public policies aimed at ensuring survival, health and integral development.

12. Apart from the national legislation, which is perfectly consistent with international norms, given the country's interest in protecting human rights and, in particular, the right to life, the Dominican Republic has ratified the following conventions, whose most salient aspects are noted:

(a) The Universal Declaration of Human Rights (10 December 1948; the Dominican Republic was a signatory). Article 3: "Everyone has the right to life, liberty and security of person.";

(b) The American Declaration of the Rights and Duties of Man (Bogotá, Colombia, 1948). Article 1: "Every human being has the right to life, liberty and the security of his person.";

(c) The American Convention on Human Rights (San José, Costa Rica, November 1969). Article 4: "Right to life.";

(d) The Convention on the Rights of the Child (20 November 1989). Article 6.1: "States Parties recognize that every child has the inherent right to life.";

(e) Optional Protocol to the International Covenant on Civil and Political Rights (opened for signature on 16 December 1966; came into force on 23 March 1976 and was ratified by the Dominican Republic on 4 January 1978). Article 1: "A State Party to the Covenant that becomes a Party to the present Protocol recognizes the competence of the Committee to receive and consider communications from individuals subject to its jurisdiction who claim to be victims of a violation by that State Party of any of the rights set forth in the Covenant. No communication shall be received by the Committee if it concerns a State Party to the Covenant which is not a Party to the present Protocol."

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<sup>4</sup> See [www.suprema.gov.do/codigos/Constitucion.pdf](http://www.suprema.gov.do/codigos/Constitucion.pdf).

<sup>5</sup> See [www.suprema.gov.do/codigos/Codigo\\_Procesal\\_Penal.pdf](http://www.suprema.gov.do/codigos/Codigo_Procesal_Penal.pdf).

<sup>6</sup> See [www.suprema.gov.do/codigos/Codigo\\_NNA.pdf](http://www.suprema.gov.do/codigos/Codigo_NNA.pdf).

## B. Institutional measures

13. On the basis of the report of the Human Rights Committee,<sup>7</sup> the Dominican Republic has strengthened the means at its command to preserve the inviolability of life through the promulgation of the new laws mentioned previously, as well as the creation of new institutions and the implementation of information campaigns to bolster the guarantees of the inviolability of life as provided for in article 6 of the International Covenant on Civil and Political Rights.

14. The measures taken by the Dominican Republic include:

(a) The dissemination of the human rights agreements and treaties that have been ratified. This campaign is led by the Ministry of the Interior and Police and involves the distribution of the various international human rights instruments in a user-friendly format to interested individuals and organizations;

(b) The creation of governmental entities to provide human rights training to the Dominican people, with particular emphasis on the members of military, police and civil security forces. These bodies include the National Police Force's Institute for Human Dignity<sup>8</sup> and the Armed Forces' Graduate School of Human Rights and International Humanitarian Law, whose goal is to develop systemic programmes for the education and training of all members of the country's security agencies in order to ensure that human rights are respected under international humanitarian law, thereby improving relations between civilians and members of the Armed Forces;

(c) The creation of an Inter-agency commission to draft reports on the activities carried out by the different ministries for the promotion and protection of human rights (see paragraph 2);

(d) The creation of the National Council for Children and Adolescents (CONANI).<sup>9</sup> The Council is the highest oversight body for the national System for the Protection and the Fundamental Rights of Children and Adolescents. It formulates, approves, evaluates, supervises, coordinates and monitors public policies relating to children and adolescents.

## IV. Article 7. Combating torture and other cruel, inhuman or degrading treatment or punishment

### A. Domestic legislation

15. The Dominican Republic, having considered the final observations and recommendations of the Human Rights Committee,<sup>10</sup> is implementing the following

<sup>7</sup> Concluding observations of the Human Rights Committee (CCPR/CO/71/DOM) of 26 April 2001, para. 8. (See the reply of the Dominican Republic in paragraphs 10–11, 13 and 14 of the present report.)

<sup>8</sup> Statistical data: the National Police Force's Institute for Human Dignity has launched crime prevention schemes in 13 districts, with the participation of 536 citizens and police officers to date. The districts are: La Ciénega, Los Guandules, Capotillo, 27 de Febrero, Espaillat, Gualay, Guachupita, Las Cañitas, Luperón, Simón Bolívar, Villar Agrícolas and Zurza.

<sup>9</sup> Created in accordance with Act No. 136-03, which sets forth the Code for the System for the Protection of the Fundamental Rights of Children and Adolescents.

<sup>10</sup> CCPR/CO/71/DOM, para. 9.

domestic legislation in order to ensure that the provisions of article 7 of the Covenant do not conflict with international standards.

16. Inhuman treatment and torture are prohibited in the Dominican Republic under article 8, paragraph 1, of the Constitution of 2002.<sup>11</sup>

17. Act No. 24-97 of 27 January 1997 amends various articles of the Criminal Code, including article 303, which defines torture as: “Any act carried out as a method of criminal investigation, measure of intimidation, corporal punishment, preventative measure, or criminal sanction or for any other end that causes physical or mental damage or suffering to a person constitutes torture or an act of barbarity. Equally, the application of substances or methods designed to neutralize the personality or will of persons or to reduce their physical or mental capacity, even if these methods do not cause physical pain or mental suffering, also constitute torture or an act of barbarity.”

18. In the above-mentioned law, it is established that the act of submitting a person to torture or acts of barbarity will be punished by imprisonment for between 10 and 15 years; the term of imprisonment may be up to 30 years in cases where the crimes are committed against children, elderly or infirm persons, persons with disabilities or pregnant women, among others.

19. The enactment of the Code of Criminal Procedure of the Dominican Republic (Act No. 76-02) constitutes a significant step forward in ensuring respect for fundamental rights and procedural guarantees. This legal instrument is the result of a determined and concerted effort by different sectors of society to implement the constitutional laws that establish a criminal procedure which provides all of the necessary due process guarantees to safeguard human rights.

20. Article 1 of the Code provides that the courts shall give precedence to the Constitution and international treaties in the application of the law. Article 10 establishes the following: “The dignity of the person. Every person has the right to personal dignity and to their physical, mental and psychological integrity. Neither torture, nor cruel, inhuman or degrading treatment may be inflicted upon anybody.”

21. Article 95 establishes the following: “Right. Every defendant has [...] the right to receive decent treatment during detention and, therefore, has the right not to be subjected to methods involving the use of unnecessary violence or extreme and disproportionate force.”

22. Article 12 of Act No. 136-03 (Code for the System for the Protection and Fundamental Rights of Children and Adolescents)<sup>12</sup> establishes the right of children and adolescents to inviolability of the person.

23. Article 246 (h) of this act establishes that an adolescent who has been arrested must not be subjected to torture or cruel, inhuman or degrading treatment and must not be the object of methods or techniques that induce or alter his or her free will, or state of consciousness or awareness or that undermine his or her dignity.

24. At the international level, the Dominican Republic, as a party to the American Convention on Human Rights, is obliged to protect the right to inviolability of the person. The American Convention on Human Rights safeguards this right in article 5, as follows: “Everyone has the right to their physical, mental and psychological integrity; nobody shall be subjected to torture or to cruel, inhuman or degrading punishment or treatment. Any

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<sup>11</sup> See [www.suprema.gov.do/codigos/Constitucion.pdf](http://www.suprema.gov.do/codigos/Constitucion.pdf).

<sup>12</sup> See [www.suprema.gov.do/codigos/Codigo\\_NNA.pdf](http://www.suprema.gov.do/codigos/Codigo_NNA.pdf).

person deprived of liberty shall be treated with the respect due to the inherent dignity of the human being.”

25. The Dominican Republic signed and ratified the Inter-American Convention to Prevent and Punish Torture of the Organization of American States on 12 December 1986. Article 2 of that instrument defines torture as follows: “Any act intentionally performed whereby physical or mental pain or suffering is inflicted on a person for purposes of criminal investigation, as a means of intimidation, as personal punishment, as a preventive measure, as a penalty, or for any other purpose. Torture shall also be understood to be the use of methods upon a person intended to obliterate the personality of the victim or to diminish his physical or mental capacities, even if they do not cause physical pain or mental anguish.”

## **B. Institutional measures**

26. Since 2004, after the enactment of the Code of Criminal Procedure (Act No. 76-02), the Dominican Republic has initiated a number of substantial changes regarding the police force, security agents and the Office of the Public Prosecutor and has succeeded in expediting criminal proceedings by a factor of more than 1,000 per cent as part of a concerted effort to strengthen the justice system and to provide effective responses that uphold human dignity. Guarantees and procedures have been established which, in combination with the swiftness of proceedings and shortened periods of pretrial detention, help to reduce the potential for the excessive use of force or abuse by the police, in accordance with the recommendations made by the Human Rights Committee.<sup>13</sup>

27. The Dominican Republic has undertaken the necessary educational and corrective measures with a view to modifying the conduct of the security forces.<sup>14</sup>

28. Act No. 136-03 (Code for the System for the Protection and Fundamental Rights of Children and Adolescents) provides for the establishment of the Judicial Police Department for Children and Adolescents as a support unit for the juvenile criminal justice system. It is a technical body that specializes in the investigation and prosecution of criminal acts alleged to have been committed by adolescents and provides assistance to the Office of the Public Prosecutor in dealing with cases involving children and adolescents. This legislation also established the Office of the Public Prosecutor for Juvenile Cases and post of enforcement judge in the juvenile court system.

29. This specialized department is staffed by both male and female officers who have been trained to work with adolescents and to respect human rights. At the time that an arrest is made, they are required to inform adolescents of their rights and to bring them promptly before the corresponding Office of the Public Prosecutor. All national police stations are to have a department of this sort to perform the duties assigned to it under the Code.

30. There are a large number of cases in which stray bullets are fired by unidentified persons in the country’s working-class neighbourhoods. People in these areas are particularly vulnerable because of the flimsy nature of their dwellings, and the majority of the victims are minors. In view of this situation, the Ministry of the Interior and Police issued Resolution No. 08-05, under which coverage is to be provided for persons hit by stray bullets and for relatives of policemen killed in the line of duty; it also sets up a mechanism for contributions to the Campaign for Non-Violence. The trust fund to be

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<sup>13</sup> CCPR/CO/71/DOM, para. 9, in conjunction with the urgent measures for the fulfilment of article 7 of the Covenant.

<sup>14</sup> See paragraph 14, subsection (b), of the present report.

established under the terms of this resolution will be used to pay out compensation to the victims of such acts, to provide coverage for relatives of policemen who have died in the line of duty, and to contribute to the Campaign for Non-Violence.

## **V. Article 8. Prohibition of slavery, servitude and forced labour**

### **A. Domestic legislation**

31. Article 8 of the Constitution states: “The effective protection of the rights of the human person and the maintenance of the means for people’s progressive development within a system of individual liberty and social justice compatible with public order, the general welfare and the rights of all are recognized as the principal aims of the State.” In order to guarantee the achievement of these objectives, the following standards are established.

32. With regard to the right to work, it states: “In accordance with the general interest, the law shall establish the maximum number of working hours per day, rest days and holidays, the minimum wage and salaries and the corresponding methods of payment, social security, the participation of nationals in all sectors of work and, in general, all forms of protection and assistance which the State deems necessary for employees, be they manual or non-manual workers.”

33. Labour and employment are regulated by Act No. 16-92 of 29 May 1992 (Labour Code of the Dominican Republic), which establishes a working week of not more than 48 hours and stipulates that workers must receive additional pay for each hour in excess of that maximum. It also creates labour tribunals to enforce the regulations on the payment of the inalienable labour benefits for which every worker in the private sector is eligible.

34. The Dominican Republic’s worker protection statutes also include Act No. 3143 which concerns work performed but not paid for and work paid for but not performed. Under this Act, the recruitment of persons to carry out work, which, once done, is then not paid for as initially agreed constitutes fraud. This offence is punishable by imprisonment and a fine. Victims may also seek the supplementary compensation for damages.

35. As a member State of the International Labour Organization (ILO), the Dominican Republic approved and ratified the ILO Convention concerning the Minimum Age for Admission to Employment (Convention No. 138), which, in conjunction with the ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (Convention No. 182), ratified in 2000, as well as other national regulations, such as Act No. 136-03 (System for the Protection and Fundamental Rights of Children and Adolescents), Act No. 137-03 on trafficking in persons and the Labour Code, form the legal basis for action against child labour in the Dominican Republic.

36. The Dominican Republic also signed the ILO Convention concerning Forced or Compulsory Labour (Convention No. 29 of 1930), which it ratified on 5 December 1956, thereby committing itself to abolish the use of all forms of forced or compulsory labour, that is, “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”. Principle II of the Labour Code of the Dominican Republic (Act No. 16-92) establishes that: “Everyone is free to pursue any occupation or trade, industry or business permitted by law. No one may prevent others from working or oblige them to work against their will.”

