



# International Covenant on Civil and Political Rights

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## Human Rights Committee

### Concluding observations on the sixth periodic report of the Dominican Republic\*

1. The Committee considered the sixth periodic report of the Dominican Republic (CCPR/C/DOM/6) at its 3416th and 3417th meetings (see CCPR/C/SR.3416 and 3417), held on 16 and 17 October 2017. At its 3441st meeting (see CCPR/C/SR.3441), held on 3 November 2017, it adopted the present concluding observations.

#### A. Introduction

2. The Committee welcomes the submission of the sixth periodic report of the Dominican Republic and the information presented therein. It expresses appreciation for the opportunity to renew its constructive dialogue with the State party's delegation on the measures taken to implement the provisions of the Covenant during the reporting period. The Committee is grateful to the State party for its written replies (CCPR/C/DOM/Q/6/Add.1) to the list of issues (CCPR/C/DOM/Q/6), which were supplemented by the oral responses provided by the delegation, and for the additional information provided to it in writing.

#### B. Positive aspects

3. The Committee welcomes the legislative and institutional measures taken by the State party during the period under review in the area of civil and political rights, including:

(a) The adoption of the Organic Act on Equal Rights for Persons with Disabilities No. 5-13 of 2013 and the associated implementing regulations of 2016;

(b) The establishment of the system for tracking the implementation of United Nations recommendations in order to compile recommendations by United Nations bodies;

(c) The adoption of the Organic Act on the National Police No. 590-16 of 2016 and the regulations on the use of force.

4. The Committee welcomes the State party's accession to/ratification of the following international instruments:

(a) The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, acceded to on 21 September 2016;

(b) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, ratified on 14 October 2016.

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\* Adopted by the Committee at its 121st session (16 October–10 November 2017).



## C. Principal matters of concern and recommendations

### Implementation of the Covenant and Optional Protocol

5. The Committee is concerned at the lack of measures taken to implement the Views regarding communications No. 193/1985 (*Pierre Giry v. Dominican Republic*) and No. 449/1991 (*Barbarín Mojica v. Dominican Republic*) and at reports of the limited consultation of civil society in the preparation of reports to the Committee. It is further concerned about Constitutional Court decision No. TC/0256/14 of 2014, whereby the instrument accepting the competence of the Inter-American Court of Human Rights was declared unconstitutional, and by the delay in adopting the National Human Rights Plan (arts. 1 and 2).

**6. The State party should adopt the necessary measures to effectively follow up on and fully implement the Committee's Views and concluding observations. It should guarantee the full and open consultation of civil society in the preparation of its reports to the Committee and in the implementation of the Committee's recommendations. Furthermore, the State party should intensify its efforts to inform and educate the public, lawyers, judges and prosecutors about the Covenant and Optional Protocol. The Committee supports the State party's expressed intention to once more accept the competence of the Inter-American Court of Human Rights.**

### National human rights institution

7. The Committee welcomes the fact that the Office of the Ombudsman has been operational since 2013. However, it is concerned that the institution is not in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) or have the necessary independence to carry out its mandate. In addition, the Committee notes that the Office's annual budget is not used in full (art. 2).

**8. The State party should take the necessary steps to enable the Office of the Ombudsman to carry out its mandate effectively, independently and in full compliance with the Paris Principles, including the appropriate use of its budget. The Committee urges the Office of the Ombudsman to pursue the accreditation process with the Subcommittee on Accreditation of the Global Alliance of National Human Rights Institutions.**

### Non-discrimination

9. The Committee is concerned at the lack of a comprehensive legal framework against discrimination and at reports regarding systematic racial discrimination against persons of Haitian descent, the vulnerable situation of Haitian migrants and the violence and assaults to which they are subjected. It is further concerned at reports of discrimination experienced by persons with disabilities in terms of access to basic services, education and employment, as shown, for example, by the low employment rate among women with disabilities. It is also concerned at reports of discrimination, violence and assault, including by the police, against lesbian, gay, bisexual, transgender and intersex (LGBTI) persons and, in particular, at the high rate of violence against transgender persons. The Committee regrets the lack of information on investigations, trials and penalties in cases of discrimination and violence against these persons (arts. 2, 3, 25, 26 and 27).