## B. Institutional measures

37. The Dominican Republic places special emphasis on measures relating to the labour rights of Haitian nationals working in the Dominican Republic.<sup>15</sup> In accordance with the Dominican Constitution and the Labour Code, the Dominican Republic does not oblige any worker, whether of Haitian or any other nationality, to perform work.

38. For this reason, the recruitment of Haitian manual workers for the sugar industry through what is known as the “labour contingent” system has been prohibited since 2005. This system, under which workers were signed up while still in Haitian territory, has been banned precisely because of reports of its use for trafficking in persons by unscrupulous individuals from both countries wishing to exploit Haitian manual labour.

39. Haitian workers and Dominican workers of Haitian descent are freely employed, have absolute freedom of movement and the right to join unions, and are eligible for labour benefits and pensions, which is why the Dominican authorities do not carry out raids on workplaces. As a matter of State policy, the Directorate-General of Migration does not carry out any repatriations on Fridays, which is traditionally the day when wages are paid. The purpose of this policy is to avoid the injustice caused by such repatriations, which might otherwise be used to cover up agreements between private individuals, and ensure that workers and others do not lose their recently earned wages.

40. In view of the fact that immigration inspectors are likely to find themselves in conflict situations, they receive ongoing training in human rights and crisis management. The objective of such training is to prevent cruel, inhuman or degrading treatment of Haitian nationals who are in the country illegally and to ensure respect for their human rights at the time they are deported.

41. Any Haitian or other national is legally entitled to appeal to the Dominican justice system if his or her rights have been violated and to receive compensation. Several years ago, the Supreme Court ruled that foreign nationals seeking redress in the courts, no matter what their migration status might be, need not pay a *cautio judicatum solvi*.

42. Haitian immigrants not only work and live in many sectors of Dominican society, but also form families with Dominicans.

43. Agricultural workers in the sugar sector (who are, by and large, Haitian and Dominican nationals who live in shantytowns), receive free health care and education. In 2006, workers were provided with 173,000 medical examinations and 124,000 dental appointments and HIV treatment sessions, along with vaccination programmes and basic pre and post-natal services; medicines were also supplied.

44. The sugar industry runs 87 schools, with 80 teachers, for 3,125 male and female students.

45. Between 2005 and August 2007, the State provided 932,327 Haitians with medical services; this is equivalent to 98.5 per cent of the 945,455 foreigners treated in the Dominican Republic. The cost of these services came to US\$ 30.4 million (i.e., 4 per cent of the budget allocated for that period for the Ministry of Public Health and Social Welfare).

46. The above measures demonstrate the falsity of the contention that the Dominican Republic does not offer due protection to Haitians who live and work in the country, as all

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<sup>15</sup> CCPR/CO/71/DOM, para. 17.

persons have an equal right to lead a full life in the Dominican Republic as long as they abide by its migration laws.

## **VI. Article 9. The right to liberty and security of person**

### **A. Domestic legislation**

47. Article 8 of the Dominican Constitution, which deals with the right to liberty and security of person, provides the following:

(a) Except in cases of *flagrante delicto*, no one shall be imprisoned or have his or her liberty restricted unless a substantiated written order is issued by a competent judicial authority;

(b) Any person deprived of his or her liberty without cause or without due process of law, or in circumstances other than those provided for by law, shall be released immediately at his or her own request or at the request of any other person;

(c) Any person deprived of his or her liberty shall be brought before the competent judicial authority within 48 hours of being detained or shall be released;

(d) Any arrest shall be terminated or converted into imprisonment within 48 hours of the arrested person being brought before the competent judicial authority, and the person concerned shall be notified within the same time limit of the decision taken in the case;

(e) Any person having a detainee in his or her custody shall produce him or her whenever requested to do so by the competent authority;

(f) The Habeas Corpus Act shall determine the summary procedure to be followed in complying with the provisions of subparagraphs (a), (b), (c), (d), (e), (f) and (g) and shall establish the penalties to be imposed;

(g) No one shall be judged without having been heard or duly summoned or without applying the procedures established by law to ensure a fair trial and the exercise of the right to defence;

(h) Trials shall be public, with the exceptions established by law for cases in which publicity would be detrimental to public order or public morals.

48. As regards the rights outlined in article 9 of the Covenant, in procedures conducted under the Code of Criminal Procedure (Act No. 76-02) the following articles, which have amended domestic legislation on pretrial detention since 2002 in accordance with the recommendation of the Human Rights Committee, may be invoked:<sup>16</sup>

- Articles 3, 8, 15, 16, 19, 20, 224, 225, 234, 239, 241, 242, 255, 256, 257, 258, 276, 277 and 284<sup>17</sup>

49. The principles of due process, which are derived from the Constitution and the Code of Criminal Procedure, have been adapted to conform to the international instruments adopted by the Dominican Republic, which include: the American Convention on Human Rights (Pact of San José) of 22 November 1969, adopted on 25 December 1977 by

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<sup>16</sup> Ibid. para. 11, on legislative amendments establishing the pretrial process.

<sup>17</sup> See [www.suprema.gov.do/codigos/Codigo\\_Procesal\\_Penal.pdf](http://www.suprema.gov.do/codigos/Codigo_Procesal_Penal.pdf).

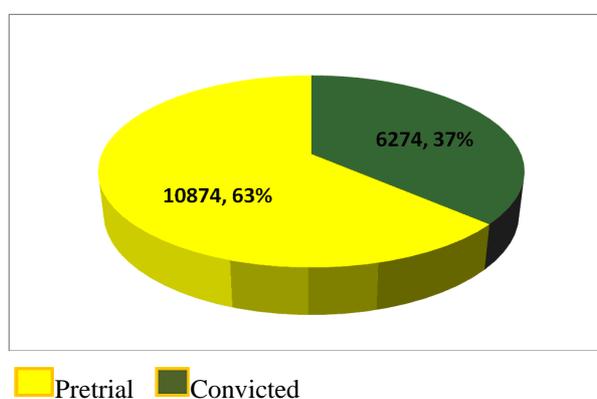
Congressional Resolution No. 739, and the International Covenant on Civil and Political Rights, adopted on 27 October 1977 by Congressional Resolution No. 684.

## B. Institutional measures

50. The relatively new criminal procedure rules and, in particular, the Code of Criminal Procedure (Act No. 76-02) have expedited such procedures a great deal and have resulted in a considerable reduction in the number of persons held in pretrial detention, as the new legislation does not permit delays by the authorities, thus ensuring that pretrial detention of defendants occurs only in exceptional cases and, when it does, that it is for as short a period of time as possible.

51. In accordance with the recommendation of the Human Rights Committee,<sup>18</sup> the following chart reflects the current performance of the Directorate-General of Prisons, which is overseen by the Office of the Procurator-General, as indicated by the percentage of the prison population being held in pretrial detention in 2009.<sup>19</sup>

**Comparison of prisoners' legal status 6 February 2009**



52. The table shown below provides statistics on the population in Dominican prisons in 2008–2009.<sup>20</sup>

**Prison population from September 2008 to March 2009**

<i>Month</i>	<i>Men</i>	<i>Women</i>	<i>Pretrial</i>	<i>Convicted</i>	<i>Total</i>	<i>Percentage change in the population</i>
September 2008	15 840	550	10 288	6 102	<b>16 390</b>	
October 2008	16 170	548	10 477	6 241	<b>16 718</b>	2
November 2008	16 330	569	10 608	6 291	<b>16 899</b>	1.08
December 2008	16 269	572	10 623	6 218	<b>16 841</b>	-0.34
January 2009	16 570	566	10 861	6 275	<b>17 136</b>	1.75

<sup>18</sup> CCPR/CO/71/DOM, para. 11, regarding the production of statistics on the number of people held in pretrial detention and the size of the prison population.

<sup>19</sup> Current statistics on the situation in prisons: [www.procuraduria.gov.do](http://www.procuraduria.gov.do). Go to: Dirección General de Prisiones; Estadísticas.

<sup>20</sup> Ibid.

<i>Month</i>	<i>Men</i>	<i>Women</i>	<i>Pretrial</i>	<i>Convicted</i>	<i>Total</i>	<i>Percentage change in the population</i>
February 2009	16 742	564	10 954	6 352	<b>17 306</b>	0.99
March 2009	16 941	568	10 996	6 513	<b>17 509</b>	1.17
<b>Percentage change in the population from September 2008 to March 2009</b>						6.83%

53. The above information reflects the advances made by the Dominican Republic, through the Office of the Procurator-General and the Directorate-General of Prisons, in introducing the new prison model based on respect for prisoners as human beings. The three cornerstones for implementing the new model are the construction of new facilities or refurbishment of existing ones, human resources and a new prison management system that is in step with the times.

54. With respect to another of the observations of the Human Rights Committee,<sup>21</sup> in order to overcome delays in the administration of criminal justice (e.g., applications for habeas corpus that took too long to reach the courts), the Dominican Republic had been implementing, prior to the entry into force of the Code of Criminal Procedure, an initial plan to reduce the caseload of and reorganize the examining courts. This plan was designed to eliminate the chronic delay in the administration of criminal justice and produced positive results. A new office management system and judicial administration methods have also been introduced in the provinces of Santo Domingo, La Vega, Santiago and Espaillat. This new structure will undoubtedly galvanize criminal judicial procedures and thus help to reduce delays.

55. For the transition from the old Code of Criminal Procedure to the new one and to secure the necessary infrastructure, more than 15 resolutions were adopted and more than 45 courts were renovated or built. A new criminal justice office management system, which began as a pilot project and is now gradually being extended to other judicial districts, is also being introduced. This plan is contributing to the effective implementation of the new Code of Criminal Procedure, to the development and overall reinforcement of the judiciary, and to an increase in the response capacity of the courts.

56. This model supports the development and improvement of judicial services by introducing working methods that expedite procedures and provide procedural guarantees for citizens. It also establishes “justice as a public service and the user as a beneficiary” and uses a combination of procedures, human resources and structural elements to link the jurisdictional and operational practices required in order to offer a responsive and effective criminal justice service.

57. Other measures that reinforce access to justice include the steps that have been taken to organize, systemize and disseminate updated information on a timely basis. Other initiatives aimed at providing greater access to the justice system and increasing its transparency include the creation of Citizen’s Centres for Information and Orientation, the design of an institutional website, toll-free information lines, the Dominican Judicial Documentation and Information Centre, the Public Information Office, statistical and judicial court bulletins, and scores of other publications.

58. Among other advances, the judiciary has established specialized courts for children and adolescents; trained the first public defenders for juvenile criminal courts; set up the Family Mediation Centre to try to find solutions to disputes other than through the courts;

<sup>21</sup> CCPR/CO/71/DOM, para. 13.

established a procedure for enforcing penalties imposed on adolescents; and prepared a training plan. In keeping with this line of action, the Supreme Court adopted resolution No. 402-2006 of 9 March 2006 on alternative dispute settlement as a public policy of the judiciary.

59. It is clear that, over the years, the justice system of the Dominican Republic has undergone a number of changes that benefit anyone who turns to it in order to settle a dispute. A series of successful measures have been introduced that have considerably reinforced the criminal justice system of the Dominican Republic.

## **VII. Article 10. Rights of persons deprived of their liberty**

### **A. Domestic legislation**

60. Act No. 76-02, which established the Code of Criminal Procedure, is based on principles that protect the fundamental rights of defendants who are deprived of their liberty.

61. This act also established the post of Criminal Enforcement Judge, whose main duty is to provide judicial oversight of the enforcement of penalties and to ensure respect for the fundamental rights of those deprived of their liberty.

62. The Code of Criminal Procedure establishes respect for personal liberty as one of its fundamental principles, which is why detention is used only as a last resort. The prison system in the Dominican Republic should therefore see a reduction in the number of individuals in pretrial detention in the future.

63. By virtue of article 444 of Act No. 76-02, criminal enforcement judges may grant parole to detainees who have served half their sentence and can demonstrate that they have completed a rehabilitation programme. This has resulted in a large number of convicted persons serving the remainder of their sentences on parole, thus reducing the number of prison inmates.<sup>22</sup>

64. The National Prison Service is regulated by articles 1, 2, 11, 12, 23, 29, 55, 56, 58, 68, 72, 73, 74, 80, 81, 95 and 103<sup>23</sup> of Act No. 224-84 of 1984. These provisions are based on the Constitution and the Standard Minimum Rules adopted by the Congress on the Prevention of Crime and the Treatment of Offenders, held in Geneva in 1955.

65. Act No. 136-03 (Code for the System for the Protection and Fundamental Rights of Children and Adolescents) contains an entire chapter on criminal procedures to be followed when dealing with adolescents.

66. This act specifies that the purpose of penalties is to educate, rehabilitate and socially reintegrate adolescents in conflict with the criminal law, and it is the duty of the judge sentencing an adolescent to ensure that any penalty that is imposed meets that aim. Furthermore, it provides that custodial sentences should be handed down only in those exceptional cases (see article 336 of the Code of Criminal Procedure)<sup>24</sup> in which no other penalty is appropriate. It also provides that such custodial sentences shall be served in special detention facilities for adolescents, separate from those for adults.

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<sup>22</sup> Ibid., para. 14, regarding the reduction of the number of detainees in Dominican prisons.

<sup>23</sup> See <http://pdba.georgetown.edu/Security/citizensecurity/domrep/leyes/ley224.html>.

<sup>24</sup> See [www.suprema.gov.do/codigos/Codigo\\_Procesal\\_Penal.pdf](http://www.suprema.gov.do/codigos/Codigo_Procesal_Penal.pdf).

67. Moreover, article 234 of Act No. 136-03, which includes implementing rules for the provisions of article 10 of the Covenant, establishes the principle that the place of detention should be a specialized centre and reads as follows: “In the event that it is deemed necessary to deprive adolescents of their liberty, whether on a provisional basis or as the result of a final judgement, they must be placed in a specialized centre that corresponds to their sex, age and legal status.”

68. The guarantees and procedures established by the Code of Criminal Procedure (Act No. 76-02), as well as the requirement that expedited procedures be used, reduces the possibility of police abuses and excesses. These safeguards have been coupled with institution-building programmes.

69. Act No. 6-96 of 12 October 1994 guarantees all detainees’ right to make a telephone call<sup>25</sup> and establishes sanctions for police, military or judicial authorities who violate that right. The Act is being implemented in full, in line with the modernization of the criminal justice system of the Dominican Republic. The competent authorities are in charge of determining when a detainee can make calls from prison.

## **B. Institutional measures**

70. In line with the reform of the criminal justice and prison system undertaken in the Dominican Republic, there have been a number of important institutional developments with regard to the transformation of prisons into correctional and rehabilitation centres. These advances are in keeping with the introduction of new standards for criminal procedures and legislation to protect the fundamental rights of children and adolescents. The measures discussed below also constitute a response to the Human Rights Committee’s concerns and recommendation in this regard.<sup>26</sup>

71. Under the laws now in force concerning prisons and the rights of persons deprived of their liberty, men and women are not held together in the same prison facilities; male and female prisoners are segregated in separate buildings. The prison system currently has 37 facilities, of which 8 are for women; 3 of the 8 are correctional and rehabilitation centres.

72. Under the specific legislation applying to them, minors are dealt with by the National Directorate of Comprehensive Care for Adolescents in Conflict with the Criminal Law. This directorate ensures that adolescents who have committed criminal offences do not serve their sentences in adult prisons and that those who have been in conflict with the law are reintegrated into society. This is accomplished by offering them relevant, viable alternatives and ensuring that their fundamental rights are respected when they enter comprehensive care centres.

73. To that end, specialized prison facilities have been established, including comprehensive care centres for adolescents in conflict with the criminal law. There are three such centres in the provinces of San Francisco de Macorís, Santiago de los Caballeros and the prison complex of Najayo. There are also reformatories for minors in La Vega and San Cristóbal (for males) and in Villa Juana (for females), as well as the Juvenile Evaluation and Referral Centre of Cristo Rey. Activities and achievements include initiating the process of putting correctional and rehabilitation centres out to tender in Santo Domingo, San Francisco de Macorís and Harás Nacionales, with funding from the

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<sup>25</sup> CCPR/CO/17/DOM, para. 12.

<sup>26</sup> *Ibid.*, para. 14, on the separation of juvenile from adult detainees and of men from women; prison conditions and supervision; and the investigation of prisoners’ complaints and the implementation of prison rehabilitation programmes.

European Union, and creating three units to monitor social and educational measures. These centres are located in Santo Domingo, San Cristóbal and the National District. In addition, the Najayo comprehensive care centre for adolescents has been refurbished, and the surveying work required in order to begin remodelling the La Vega centre and the Juvenile Evaluation and Referral Centre has been done.

74. In order to adapt prisons in the Dominican Republic and thus provide better care for prisoners, structural improvements have been made in the prison system's facilities. This reform process is based on three fundamental components, which will be discussed below.

**(a) Refurbishing and building new prison facilities**

75. The prison buildings in the Dominican Republic were originally military facilities. During the 1980s and 1990s, new prisons were built with adequate facilities. Now, additional new facilities are being constructed, and existing buildings are being adapted to the security and treatment requirements of a correctional and rehabilitation centre.

76. There are currently 37 prisons for adults in the Dominican Republic, of which 10 are operating under the new management model. These 10 facilities have sufficient space for accommodation in order to avoid overcrowding and for treatment, administration and security in accordance with national and international standards. Three centres are undergoing refurbishment (Salcedo, San Pedro de Macorís and La Vega), one is being built (Higüey) and seven large centres that will be able to house 12,000 prisoners are planned (Strategic Plan for 2008–2013).

77. The role of the criminal enforcement judges in the prison system is fundamental in ensuring proper hygiene and the humane treatment of detainees. Hygiene and health standards are a priority for prison authorities in seeking to ensure humane treatment, and public health authorities monitor sanitary conditions on a regular basis in order to prevent outbreaks of infections among the prison population.

**(b) A progressive treatment system**

78. As the main pillar for the rehabilitation of persons in the prison system, a progressive treatment system has been put in place which has four fundamental components: education, occupational therapy, religious assistance and discipline. Approximately 25 per cent of male and female prisoners have been taught to read and write, cultural groups have been formed, and a clinical laboratory has been set up to serve prisoners' health needs.

**(c) Selecting and training prison guards and other staff**

79. In order to have an effective prison system that seeks to rehabilitate detainees and reintegrate them into society, it is important to have security personnel and other staff who are properly selected and trained for their jobs, as recommended by the Human Rights Committee.<sup>27</sup> Consequently, this is a fundamental component of the reform process in the Dominican Republic. To this end, the National Academy for Prison Officers was established in 2004. This academic institution has the following basic objectives:

(a) To select and train people who wish to work in any of the areas overseen by the Directorate-General of Prisons;

(b) To conduct staff development activities for all occupational groups in the Directorate-General of Prisons and to evaluate staff performance on a regular basis;

<sup>27</sup> Ibid., para. 15.

(c) To organize, promote and develop criminological and correctional systems research in the Dominican Republic.

80. Since it was introduced, this institution has trained 930 prison guards, as well as administrative staff and other personnel working at the 10 correctional and rehabilitation centres of the Dominican Republic.

81. In view of the urgent need for a special police force to deal with children and adolescents, article 259 of Act No. 136-03 (Code for the System for the Protection and Fundamental Rights of Children and Adolescents) provides for the establishment of a specialized judicial police force. The Judicial Police Department for Children and Adolescents furnishes support for the juvenile criminal justice system. It is a technical body that specializes in the investigation and prosecution of criminal acts alleged to have been committed by adolescents and provides assistance to the Office of the Public Prosecutor in dealing with cases involving children and adolescents. Article 260, on the requirements of this specialized judicial police force, stipulates that it is to be staffed by both male and female officers who have been trained to work with adolescents and to respect human rights. At the time that an arrest is made, they are required to inform adolescents of their rights and to bring them promptly before the corresponding Office of the Public Prosecutor. All national police stations are to have one of these specialized departments to perform the duties assigned to it under the Code.

82. The first 100 specialized judicial police officers (men and women) attended a four-month training course at the National School of Public Safety in Hatillo, San Cristóbal. The 96 graduates were assigned to all the country's provinces that have special prosecutor's offices for children and adolescents. Specialized judicial police officers were assessed and trained at the national school run by the Office of the Public Prosecutor with support from the International Labour Organization and the Universidad Iberoamericana (UNIBE). Only 51 of them graduated.

83. Most police stations have a public prosecutor's office which is staffed by a deputy prosecutor who is responsible for checking on the condition of detainees and making sure that all legal and constitutional guarantees are observed. In addition, public defenders work to ensure that trials take place promptly and that all necessary steps are taken to prevent torture and any other cruel, inhuman or degrading treatment or punishment.

84. Although the Dominican Republic has made great strides in overhauling the prison system and in protecting the rights of persons deprived of their liberty, it continues to face difficulties in implementing some of the measures needed to complete the reform of the prison system. These difficulties stem from the lack of sufficient funding to finish converting all the country's penal institutions into model prisons and a lack of will on the part of those responsible for complying with the relevant legal provisions. This situation hinders inmates' progress and thus has an impact on their behaviour. Consequently, much remains to be done in order to join forces and complete the reform.

## **VIII. Article 11. Imprisonment for non-fulfilment of contractual obligations**

### **A. Domestic legislation**

85. Article 8, paragraph 2 (a), of the Dominican Constitution, which deals with individual security, establishes that enforcement by committal shall not be permitted unless the debt in question originates from a criminal offence.

86. The penal system, as codified in the Dominican Criminal Code, outlines the reasons for which a person may be imprisoned; the reasons cited include felonies and other criminal offences but not the non-fulfilment of a contractual obligation. This is fully in accordance with established national and international standards and provides a guarantee for Dominican citizens that this constitutional and international right shall not be violated.

87. The Dominican Republic is also a signatory to various covenants and conventions that recognize the right of individuals not to be detained simply for non-fulfilment of a contractual obligation.

88. The relevant international norms include article 11 of the International Covenant on Civil and Political Rights and article 7, paragraph 7, of the American Convention on Human Rights, which states that “No one shall be detained for debt”.

## **B. Institutional measures**

89. The Human Rights Committee has not mentioned any violation of the domestic statutes that give effect to article 11 of the Covenant within the Dominican Republic. This is a good sign, since it indicates that the relevant norms are being thoroughly fulfilled by our country’s governmental and State organizations. Consequently, no institutional measures are currently being carried out to improve the implementation of the right established in article 11 of the Covenant.

90. The Dominican State is very concerned, however, by the lack of awareness among the general public about the existing national and international legislation protecting the right not to be detained on the ground of debt. The Government therefore recognizes the need to develop an awareness-raising policy to help disseminate information in that regard and is committed to fully meeting that need in the short to medium term.

## **IX. Article 12. The right to liberty of movement and residence**

### **A. Domestic legislation**

91. Article 8, paragraph 4, of the Dominican Constitution guarantees liberty of movement.<sup>28</sup>

92. The right protected by article 12 of the Covenant represents one of the basic human liberties which is enjoyed by anyone with proper legal status. This is an important point, as a person who is in our country unlawfully may be subject to detention, as is stipulated not only in the Dominican Constitution, but also in article 12.

93. In the Dominican Republic, the procedure and regulations governing deportation and expulsion are applied equally to all persons who enter illegally, regardless of nationality, and are based on Migration Act No. 285-04 of 15 August 2004, which establishes the conditions for entering and exiting the country.<sup>29</sup>

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<sup>28</sup> See [www.suprema.gov.do/codigos/Constitucion.pdf](http://www.suprema.gov.do/codigos/Constitucion.pdf).

<sup>29</sup> Articles of Migration Act No. 285-04 on the deportation and expulsion of foreigners (see the discussion of article 13 of the Covenant).

**B. Institutional measures**

94. With regard to the Human Rights Committee's concern and its recommendation<sup>30</sup> on mass deportations, the Government wishes to clarify the fact that deportations are carried out in accordance with Migration Act No. 285-04, the agreement and modus operandi on illegal immigration signed by Haiti and the Dominican Republic in Washington, D.C., and international agreements, in particular the bilateral protocol of 1999 between the Dominican Republic and Haiti, which establishes mechanisms for repatriation. In view of the fact that excesses and improprieties may sometimes occur in this particular type of case, a protocol has been established for repatriations. Under this protocol:

(a) The separation of nuclear families, that is, of parents and their minor children, is avoided at all costs, even if it means not carrying out the repatriation;

(b) Individuals are given the opportunity to show and submit any migration-related documentation which provides grounds for their stay. Once the validity of the identity card (whether national or foreign, if this is the document presented) has been verified by the Central Elections Board (JCE), the repatriation process is immediately suspended. This verification procedure is necessary because of the frequent use of counterfeit identity cards and falsified migration documents;

(c) Individuals are given the opportunity to demonstrate that they have established family ties in the Dominican Republic, even when they do not have a migration or identity document;

(d) All material goods which individuals can demonstrate that they own are registered, and the instructions of the owners are followed as to whether they wish to leave the goods in Dominican territory or take them along;

(e) Individuals are allowed to make phone calls or to notify their family members;

(f) A record is kept on each individual who is to be repatriated which includes an identification photo;

(g) Any personal document that has not been falsified is returned intact, whether it be an identity card, a work permit, a birth certificate, etc.;

(h) A list is sent to the Haitian embassy with the names of the undocumented Haitians who will be repatriated so that arrangements can be made for someone to meet them in Haiti;

(i) Deportations are not carried out on holidays or at night;

(j) Migration raids are not carried out by the military but instead by clearly identified personnel of the Directorate-General of Migration;

(k) Persons who are repatriated are transported in buses in accordance with the protocol of 1999;

(l) Raids are not carried out in the workplace. Repatriations on Fridays, the traditional pay day, have been suspended for some time now because there had previously been allegations of agreements between employers and the authorities so that employers could avoid paying owed wages;<sup>31</sup>

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<sup>30</sup> CCPR/CO/71/DOM, para. 16.

<sup>31</sup> See paragraph 39 of this report on the situation of Haitian nationals in the labour market of the

(m) In 2005, the contracting of Haitian workers through the labour-contingent system for the sugar-cane industry was prohibited for the first time. This system, which involved recruiting personnel while they were still in Haitian territory, was prohibited because of complaints of human trafficking by unscrupulous individuals from the two countries. At that time the Directorate-General of Migration informed the sugar refineries that their workforce must be recruited from nearby areas, and they have been doing so since then;<sup>32</sup>

(n) It should also be pointed out that the number of repatriations is inflated by the work of the Special Border Security Force (CESFRONT), which returns undocumented Haitian nationals from border towns. CESFRONT undertakes these repatriations in response to the avalanche of immigrants who cross the border every day with the intent of remaining in the country after the close of the market days that are authorized in some of those towns;

(o) Since immigration inspectors are likely to find themselves in conflict situations, ongoing training has been given on human rights and crisis management. Of course, some cases of ill-treatment and excessive use of force by officials have occurred; nevertheless, there is an official policy of zero tolerance towards this behaviour. In all cases in which people have been mistreated or abused, the inspector involved has been investigated, dismissed and brought to justice. (In the last six months, 73 inspectors have been dismissed for gross misconduct, and some of these cases have involved the type of conduct described in this paragraph.);

(p) Minors are not repatriated. Rather, they are taken off the streets, where they are trafficked and forced to beg, and returned to their parents or to the authorities who work with children and adolescents.

95. The following measures have also been established to improve the internal procedures of the Directorate-General of Migration:

(a) Realignment of the various departments of the Directorate-General of Migration (employees dismissed, complaint hotline established, surveillance camera installed);

(b) Adaptation of the procedures of the Directorate-General of Migration in order to bring them into line with Migration Act No. 285-04;

(c) Complete restructuring of the Immigration Department (decrease of waiting time, efficiency);

(d) Active participation in all forums for discussions on migration-related issues;

(e) Coordination with the Office of the Public Prosecutor to combat human trafficking and smuggling (the plight of street children, trafficking by organized gangs);

(f) Support for the school for immigration officers;

(g) Briefing for members of the business community on the penalties established under the Migration Act;

(h) Designation of the representative specializing in migration issues to sit on the Inter-Agency Human Rights Commission;

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Dominican Republic.

<sup>32</sup> See paragraph 38 of the present report on the situation of Haitian nationals in the labour market of the Dominican Republic.

- (i) Participation in the postgraduate course of study on human rights offered by the Human Rights Institute of the Armed Forces;
- (j) Modernization and purchase of equipment, uniforms and work materials for the institution;
- (k) Creation of incentives, payment of overtime;
- (l) Issuance of 26,000 identity cards for Haitian agricultural workers, which will allow them to work on Dominican plantations in accordance with the 1966 agreement between the Dominican Republic and Haiti for the contracting of day labourers;
- (m) Drafting of a regulation on migration for submission to the National Council for Labour Migration;
- (n) Request for authorization to issue identity cards to a set number of Haitian construction workers.

96. Despite the efforts of the Dominican Republic and, more specifically, the work of the Directorate-General of Migration, the illegal immigration of Haitian nationals to the Dominican Republic will invariably be problematic, given the conditions of extreme poverty and widespread hunger in Haiti. This situation therefore needs to be addressed by a number of countries working together, rather than by the Dominican Republic alone.

97. The Committee has also expressed its concern at the abuse of the legal notion of “transient aliens,” which, according to information provided to the Committee, can include a person born in the Dominican Republic to parents who were also born there but are still not considered to be nationals of the Dominican Republic.<sup>33</sup> The Committee’s observation in this case does not apply to the Dominican Republic; no reports have been made to the relevant institutions alleging the non-recognition of the nationality of a Dominican citizen, thus preventing the person from enjoying his or her rights and, in the remote possibility that this should happen, the person in question would have access to all the legal means available to substantiate his or her claims.

## **X. Article 13. Due process in the expulsion of foreigners**

### **A. Domestic legislation**

98. Migration Act No. 285-04 of 15 August 2004 establishes the procedure to be followed in the expulsion and deportation of foreigners. It includes the following articles:

- (a) Article 22: Those foreigners authorized to remain within the national territory shall enjoy the same civil rights as those enjoyed by Dominicans under the treaties entered into by the Dominican Republic with the foreigner’s home country;
- (b) Article 23: A foreigner to whom the Government has granted permission to establish residency in the Republic shall enjoy all civil rights for as long as he or she resides in the country;
- (c) Article 24: Administrative or judicial proceedings involving foreigners shall respect the guarantees provided by the Constitution, international conventions and the laws in force;

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<sup>33</sup> CCPR/CO/71/DOM, para. 18.

(d) Article 25: Foreigners authorized to remain in the country must obtain, maintain and carry their migration identity document, which they must show to the relevant authorities if requested to do so;

(e) Article 26: Foreigners who are permitted to work on the basis of their entry category or subcategory shall enjoy the protection of the relevant labour and social laws;

(f) Article 27: The deportation or expulsion of foreigners shall be carried out with due respect for their human rights in accordance with the laws in force and the agreements ratified by the Dominican Republic;

(g) Article 28: Non-resident foreign women who give birth during their stay in the country must register their child at the consulate of their home country. If the father of the child is Dominican, then the child may be registered at the corresponding Dominican registry office (Oficialía del Estado Civil) in accordance with the relevant laws.

### **Section II: On deportation**

Article 121: The Director-General of Migration shall order the deportation of a foreigner in the following cases:

(a) If he or she has entered the country clandestinely and is staying there illegally;

(b) If he or she has obtained authorization to enter or remain in the country by means of falsified documents or a false statement, or has obtained falsified documents by fraudulent means, or has obtained genuine documents by fraudulent means to enter or remain in the country;

(c) If a person stays in the country beyond the authorized period or if, following the cancellation of his or her visa, that person does not leave the country within the time frame allotted by the Directorate-General of Migration;

(d) The Directorate-General of Migration shall expel foreigners admitted under any category or subcategory if it is determined, after their entry into the country, that any of the impediments established in article 15 of this law apply to them.

### **Section III: On expulsion**

Article 122: The Minister of the Interior and Police, through the Directorate-General of Migration, shall order the expulsion of a foreigner in the following cases:

(a) If he or she carries out activities that undermine social peace, national security or public order in the Dominican Republic;

(b) If, in violation of existing laws, he or she does not abstain from participating in political activities in Dominican territory;

(c) If he or she participates in activities intended to do away with rights or institutions established by the Constitution of the Dominican Republic, without prejudice to the application of the corresponding penalty if his or her action constitutes a criminal offence under the laws in force;

(d) If he or she is convicted of a criminal offence during the first five years of residency in the country or if, after that time period, he or she is convicted of an offence that reveals that he or she is too dangerous to become part of Dominican society;

(e) The expulsion will be carried out in addition to the penalty to be imposed if his or her action constitutes an offence under the Criminal Code;

(f) If, regardless of his or her migratory status, he or she becomes a burden on the State, or if he or she becomes harmful to society by engaging in conduct that is an affront to public morals and decency;

(g) If a situation arises in which special legislation provides for his or her expulsion, whether as a primary or secondary penalty.

Article 123: The appropriate authority may refrain from ordering the expulsion or deportation of a foreigner as provided for in the previous articles of the present law in the following cases:

(a) If the foreigner has been married to a Dominican for more than 10 years or has Dominican children whose births were duly declared;

(b) If he or she has been living legally, peacefully and continuously in the country for more than 10 years from the date of legal entrance;

(c) If any of the special circumstances established in the principal regulation apply.

#### **Section IV: Measures related to deportation and expulsion**

Article 124: Prior to a foreigner's deportation or expulsion, the Directorate-General of Migration shall confiscate the document or documents issued by the competent national authority which grant him or her migratory status in the country.

Article 125: Final orders for deportation or expulsion and cases of refusal of admission as provided for in article 120, subparagraphs 2 and 4, shall be communicated to the State security agencies, the Central Elections Board and the Ministry of Foreign Affairs, which will in turn inform the embassies and consulates abroad not to grant visas to the foreigners in question.

Article 126: In cases of deportation, expulsion or refusal of admission as provided for in article 120, subparagraphs 2 and 4, the Director-General of Migration may order the detention of the foreigner in question until the conditions required in order for him or her to leave the country are met.

Article 127: Deportation, expulsion and refusal of admission as provided for in article 120, subparagraphs 2 and 4, constitute grounds for inadmissibility, and a foreigner who has been the subject of one of these measures may therefore not re-enter the country.

### **B. Institutional measures**

99. With regard to article 13 of the Covenant and to the procedures to be followed in the expulsion or deportation of foreigners, the Dominican Republic wishes to direct attention to the institutional measures already discussed with regard to article 12 of the Covenant.<sup>34</sup>

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<sup>34</sup> See paragraphs 94–97 of the present report.

## **XI. Article 14. Equality of judicial guarantees**

### **A. Domestic legislation**

100. Article 8, paragraphs 2 (h), (i) and (j), of the Dominican Constitution establish that no one may be tried twice for the same offence, that no one may be forced to testify against himself or herself, and that no one may be tried without having been heard or duly summoned or without observing the procedures established by law to ensure an impartial trial and the exercise of the right of defence. It also establishes that trials shall be public, except in cases in which a public trial would be detrimental to public order or public morals.

101. The first 28 articles of the Code of Criminal Procedure<sup>35</sup> lay down the principles regulating all criminal procedures applying to persons accused of an offence, which guarantee the rights protected by article 14 of the Covenant and articles 111 to 117 of that Code. The procedure to be followed in cases of persons under the age of 18 also provides those guarantees in accordance with Act No. 136-03 on the System for the Protection and Fundamental Rights of Children and Adolescents.

102. The Supreme Court set a precedent on 26 December 2001 with regard to police courts when it stated, in one of the preambular paragraphs of a decision, that “in principle, soldiers, including, for the reasons cited above, police officers, shall not be removed from ordinary jurisdiction except under extraordinary circumstances”. It necessarily follows from this that, during times of peace, military and police courts should in principle deal only with special offences of a purely military or police nature committed by soldiers or police officers. It is this type of offence that is referred to in articles 25 and 27 of Act No. 285 of 29 June 1966, which created the Police Justice Code. Paragraph 1 of article 27 states that “the police justice courts of first instance shall have jurisdiction over the following cases: (1) Special crimes or offences of a police nature committed by members of the national police force”. Thus, the ordinary civilian courts have jurisdiction over common offences, whether the accused is a member of the national police force or the armed forces.

103. In recognition of the principle of equality before the law, the Supreme Court handed down Decision No. 58 of 20 January 2004, regarding a remedy of habeas corpus sought by a citizen who held the position of sergeant in the national police force and who had been brought to trial before the police court. In the aforementioned decision, article 217 of the Police Justice Code was declared unconstitutional insofar as it prohibits the application of the laws that guarantee the procedure of habeas corpus in police courts.

### **B. Institutional measures**

104. The Dominican Republic welcomes the recommendation of the Human Rights Committee<sup>36</sup> and is effectively implementing and executing the provisions laid out in article 57 of the Code of Criminal Procedure (Act No. 76-02).<sup>37</sup> It is thus eliminating the jurisdiction of military courts over such cases, as well as the privileges of members of the military and of the national police force, including police officers and soldiers, and reaffirming the exclusive and universal jurisdiction of the criminal courts. The police courts

<sup>35</sup> Act No. 76-02. See [www.suprema.gov.do/codigos/Codigo\\_Procesal\\_Penal.pdf](http://www.suprema.gov.do/codigos/Codigo_Procesal_Penal.pdf).

<sup>36</sup> CCPR/CO/71/DOM, para. 10.

<sup>37</sup> Act No. 76-02. See [www.suprema.gov.do/codigos/Codigo\\_Procesal\\_Penal.pdf](http://www.suprema.gov.do/codigos/Codigo_Procesal_Penal.pdf).

are hearing only cases concerned with internal disciplinary matters in conformity with the requirements laid out in that respect by the aforementioned article.

## **XII. Article 15. The non-retroactivity of the law**

### **A. Domestic legislation**

105. The principle of the non-retroactivity of the law is a reasoned principle that is recognized in article 47 of the Dominican Constitution.<sup>38</sup>

106. Furthermore, article 4 of the Dominican Criminal Code strengthens the principle of the non-retroactivity of the law.<sup>39</sup>

### **B. Institutional measures**

107. The Dominican courts now comply fully with the principle of the non-retroactivity of the law, except in cases where it benefits the defendant, and thus far there have been no complaints of non-observance of this principle. For these reasons, the Government has not taken institutional measures with regard to this principle, which is set forth in article 15 of the Covenant.

## **XIII. Article 16. The right to recognition as a person before the law**

### **A. Domestic legislation**

108. Article 11 of the Constitution of the Dominican Republic recognizes the right to recognition as a person before the law for all individuals born within its territory, provided that they comply with the requirements set out therein. Furthermore, the nation is a signatory to various conventions and covenants that recognize this right.

### **B. Institutional measures**

109. The Government sponsored a workshop entitled “The Dominican Republic with Names and Surnames”<sup>40</sup> to deal with the problem which the country faces regarding the issuance of documentation to persons born in Dominican territory and to those who are there illegally, since all people are entitled to be registered so that they will be recognized as a person before the law who is in possession of the associated attributes (a name, heritage, domicile, nationality, civil status).

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<sup>38</sup> Article 47 of the Constitution states that: “the law applies only to the future. It is not retroactive except when it would be favourable to the person who is on trial or has already been sentenced. Under no circumstances may the law or any public power affect or alter the legal certainty derived from situations established in accordance with pre-existing legislation”.

<sup>39</sup> Dominican Criminal Code. See [www.suprema.gov.do/codigos/Codigo\\_Penal.pdf](http://www.suprema.gov.do/codigos/Codigo_Penal.pdf).

<sup>40</sup> This workshop resulted in the establishment of the Follow-up Committee, which is chaired by the Vice-President of the Republic and includes the Central Elections Board, the Supreme Court, the Office of the Procurator-General, the Ministry of Public Health and Social Welfare, the Ministry of Education, the National Council for Children and Adolescents (CONANI) and civil society organizations.

110. Currently, the Central Elections Board (JCE), which is the body responsible for the Civil Registry Office, is working hard to make sure that everyone is duly registered, as well as to modernize the institution and to increase its reliability and efficiency.

111. To that effect, and in accordance with the Migration Act No. 285-04, in 2007 JCE issued ruling No. 02-2007, which established a birth registration system, known as the Immigration Registry, for children born in the Dominican Republic to non-resident women. This means that all children born to foreign parents in the country now have official identity papers and can therefore be registered by their parents in the corresponding registry office. A total of 51 children of various nationalities were registered in 2007, 483 in 2008, and 122 in the first quarter of 2009.

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

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

114. In order to expedite the collection of the biometric data that is embedded in the new identity cards, the number of Documentation Centres was increased from 13 to 49 between 2006 and 2008. By late 2008, six service centres, in addition to the existing offices, had been put in place so that citizens can obtain their vital statistics records in digital form quickly and efficiently.

115. This does not mean that the Government is standing idly by in the expectation that the above-mentioned measures will completely resolve the situation of persons without proper documentation. The State will continue to work hard to reduce the number of people who are in this position as much as possible.

#### **XIV. Article 17. Respect for privacy (family, home, honour and reputation)**

##### **A. Domestic legislation**

116. The right established in article 17 of the Covenant is guaranteed by article 8, paragraphs 3, 6 and 9, of the Dominican Constitution. These provisions mention the sanctity of the home, the sanctity of correspondence and the penalties to be imposed when a person voices opinions that threaten the dignity of another.<sup>41</sup>

117. Articles 367 to 378 of the Dominican Criminal Code contain provisions to protect a person whose rights have been violated through defamation or insult. The types of penalties corresponding to such violations are also described.

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<sup>41</sup> See [www.suprema.gov.do/codigos/Constitucion.pdf](http://www.suprema.gov.do/codigos/Constitucion.pdf).

118. Articles 180 to 190 of the Code of Criminal Procedure (Act No. 76-02) also establish a person's rights with regard to the sanctity of the home and the formalities required to enter a private home or residence, which include a search warrant that states the purpose of the search, the place to be searched, a list of the objects to be searched, the names of the persons under investigation, etc. Such a search must only be carried out as part of the investigation of a crime.

119. A series of complaints have been made by customers of the telephone companies servicing the country who claim that State bodies, private businesses and individuals were intercepting their phone calls and thereby directly interfering in their private lives. In response, the Dominican Institute of Telecommunications (INDOTEL), in accordance with article 8 of the Constitution, other domestic legislation (General Telecommunications Act No. 153-98) and international law, issued Resolution No. 36-00, article 1 of which defines the various types of illegal telecommunications interceptions.

120. This resolution clearly establishes the legal mechanism for the interception of telephone calls and other means of communication, along with the penalties and the procedure for lodging an appeal when the regulations governing that mechanism are violated. Article 192 of the Code of Criminal Procedure<sup>42</sup> covers illegal interception.

121. On 13 November 2003, the Supreme Court issued a resolution outlining the procedure to be followed before the national courts when filing a complaint of illegal electronic communications interception. This resolution authorizes the competent examining magistrate to hear such cases when submitted by the public prosecutor. It also specifies the corresponding penalty under article 337 of the Dominican Criminal Code (amended by Act No. 24-97), which states that any person, regardless of whether or not he or she is a civil, police or military authority, who listens to or records a private or confidential statement without the speaker's consent or without a warrant shall be charged with an invasion of privacy.

122. Act No. 136-03 on the System for the Protection and Fundamental Rights of Children and Adolescents establishes that all children and adolescents have the right to the protection of their honour, reputation and image, and to their personal privacy and that of their family. These rights may not be exposed to arbitrary or illegal interference by the State or by any natural or artificial person.

123. No less important among domestic legislation is Act No. 288-05, which regulates credit bureaux. This law was drafted in response to complaints from various sectors of the population that the credit information bureau DATACREDITO was violating the right to privacy by publishing information that was damaging to individuals' public and private image without their consent. This act, and particularly its articles 4<sup>43</sup> and 14,<sup>44</sup> includes various provisions intended to safeguard individuals' right to privacy.

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<sup>42</sup> Article 192 of the Code of Criminal Procedure states: "Judicial authorization is required for the interception, tapping and recording of communications, messages, data, images or sounds transmitted through public or private telecommunications networks by the accused or any other individual who could reasonably be expected to provide information useful in determining whether an unlawful act has been committed, regardless of the technical means used to acquire the information, in accordance with search regulations." (See [www.suprema.gov.do/codigos/Codigo\\_Procesal\\_Penal.pdf](http://www.suprema.gov.do/codigos/Codigo_Procesal_Penal.pdf).)

<sup>43</sup> Article 4 of Act No. 288-05 states: "1. - Every person who can demonstrate his or her identity has the right to know whether information on his or her credit history is being gathered, to obtain an intelligible account of that information without excessive expense or delay, and to effect appropriate changes or deletions when the record is unlawful, erroneous, unjustified or inaccurate. 2. - Accuracy - The providers of such information have the obligation to verify the accuracy and relevance of the information that they supply to the credit information bureaux, which in turn are obligated to ensure

124. In Act No. 200-04 on free access to public information, article 17 (K) sets a restriction on divulging any information which could damage or interfere with a person's right to privacy or put his or her life or safety at risk.

125. The above demonstrates that the Dominican Republic has made an effort to keep up with the times with regard to advances in legislation to regulate and provide more effective guarantees for the rights laid out in article 17 of the Covenant.

## **XV. Article 18. The right to freedom of thought and religion**

### **A. Domestic legislation**

126. Article 8, paragraph 8, of the Dominican Constitution protects the right to freedom of thought and religion. It clearly establishes the right of individuals to freedom of conscience and worship, subject to the requirements of public order and public morals.

127. The exercise of the freedom of religion as established by the Dominican Constitution is fully respected by the Government. This is corroborated by the fact that no complaints have currently been lodged by individuals claiming that they have been prohibited from practising their religion. People freely practise a variety of religions in the country without repression. The country's population includes Catholics, evangelical Christians such as the members of the Assembly of God and the Church of God, Baptists, Methodists and Pentecostals, Seventh-day Adventists, Jehovah's Witnesses and the Church of Jesus Christ of Latter-day Saints, as well as a minority of practising Jews, Muslims and Buddhists.

128. With regard to article 18 of the Covenant, the Human Rights Committee has expressed concern that Dominican law does not provide for conscientious objection to military service. The Committee has said that the State party should ensure that persons liable for military service may claim the status of conscientious objector and perform alternative service without discrimination.<sup>45</sup> However, obligatory military service does not exist in the Dominican Republic, and therefore the Committee's observation does not apply in this case.

### **B. Institutional measures**

129. The Dominican Government is not currently implementing any institutional measures in respect of article 18 of the Covenant because no situations requiring such measures have arisen and because the State has fully complied with the provisions referring to the protection of and respect for the right to freedom of thought and religion established in the Covenant.

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that the information remains as complete as possible. 3. - Credit information bureaux should use due discretion in maintaining the confidentiality of the information and thus must not reveal it to third parties other than the competent authorities."

<sup>44</sup> Article 14 of Act No. 288-05 establishes that, prior to requesting and obtaining a credit report, a credit bureau must obtain express and written permission from the holder of the information, indicating that the holder authorizes the consultation of his or her information in the database. Consequently, in order to enter a credit report into the database, the credit bureau must first wait for permission from the holder of the information; otherwise, it is in violation of this provision.

<sup>45</sup> CCPR/CO/71/DOM, para. 21.

## **XVI. Article 19. Freedom of expression**

### **A. Domestic legislation**

130. The Dominican Republic respects democracy and is firmly committed to guaranteeing free expression and dissemination of thought. This is demonstrated by the fact that the right to dissemination and expression of thought is guaranteed in article 8, paragraph 6,<sup>46</sup> of the Constitution.

131. Other domestic laws of the Dominican Republic also protect the right established in article 19 of the Covenant. These statutes include: (1) the Expression and Publication of Ideas Act of 15 December 1962 (No. 6132), article 1 of which guarantees the free expression of thought except when it threatens a person's honour or law and order or public security; (2) the Code of Criminal Procedure (Act No. 76-02), which, although it does not define freedom of expression per se, nonetheless represents a step forward in the development of legal provisions concerning evidence, which had previously been misused to pressure the media, journalists and individuals in defamation and libel cases when a person claimed that his or her rights had been violated; and, finally, (3) article 15 of Act No. 136-03 on the System for the Protection and Fundamental Rights of Children and Adolescents establishes the right of all children and adolescents to freedom, including personal freedom, freedom of thought, religion and association, and other rights and liberties set forth in the Constitution, in the Convention on the Rights of the Child and in the aforementioned law.

132. The Committee suggests that the Dominican Republic should abolish the crime of "desacato" (disrespect of authority) in its domestic legislation because it is contrary to article 19 of the Covenant.<sup>47</sup>

133. The Dominican Government would like to clarify the fact that the crime of "desacato" actually does not exist in Dominican legislation, contrary to the statement made by the Human Rights Committee, and the recommendation is thus not relevant.

### **B. Institutional measures**

134. The Government has not implemented policies that actively seek to uphold the right guaranteed by article 19 of the Covenant.

## **XVII. Article 20. Prohibition of propaganda for war or for national, racial or religious hatred**

### **A. Domestic legislation**

135. Article 8, paragraph 6, of the Constitution of 2002 prohibits all subversive propaganda, whether anonymous or by any other means of expression, that is intended to incite lawbreaking; this prohibition does not, however, restrict the right to undertake an analysis or critical appraisal of legal precepts.

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<sup>46</sup> See [www.suprema.gov.do/codigos/Constitucion.pdf](http://www.suprema.gov.do/codigos/Constitucion.pdf).

<sup>47</sup> CCPR/CO/71/DOM, para. 22.

136. Article 8 of the Dominican Constitution of 2002 also prohibits any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence by establishing that the effective protection of the rights of the human person and the maintenance of the means for people's progressive development within a system of individual liberty and social justice compatible with public order, the general welfare and the rights of all are the principal aims of the State.

137. It is clear from a straightforward analysis of the legal text cited above that it contains no provision regarding propaganda advocating discrimination or hatred. It does, however, start out by establishing that it is the duty of the State to provide the necessary protection for all individuals, whether Dominican or foreign nationals.

## **B. Institutional measures**

138. Given the information provided above concerning the issues covered by article 20 of the Covenant, it is clear that there is no State policy conducive to the propagation of war or national, racial or religious hatred; nor have cases or situations arisen that would call for the establishment of institutional measures to uphold the provisions set forth in article 20.

## **XVIII. Article 21. The right to peaceful assembly**

### **A. Domestic legislation**

139. In conformity with the international covenants and conventions to which it is a party, the Dominican Republic implements the provisions laid out in article 8, paragraph 7, of its Constitution, which establish the freedom of association and assembly, provided its exercise does not undermine public order, national security or public morals.

### **B. Institutional measures**

140. Since there have been no complaints in the Dominican Republic related to the fulfilment of article 21 of the Covenant and no reported violations, the Government has not implemented any institutional measures in this connection.

## **XIX. Article 22. The right to freedom of association**

### **A. Domestic legislation**

141. Article 8, paragraph 7, of the Dominican Constitution (see paragraph 139 above) protects this right. In addition, paragraph 11 (a) of the same article establishes the right to organize trade unions, provided that it is for strictly peaceful, labour-related purposes and is done in a democratic manner that is compatible with the principles guaranteed in the Constitution.

142. Article 317 of the Labour Code defines a trade union as any association of workers or employees set up for the purpose of studying, promoting and defending the common interests of its members.

143. Principle XII of the Labour Code also recognizes freedom of association as a basic right of workers, and article 318 establishes that public authorities should abstain from any action that would limit or hinder the exercise of that freedom. Articles 389 et seq. of the

Code characterize trade union privileges as a guarantee for the defence of collective interests and autonomy in the exercise of trade union functions. These articles also state that the decision to dismiss a worker who enjoys trade union privileges must be previously submitted to the Labour Court to determine whether the stated reason for dismissal is due to a fault or to trade union activity, functions or management. If the employer does not do so, the dismissal is null and void and the contract is not terminated.

144. Article 15 of Act No. 136-03 refers to the right to freedom of association for children and adolescents (see paragraph 131).

145. On 5 December 1956, the Dominican Republic ratified the ILO Convention concerning Freedom of Association and Protection of the Right to Organise (Convention No. 87). This convention provides that workers, without distinction whatsoever, have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization. On 22 September 1953, the Dominican Republic also ratified the ILO Convention concerning the Application of the Principles of the Right to Organise and to Bargain Collectively (Convention No. 98), which establishes that workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment and acts of interference against union members in relation to the establishment, functioning or administration of trade unions.

## **B. Institutional measures**

146. Over the five-year period from 2003 to 2008, a number of NGOs reported that most of the undocumented Haitian workers employed in the country's agricultural and construction sectors did not assert their right to freedom of association for fear of being fired or deported, as noted by the Human Rights Committee in its concluding observations.<sup>48</sup> This is not the whole story, however. For every one of these reported cases, there are dozens of counter-examples. One case in point is provided by the fact that over 500 undocumented Haitian workers at a sugar plantation sued their employer and won, at first instance, the right to receive written contracts and employment benefits.

147. The Ministry of Labour of the Dominican Republic oversees the labour sector with the help of 203 inspectors, who carried out almost 80,000 inspections in 2007 and 85,000 in 2008. Over those two years, they also made 55 ad hoc visits in the farming regions of San Pedro de Macorís, La Romana, Barahona, San Cristóbal and Independencia. In no instance did the labour irregularities discovered or reported to them go unpunished. Neither during these inspections, nor in the individual incidents reported by national and international NGOs, were reports of harassment or intimidation of the organized trade union movement by employers left uninvestigated and/or unpunished.

148. A typical case during that period was that of the Dominican Federation of Free Trade Zone Workers, which announced that anti-union incidents were continuing to take place at the TOS Dominicana plant in Bonaó. The Ministry of Labour then facilitated talks between the plant owners and employees. After nearly a year of negotiation, the parties signed a three-year collective bargaining agreement in August 2008. This does not mean that there are no labour disputes in the Dominican Republic, but rather that the Ministry of Labour is constantly seeking to uphold the Labour Code and the rights of both national and foreign workers throughout the country.

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<sup>48</sup> Ibid., para. 17.

## XX. Article 23. The right to a family

### A. Domestic legislation

149. The right to a family, as established by article 8, paragraph 15, of the Constitution, is protected by the State through legislation.<sup>49</sup> This provision also guarantees maternity protection, establishes the social importance of the right to housing, and recognizes various factors affecting family life, such as education, security, social assistance and protection, food and employment.

150. Both the Dominican Civil Code and Act No. 136-03 on the System for the Protection and Fundamental Rights of Children and Adolescents<sup>50</sup> protect the right guaranteed by this article of the Covenant, as does article 1 of Act No. 1024 as amended by Act No. 5610 of 25 August 1961 (G.O. 8599), which states that any family may possess an asset that shall be designated as family property not subject to attachment. According to article 2 of the same law, this asset may be a house or part of a house, a flat, an apartment, or any dwelling or independent section of a building, as long as its ownership is registered in conformity with Act No. 5038 of 21 November 1958. It may also be an agricultural property, or a house and its adjoining or neighbouring lands that are worked by a family, or a house with an adjoining store or workshop occupied and worked in by a family of artisans, along with the associated tools and materials.

151. In order to ensure equality of rights and responsibilities between both partners in a marriage, title V, chapters V and VI<sup>51</sup> of the Dominican Civil Code provides for the joint administration of common property by husbands and wives and shared responsibility for the upbringing of their children.

### B. Institutional measures

152. The measures that the Dominican Republic has taken to promote the well-being of the family include Decree No. 1602-04, which upholds the right of Dominican families to protection and establishes an inter-agency committee in charge of drafting a family code.

153. Discussions and a review of the international commitments and agreements entered into by the Dominican Republic have been initiated with a view to the preparation of a family code. A drafting committee has also been established to draw up a draft family code using input from all the relevant institutions so that the final product will be an inclusive body of legislation. The committee will identify and analyse the components that should be included in the code to ensure respect for all members of the family and to promote family cohesion. The code will seek to promote socialization mechanisms for instilling the social and cultural values that ennoble human beings and promote their physical, psychological and social well-being.

154. The Dominican Government has developed a set of pro-family policies to alleviate hunger and to help families living in extreme poverty. In mid-2004, it launched the "Eating Comes First" Programme. Thanks to a more all-encompassing design, "Eating comes First" is, today, an integral part of the Solidarity Programme. The electronic debit cards issued by the Solidarity Programme uphold the right of citizens living in extreme poverty to have their education, health and transport needs met and ensure that the ageing will be cared for

<sup>49</sup> See [www.suprema.gov.do/codigos/Constitucion.pdf](http://www.suprema.gov.do/codigos/Constitucion.pdf).

<sup>50</sup> See Principles VII and VIII ([www.suprema.gov.do/codigos/Codigo\\_NNA.pdf](http://www.suprema.gov.do/codigos/Codigo_NNA.pdf)).

<sup>51</sup> See [www.suprema.gov.do/codigos/CodigoCivil.pdf](http://www.suprema.gov.do/codigos/CodigoCivil.pdf).

and that people will enjoy nutritional and food security. Between the start-up of the Solidarity Programme in the last quarter of 2004 and the end of 2008, the Dominican Government has given RD\$ 11,013,100,000 (US\$ 324.8 million, approximately) to 796,957 beneficiaries.

155. At the start of 2009, a total of 461,580 households had Solidarity cards. Each household receives a subsidy of RD\$ 700 (US\$ 21, approximately) per month for food under the “Eating comes First” Programme. Some 208,000 of these beneficiary households receive an extra RD\$ 150 (approximately US\$ 4.50) per month for every child in school who is attending at least 85 per cent of his or her classes. To protect poor and lower-middle-class families from the rise in fuel prices seen in mid-2008, the Government gives 800,000 households a monthly subsidy of RD\$ 228 (some US\$ 6.90) under the Gas Subsidy Programme to ease the burden of buying gas for cooking and for transport. Additionally, over the period 2004–2008, Solidarity has paid out RD\$ 473.1 million (roughly US\$ 14.3 million) to ageing persons to cover the cost of medications and other necessities and RD\$ 137 million (US\$ 4.2 million, approximately) in incentives for higher education.

156. Some 300,000 families living in extreme poverty are benefiting from the social and educational Progress Programme operating under the Office of the First Lady, and the National Housing Institute has provided 228,789 dwellings between 2003 and 2009 to counteract the housing shortage.

157. The health system has seen notable advances since the adoption of Social Security Act No. 87-01. Coverage under the subsidized family health insurance scheme for the poor has risen from 65,000 beneficiaries in mid-2004 to 1,224,643 people nationwide. Beneficiaries receive medical services and outpatient treatments and undergo surgery at no cost in public hospitals throughout the country; they also receive subsidies for expensive procedures. The contributory family health insurance scheme for public- and private-sector employers and workers, which was launched quite recently (September 2007), already covered 1,729,671 wage earners and dependants — 51 per cent of the target figure — by the end of 2008.

## **XXI. Article 24. Rights of the child**

### **A. Domestic legislation**

158. Principle IV on equality and non-discrimination and articles 4 and 5<sup>52</sup> of Act No. 136-03 on the System for the Protection and Fundamental Rights of Children and Adolescents contain the domestic provisions protecting the right established in article 24 of the Covenant.

### **B. Institutional measures**

159. The Dominican Republic, through various institutions, has carried out a series of measures to protect the rights of children in accordance with article 24 of the Covenant.

160. The National Council for Children and Adolescents (CONANI), which was reconfigured in 2004 in line with Act No. 136-03, has carried out the following three programmes on behalf of children:

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<sup>52</sup> See [www.suprema.gov.do/codigos/Codigo\\_NNA.pdf](http://www.suprema.gov.do/codigos/Codigo_NNA.pdf).

(a) The Comprehensive Care Programme,<sup>53</sup> established by Decree No. 511-06 of 17 October 2006, offers early childcare services through an alliance formed by the public and private sectors, the family and the community to the country's poorest families. The programme's services cover such areas as health and nutrition, psychology, social work and education;

(b) Hogares de Paso<sup>54</sup> is a shelter for children and adolescents at personal and/or social risk whose social and emotional bonds with their family have been broken or whose family represents a current threat to their development. These are children and adolescents who, due to neglect, physical violence or emotional ill-treatment, require help from the State;

(c) The Ángeles Centre<sup>55</sup> run by CONANI is a professional intervention strategy designed to assist children and adolescents who have a serious disability and are living in extreme poverty in the Dominican Republic. Its mission is to provide comprehensive quality care for children and adolescents with serious disabilities based on a human rights-oriented approach that involves the family and the community.

161. In light of the serious concern expressed at the international level about undocumented children, both nationals and foreigners, and their inability to attend school, the Ministry of Education of the Dominican Republic has taken steps to ensure that those children are not deprived of their right to education. Since 2002, undocumented children have been able to enrol in primary school while waiting for their parents or guardians to regularize their situation. According to the Ministry of Education, 35,000 children without birth certificates attended school during the 2008/09 academic year. The Central Elections Board (JCE), as the body in charge of the Civil Registry Office, has also begun to address this issue. In 2008 it began using the Unique Student Identity Number (NUI) Programme to assign a unique identity number to students without birth certificates. This same number will become their identity card number once they reach the age of majority.

162. In order to protect the right of every child to a name and to acquire a nationality, JCE is making an effort to issue an identity document to every child born in the country. To that end, in conformity with Migration Act No. 285-04, JCE issued Resolution No. 02-2007, which brought into effect the Immigration Registry. Under this system, all children born to foreign parents in the country can be registered in the registry office of their home country's mission and can obtain official identity papers.

163. In accordance with the provisions of Migration Act No. 285-04, the Ministry of Foreign Affairs periodically sends copies of birth certificates to the consulates and diplomatic missions of the country of origin of such children's mothers for information purposes and for transmittal to the persons in question.

164. A newborn child or minor whose nationality is unknown is not entered in the Immigration Registry as previously stated in the section of this report regarding article 16 of the Covenant (see paragraph 112).

165. Despite the achievements made in recent years regarding the rights of children, there are a number of factors impeding the full implementation of the rights contained in article 24 of the Covenant, including various economic, social and cultural constraints. These obstacles are, however, gradually being overcome.

<sup>53</sup> See [www.conani.gov.do/programa\\_infantil\\_atencion\\_integral.html](http://www.conani.gov.do/programa_infantil_atencion_integral.html).

<sup>54</sup> See [www.conani.gov.do/programa\\_hogaresdepasso.html](http://www.conani.gov.do/programa_hogaresdepasso.html).

<sup>55</sup> See [www.conani.gov.do/programa\\_angeles\\_deconani.html](http://www.conani.gov.do/programa_angeles_deconani.html).

## XXII. Article 25. Political rights

### A. Domestic legislation

166. Article 9 (d) of the Dominican Constitution establishes the right of every Dominican citizen to vote, provided that he or she is legally eligible to do so. Article 13, paragraphs 1 and 2, of the Constitution also establish the right of citizens to vote for candidates for the offices referred to in article 90<sup>56</sup> of the Constitution and to be elected to hold those offices.

167. Article 88 provides that it is compulsory for all citizens to exercise the right to vote and that their vote is personal, free and secret.

168. In regard to article 25 (c) of the Covenant, the Dominican Republic has implemented Civil Service Act No. 41-08,<sup>57</sup> which extends Act No. 14-1 of 20 May 1991 on the Civil Service and Public Administration. This law regulates labour relations for employees in the civil service, except those elected by popular vote, members of JCE, staff of the Court of Accounts, State security personnel, members of the military and police officers, among others.

169. The aforementioned law establishes that the civil service shall be governed by the principles of personal merit, equal access to the civil service, job stability for career civil servants, salary equity and the option to have recourse to the Dispute Tribunal. Although the law lacks a cross-cutting gender perspective and is written in language that does not give visibility to women, two aspects should be highlighted as representing positive steps towards eliminating gender-based discrimination:

(a) One of the principles governing the civil service under this law is equality of access to that service, which is defined as the universal right to have access to civil service posts and opportunities based solely on personal merit, without discrimination on the basis of gender, disability or other grounds;

(b) This statute prohibits sexual harassment and makes it a ground for dismissal. Protection against harassment is also afforded to the clients or beneficiaries of the services rendered by the organization. Sexual harassment is defined as taking advantage of one's position of authority to sexually harass civil servants, or taking advantage of one's position to sexually harass citizens who are making use of the services provided by the body or entity where the public servant is employed.

170. Electoral Acts Nos. 12-2000 and 13-2000 are also in force in the Dominican Republic. The former raises the quota for the political participation of women to 33 per cent, while the latter establishes that at least one of the candidates on the ballots for mayor or deputy mayor must be a woman.

171. No less important is Municipal Act No. 176-07, which explicitly makes provision for women's participation in municipal affairs and highlights the needs of women with respect to participatory budget allocations by setting aside 4 per cent of the budget for investment in areas relating to gender issues. This law has some significant limitations, however, which pose a double challenge: to ensure the enforcement of its gender-related provisions while, at the same time, building upon past achievements by negotiating and locking in the funding needed to implement municipal gender policies. This entails strengthening the specialized budgetary policy on gender-related affairs at the municipal

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<sup>56</sup> See [www.suprema.gov.do/codigos/Constitucion.pdf](http://www.suprema.gov.do/codigos/Constitucion.pdf).

<sup>57</sup> See [www.seap.gob.do/contentmanager/Archivos/Documentos/Ley%20No.%204108%20sobre%20la%20Funcion%20Publica.pdf](http://www.seap.gob.do/contentmanager/Archivos/Documentos/Ley%20No.%204108%20sobre%20la%20Funcion%20Publica.pdf).

level. To that end, the Ministry for Women has, following consultations with civil society, written and submitted a draft regulation to ensure the proper implementation of the law.

## **B. Institutional measures**

172. Regarding the Committee's concern and recommendation<sup>58</sup> about equal opportunities for women in the workplace, the Dominican Republic is committed to working, through its Ministry of Labour, towards ratification of the ILO Convention concerning Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities (Convention No. 156) and the ILO Convention concerning the revision of the Maternity Protection Convention (Convention No. 183), adopted by the ILO in 1981 and 2000, respectively. The State is also working to promote equality of opportunities for men and women in the areas of labour relations, decent employment and non-discrimination. The National Gender Equity and Equality Plan (2007–2017) has been set up to implement this policy, whose purpose is to promote an appropriate environment for labour relations while maintaining jobs, improving employees' quality of life and guaranteeing their rights.

173. In conjunction with the aforementioned strategic plan, there is the ILO Project on Verification of the Implementation of the White Paper Recommendations. Under that project, the Ministry of Labour and the Ministry for Women recently signed an inter-agency cooperation agreement to promote policies and strategies for education, equality, vocational training and the publicizing of women's labour rights. The aim here is for women to know their rights and responsibilities and to understand that the Ministry of Labour is their ally and is there to aid them in obtaining their rights.

174. This plan will strengthen the Office for Gender Equality and Development of the Ministry of Labour and will enable it to serve as a technical body with the capacity to promote and lead gender-related policies and processes, both internally and externally.

175. Other actions to be taken as part of this inter-agency agreement include: gender training and development programmes for Ministry of Labour personnel, training for civil servants and technical staff of the Ministry in the analysis and mainstreaming of a gender and human rights perspective, and the prevention of violence against women.

176. The Dominican Government recognizes that, although the labour participation rate of women has grown steadily, the role of women in many aspects of economic, political and social development remains ignored or undervalued in many sectors of society. The struggle for equality and equity in the workplace is therefore a very real need that men and women should strive to bring to the fore.

177. Regarding the low participation rate of women in public and private life, recent achievements to be noted include the raising of the quota for the political participation of women<sup>59</sup> and increases in the representation of women in the Chamber of Deputies. The number of seats in the Chamber has been increased to 180, and for the 2006–2010 term, women hold 19.7 per cent of those seats (for a total of 35 seats), compared to 16 per cent in the previous term. In the Senate, women have maintained the same percentage (6.3 per cent), which, in the current term, is equal to 2 female Senators out of a total of 32.

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<sup>58</sup> CCPR/CO/71/DOM, para, 19, concerning the rights to equal opportunities in the workplace and participation in public and private life.

<sup>59</sup> See paragraph 170 of the present report.

178. In 2006–2010, there was a 4.7 per cent increase in the number of female mayors over the previous term. There are currently 18 female mayors out of a total of 151, or 11.9 per cent of the total. Women hold 134 of the 151 deputy mayor positions, or 88.7 per cent, which represents an increase of 5.9 per cent. Among town councillors, there are currently 262 women out of a total of 963, or 27.2 per cent. This figure represents a decrease of 2.1 per cent from the previous term.

179. An important advance is the Women in Political Parties Forum, which serves as a mechanism for coordination and consensus-building in the defence of women's interests. The Ministry for Women has also established the School for Women's Political Participation, and two classes have already graduated from its degree programme.

180. The judiciary of the Dominican Republic is also proud to confirm that the percentage of women in the judiciary is currently 66 or 67 per cent.

181. Some of the obstacles to more equitable representation in decision-making positions are:

- (a) A regulation requiring political parties to comply with the representation quota;
- (b) The lack of a political parties law that is aligned with the representation quota;
- (c) The need to create a strategy for funding women's candidacies in elections, among others.

182. The Dominican Republic is currently undergoing a reform process aimed at guaranteeing women's rights in terms of participation in political parties and organizations. As part of this process, a proposal has been drafted for ensuring equity in political participation between men and women by law. The proposed legal provisions would include a quota as a minimum requirement and would ensure women's access to the financing received by political parties. They would also regulate access to the media, provide the basic conditions required for the participation of women in the light of existing social and economic realities, and establish penalties for non-compliance.

183. All of the above indicates that the Dominican Republic has made great advances in the implementation of article 25 of the Covenant, especially with regard to employment opportunities for women and their participation in public and private life. This demonstrates the State's interest in continuing to strengthen existing measures and taking further steps to reduce the gender inequalities in the aforementioned areas as much as possible.

## **XXIII. Article 26. Equality before the law and non-discrimination**

### **A. Domestic legislation**

184. The Constitution of the Dominican Republic establishes the right of all persons to equality before the law under articles 8, paragraph 5, and 100.<sup>60</sup>

185. Act No. 76-02 (Code of Criminal Procedure) also provides for equality before the law under article 11.<sup>61</sup>

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<sup>60</sup> See [www.suprema.gov.do/codigos/Constitucion.pdf](http://www.suprema.gov.do/codigos/Constitucion.pdf).

<sup>61</sup> See [www.suprema.gov.do/codigos/Codigo\\_Procesal\\_Penal.pdf](http://www.suprema.gov.do/codigos/Codigo_Procesal_Penal.pdf).

## B. Institutional measures

186. In response to concerns expressed by the Human Rights Committee<sup>62</sup> and in accordance with the International Covenant on Civil and Political Rights, the Government, through the Ministry for Women, has implemented a range of affirmative action policies to protect women's rights, particularly their rights to equality before the law and to non-discrimination.

187. The Ministry for Women was established under Act No. 86-99 of 11 August 1999. It is responsible for establishing standards and coordinating implementation of policies, plans and programmes at the sectoral and inter-ministerial levels and with civil society with a view to achieving gender equity and the full exercise of citizenship by women. The Ministry was set up as part of a programme of State reform and modernization following a process of coordinated sectoral negotiation that started in 1997 and involved around 100 government institutions and non-governmental organizations.

188. As part of efforts to mainstream and promote a gender perspective in the institutional structure of the State, the second National Gender Equity and Equality Plan (2007–2017) is being implemented as a means of applying policies permitting gender-based State intervention. This plan ensures coordinated and coherent action by different stakeholders and provides implementation mechanisms and resources. Its main aim is to build equitable and equal relations between men and women. The first National Gender Equity and Equality Plan, which was adopted in 2000 for an initial five-year period, served as the foundation for this second plan.

189. The second National Gender Equity and Equality Plan provides a focus for promoting and coordinating efforts to ensure that a gender perspective is integrated into all public policies. The plan takes account of commitments undertaken by the Dominican Republic in treaties and at conferences, including the Convention on the Elimination of All Forms of Discrimination against Women, commitments to combat forms of violence against women, the Beijing Platform for Action, the Millennium Summit of the United Nations, the Millennium Development Goals, and the tenth session of the Regional Conference on Women in Latin America and the Caribbean.

190. The second National Gender Equity and Equality Plan was redesigned on the basis of a medium-term perspective for implementation over a period of 10 years in order to span several government terms of office and thus become established as a State policy. It provides for a computerized system to record data on each of the proposed indicators so that implementation of the plan can be monitored. An important aspect of the plan is that it requires government bodies to include allocations in their budgets for its application. Seven lines of action have been identified:

- (a) Promoting a culture of gender equality and equity;
- (b) Guaranteeing the rights of women and the full exercise of their citizenship;
- (c) Reinforcing economic empowerment and encouraging efforts to overcome poverty among women;
- (d) Promoting women's leadership and their political and social participation with a view to gender equality;
- (e) Promoting women's access to and control of quality goods and services;

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<sup>62</sup> CCPR/CO/71/DOM, para. 19, regarding women's rights to legal equality, protection afforded to women in cases of domestic violence and trafficking in women.

- (f) Eradicating all forms of violence against women throughout their lives;
- (g) Promoting the full participation of women in the information and knowledge society.

191. To ensure that the plan is used as a strategy to incorporate gender-based perspectives, gender equity and development offices have been established in all government branches under Decree No. 974-03. A growing number of institutions within central and local government and the legislature have responded positively to the establishment of these offices, including: the Gender Commission of the Chamber of Deputies, the Commission on Women and the Family, the Senate, the Ministry of Labour, the Ministry of Education, the Ministry of Public Health and Social Welfare, the Ministry for Youth, the armed forces and the national police.

192. The Solidarity Programme, which is run by the Social Cabinet of the Office of the President of the Republic, is one of the programmes designed to tackle poverty among women. It currently provides assistance to 796,957 low-income families, many of which live in households headed by single mothers. The programme has three components: the Eating Comes First Programme, which distributes food subsidies; the School Attendance Incentive (ILAE), which provides financial assistance to mothers in return for a commitment to send their children to school and to promote health protection in the home; and the Gas Subsidy Programme, which gives subsidies to mothers for the purchase of liquefied petroleum gas.

193. The Social and Educational Progress Programme operates under the Office of the First Lady and provides support to 300,000 families living in extreme poverty. It aims to promote their comprehensive development through guidance, training and awareness activities dealing with access to and the use of goods and services provided by the State and civil society. A childcare centres project provides facilities for children of university students in order to assist them to pursue their studies. These programmes are part of a government initiative to achieve the equal sharing of responsibilities between women and men.

194. A major achievement in education is General Education Act No. 66-97. Article 4 of the Act identifies sex discrimination as a violation of the right of all to education. Following Curriculum Reform No. 95-6, a gender education component was formally incorporated into the school curriculum beginning in 2004.

195. Another important development in education has been the incorporation of a gender perspective into teacher training programmes. Four gender-education modules have been prepared on human rights, gender roles, domestic violence and violence against women, and adolescent pregnancy.

196. Six diploma courses entitled *Generando la Equidad* ("Generating equity") have been organized for teachers in the different regional districts overseen by the Ministry of Education, and a pilot project has been run in 12 schools in the border region with a view to promoting harmonious multicultural coexistence. This project includes a component that incorporates a gender perspective and focuses on inequalities associated with ethnicity, race, nationality or economic and social factors.

197. In higher education, work has begun on gender mainstreaming in the curricula of the faculties of education, psychology and history at the Autonomous University of Santo Domingo, and support has been provided for the establishment of centres for gender research in the Autonomous University of Santo Domingo and the Santo Domingo Technological Institute.

198. Work is also under way on gender mainstreaming in the curricula of the training schools for the armed forces and national police.

199. Another major achievement in this area is Act No. 55-97, which amends Agrarian Reform Act No. 5879. It includes women in the land distribution process and establishes that they have the same rights as men to plots distributed under the land reform programme, since, under the Act, a household is represented by both partners, whether they are married or not.

200. As part of the judiciary's efforts to improve the position of women in the Dominican Republic, the Supreme Court, sitting in plenary session, approved a policy document on gender equality within the judiciary by Resolution No. 3041-2007 of 1 November 2007. Subsequently, the Commission for Gender Equality was established by Supreme Court Resolution No. 1924-2008 of 19 June 2008 and was given a mandate to monitor and report on measures approved within the framework of the judiciary's gender equality policy, commitments entered into by the Dominican Republic following ratification of international instruments and commitments undertaken by the judiciary, both nationally and internationally.

201. The Government is committed to a national reform process whose key elements include amendments to the Constitution, the Criminal Code and the Civil Code, together with the drafting of a family code and a political parties act. The Ministry for Women is playing an important role in this process and has proposed amendments to all these instruments with a view to protecting and advancing women's rights.

202. Reflecting developments in society to combat domestic violence, Act No. 24-97 of 27 January 1997 lays down penalties for rape and violence against women. Although significant progress has been made in disseminating information on the Act and raising awareness of it, particularly among women, challenges still remain with regard to its effective implementation and raising awareness among the police and judiciary.

203. On 1 December 2007, as part of the affirmative action policies being implemented to combat domestic violence, Act No. 46-07 was circulated. The Act, adopted in February 2007 and published in November, establishes that, every year between 25 November and 10 December, activities shall take place to mark 16 days of activism against violence against women.

204. This event is organized by the Parliamentary Commission on Gender, in coordination with the Ministry for Women and other government bodies and women's organizations. It mobilizes people to press for adequate funding for efforts to prevent violence against women and an increased budget allocation for the Ministry for Women.

205. The Government has developed various mechanisms in order to make optimal use of available resources and to strengthen efforts to prevent domestic violence and violence against women and to provide care for victims. Comprehensive measures to eliminate all forms of violence include Act No. 24-97, as discussed above, and the following actions:

(a) The establishment by the Office of the Public Prosecutor of neighbourhood prosecutor's offices in districts with high levels of gender violence, to which women can report abuse by their partner;

(b) The establishment of the National Commission for the Prevention of Family Violence. The Commission, which has been in existence since 1998, has had a significant impact in each of the sectors served by its component bodies. It has set out clear lines of action in its platform, which calls for the provision of optimal, proper, coordinated and comprehensive care to women survivors of violence as part of each and every prevention strategy now in effect;

(c) The establishment of the Office of the Procurator-General for Women, which is responsible for investigating discrimination against women and for developing law

enforcement measures and protection policies to help to reduce the high level of violence, especially violence against women;

(d) The establishment, skills development and launch of a network of stakeholders within the system for the prevention and punishment of gender-based and domestic violence and for the comprehensive care of victims. The network is tasked with coordinating efforts with the Government, civil society organizations and individuals aimed at eradicating gender-based and domestic violence in the Dominican Republic. The network is made up of 20 State and civil society institutions;

(e) The development of the National Model for Care and Prevention in the Field of Family Violence, which provides a frame of reference and establishes guidelines for service providers, specialist staff and managers from government institutions and civil society organizations involved in care and prevention in the field of domestic violence;

(f) The development of national standards for health care which set out the way in which health care should be organized and delivered in cases of domestic violence. These standards also provide a framework for defining the duties of health staff at different levels of service. They are enforced and widely used throughout the Dominican Republic in both public and private health centres and facilities providing care and prevention in the field of domestic violence and violence against women;

(g) The introduction of a policy on comprehensive care and its application through the establishment of units for the comprehensive care of women victims of gender-based violence;

(h) The introduction of a policy on comprehensive care for the victims of violence and its application through a programme to improve and humanize public services for victims of violence which is run in conjunction with the Public Prosecutor's Office of the National District and the Province of Santo Domingo;

(i) The establishment and start-up of a programme of ongoing training for service providers in the police and judiciary in the areas of violence against women, domestic violence and human rights violations;

(j) The design of a proposed unified protocol for the treatment of women victims of violence in the justice and police systems;

(k) The development of a structured victim risk assessment tool for use in neighbourhood prosecutor's offices and comprehensive care units for women as a basis for the implementation of appropriate measures;

(l) Preparation and distribution of a guide to the use of legal instruments for the prevention, punishment and treatment of cases of violence against women and domestic violence in the Dominican Republic;

(m) The start-up of a radio programme called *Mujer, Conoce tus Derechos* ("Women, know your rights"), the launch of radio and television campaigns on the prevention of violence, and the distribution of information material.

206. Despite the progress made by the Dominican Republic in protecting women against domestic violence, the 2006–2008 figures for deaths among women (500 and 204 feminicides) are still alarming. The Government is committed to further strengthening measures to reduce the extent of domestic violence in the country as much as possible.

207. In light of the worrying situation that exists with respect to women, illicit trafficking of human beings and migrant smuggling, Act No. 137-03 has been adopted. Under the Act, all forms of trafficking of human beings are punishable. This includes anyone who profits from the entry into, or departure from, the Dominican Republic of a person for purposes of

prostitution. Penalties in the form of terms of imprisonment and/or fines are set according to the position or post held by a person who promotes this activity, the age of the person concerned and the type of behaviour in which he or she is led to engage, as well as its consequences (diseases, offences to decency and good morals). Violators are not entitled to bail.

208. The Inter-Agency Committee for the Protection of Migrant Women (CIPROM) was established in 1999 by Decree No. 97-99 to support initiatives to promote and enforce the Act. The Committee, which is the first body of its kind, monitors the different measures taken to implement the Act and has promoted training and awareness-raising for staff from the various government and non-governmental agencies which comprise it.

209. The Dominican Republic has implemented comprehensive measures to combat smuggling and trafficking of women and girls since the promulgation of the above-mentioned Act. Mechanisms developed to prevent irregular migration and trafficking include the Reception Centre for Returned and Trafficked Women, which provides care and support for migrant, trafficked and/or returned women, and CIPROM, which offers health-care services, psychological care, legal advice, practical support to returned women during their social reintegration, job placement services and training in areas of interest. It also operates a nationwide information helpline.

210. The Ministry for Women and CIPROM, in coordination with civil society organizations and the International Organization for Migration, have run four diploma courses in this area. These courses incorporate a gender perspective as a cross-cutting theme and provide an introduction to national and international laws against the smuggling of migrants and trafficking in persons.

211. As part of a series of national studies undertaken within the framework of the Council of Women Ministers of Central America and the Dominican Republic (COMMICA), the Committee has conducted and published research on trafficking in persons and people-smuggling, with one component focusing on legislation and its application and another on the experiences of women victims.

## **XXIV. Article 27. The right to a cultural identity, religion and language**

### **A. Domestic legislation**

212. In accordance with the Constitution of the Dominican Republic, all persons, regardless of their origin, have the right to enjoy their own culture, religion and language and to participate effectively in social, economic and political life. These rights are protected by article 8, paragraphs 6 and 8, and by article 38 of Act No. 41-00 of the Ministry of Culture.

### **B. Institutional measures**

213. In view of the concerns expressed by the Human Rights Committee<sup>63</sup> regarding the lack of information on the application of article 27 of the Covenant, the Dominican Republic has made significant changes in order to guarantee respect for the rights to cultural identity, religion and language.

<sup>63</sup> Ibid., para. 20.

214. In these early years of the twenty-first century, the Dominican Republic has a broad structural framework in place for cultural activity which involves various types of organizations from both the public and private sectors, including the State as such, independent producers and organizers, artists' unions and associations, universities, businesses and local communities.

215. The Government, through the Ministry of Culture, implements policies, programmes and projects to promote cultural development nationally and guarantees citizens the right to participate in cultural life and to enjoy the benefits of cultural development without distinction as to race, colour, sex, language, religion, or any other social circumstance or condition. To this end, the Ministry of Culture has defined a policy which highlights the country's African heritage and also supports similar initiatives by civil society. Examples include its support for the establishment of Africa House and for the commemoration of the five hundredth anniversary of the arrival of the Africans, and measures for strengthening the memory of the Slave Route and for highlighting the value of a series of African traditions in our culture.

216. There is also the Brotherhood of the Holy Spirit of the Congos of Villa Mella, whose members preserve their Afro-Dominican identity and cultural traditions from generation to generation.

217. The Dominican Republic recognizes in fact and in law the multicultural nature of its population, which is enriched by African, Asian, American, European and Amerindian traditions. The Ministry of Culture is working to highlight the multicultural nature of Dominican society and, to this end, is revising school textbooks and cultural programmes with a view to the consolidation of multicultural values. There are four nationwide radio programmes and television programmes, at times with broadcasts in Creole. Examples include the radio broadcasts of the Mariel, Enriquillo, ABC and Santa María stations. There is also a wide range of Internet sites, such as Espacio Insular, and civil society organizations such as the Jacques Viau Dominico-Haitian Network, as well as a number of Catholic and evangelical bodies and organizations.

218. To date, the United Nations Educational, Scientific and Cultural Organization (UNESCO) has proclaimed two examples of Dominican cultural heritage to be Masterpieces of the Oral and Intangible Heritage of Humanity. The first is the Brotherhood of the Holy Spirit of the Congos of Villa Mella, which holds ritual events and celebrations and was placed on the list in 2003. The second is the Cocolo Dance Drama Tradition, a performance art event which was designated in 2005. In both cases, the Ministry of Culture, through the Museo del Hombre Dominicano anthropological museum, prepared the application and submitted it to UNESCO.

219. Other specific measures contributing to the implementation of article 27 of the Covenant include:

(a) The creation of regional and provincial councils for the development of cultural activities in such communities and the designation of operational units that report directly to the Ministry of Culture within each of the regions of the country;

(b) The preservation, protection and promotion of folk ensembles recognized by UNESCO as part of the intangible heritage of mankind;

(c) The adoption, at a meeting of cultural officials of Ibero-American countries to discuss topics on the agenda for the forum of Ministers of Culture to be held in Uruguay, of a proposal put forward by the Dominican Republic to include culture among the goals to be pursued in combating poverty;

(d) The organization of an international seminar on cultural industries, which was attended by representatives from different groups of civil society and public and private institutions;

(e) The continuation of regional book fairs.

220. In order to support the professionalization of culture and the arts, article 51 of Act No. 41-00 provides that, through the Ministry of Culture and in coordination with decentralized agencies, a policy on human resources training geared to the professionalization of cultural agents and managers shall be pursued. The objective is to promote and ensure the availability of technical and advanced training for such agents and managers with a view to integrating the cultural management process at all levels and in the different modalities that exist.

221. The Ministry of Culture, through the Directorate-General of Education and Training, will be in charge of coordinating instruction, general training, continuing education and advanced training for managing agents and organizers of sociocultural events at the national level. To these ends, the Directorate-General of Education and Training will coordinate its activities with the Ministry of Education, the National Council of Higher Education and all relevant national and foreign, public and private institutions of higher education.

222. Another more recent initiative was the submission of a draft proposal for culturally related constitutional reforms on 9 January 2007 to the Review Commission in the presence of the President of the Republic. This preliminary draft devotes a chapter to culture and cultural rights as set forth in the Constitution, whose current treatment of these concepts is somewhat unsystematic.

223. In this proposal, the Ministry of Culture recommends that cultural rights be dealt with in the Constitution in a specific section entitled "Culture and cultural rights"; the proposed articles would state that:

(a) The Dominican Republic shall guarantee, through the appropriate bodies, the full enjoyment of culture and access by all Dominicans, in keeping with their potential and talent, to facilities for making discoveries, devising inventions, and developing artistic, cultural and scientific creations, without discrimination of any kind, while protecting copyright interests and intellectual property rights;

(b) Every citizen has the right to cultural property, to the protection and the promotion of his or her cultural rights, and to the support of the State in asserting his or her right to culture.

224. Finally, as a general observation, the Dominican Government wishes to note that it continues to feel the need to pursue its efforts to build a cultural, democratic and diverse citizenry, notwithstanding the achievements already made in the fields of culture, religion and language.

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