**10. The State party should take the necessary steps to ensure full protection against discrimination and to eradicate, in law and in practice, stereotypes and discrimination against persons of Haitian descent, including Haitian migrants, persons with disabilities and LGBTI persons, by inter alia increasing the number of training programmes for law enforcement personnel and awareness-raising campaigns promoting tolerance and respect for diversity. In addition, it should adopt laws to prohibit discrimination and hate crimes on grounds of sexual orientation or gender identity and fully recognize the equality of same-sex couples and the legal identity of transgender persons. It should also ensure that cases of discrimination and violence committed by individuals or State officials are systematically investigated, that those**

**held to be responsible are punished with appropriate penalties and that victims have access to comprehensive reparation.**

#### **Equal rights between men and women**

11. While it notes the State party's efforts to give effect to the principle of equality between men and women, the Committee is concerned about the limited participation of women in political and public life and by their underrepresentation in both the public and private sectors, especially in managerial and senior positions, including in the legislative branch, the Government, public administration, political parties and the international arena (arts. 2, 3, 25 and 26).

**12. The State party should step up its efforts to increase the participation of women in political and public life and their representation in the public and private sectors, especially in managerial and senior positions, including through the adoption, where necessary, of temporary special measures that give full effect to the provisions of the Covenant.**

#### **Violence against women**

13. The Committee notes the State party's significant efforts to reduce violence against women, including the initiatives of the Public Prosecution Service and the Ministry of Women's National Programme for Prevention and Comprehensive Care; however, it remains concerned at the high rates of violence against women, including domestic violence, and, in particular, at the persistently high number of femicides and rapes each year. The Committee is also concerned at the low conviction rate, which fosters impunity for the perpetrators and creates barriers to assistance, protection and reparation for victims, and regrets not having received statistical data on the penalties imposed for this type of violence. It is further concerned about the limited protection available to victims, including the scarcity of shelters, especially in rural areas, where they are non-existent (arts. 2, 3, 6, 7, 14 and 26).

**14. The State party should intensify its efforts to prevent, reduce and punish all acts of violence against women, as well as set up a national statistical register. It should ensure that all acts of violence are investigated promptly, thoroughly and impartially, that the perpetrators are tried and punished and that victims receive comprehensive reparation. The State party should also guarantee that all victims have access to assistance and protection, by inter alia establishing accessible shelters throughout the country to cover current demand, including in rural areas. It should ensure that training programmes for members of the judiciary and the police are fully implemented.**

#### **Voluntary termination of pregnancy and reproductive rights**

15. While it notes the State party's efforts to reduce maternal mortality, the Committee is concerned about the complete ban on voluntary terminations of pregnancy — the violation of which carries a sentence of up to 20 years in prison, including where the life or health of the pregnant woman or girl is in danger, where carrying the pregnancy to term could cause the pregnant woman or girl substantial harm or suffering, especially in cases where the pregnancy is the result of rape or incest or when it is non-viable, as well as in other circumstances — and the fact that the ban leads to a large number of unsafe abortions and high maternal mortality. The Committee is further concerned at the continuingly high rates of child and teenage pregnancy, owing to, inter alia, the lack of reproductive health services and to inappropriate and insufficient information. It is also concerned at reports of the forced sterilization of persons with disabilities (arts. 2, 3, 6, 7, 17 and 26).

**16. The State party should amend its legislation to guarantee safe, legal and effective access to voluntary termination of pregnancy where the life or health of the pregnant woman or girl is in danger or where carrying the pregnancy to term could cause the pregnant woman or girl substantial harm or suffering, especially in cases where the pregnancy is the result of rape or incest or when it is non-viable. Furthermore, the State party may not regulate any pregnancy or abortion in a**

manner that runs contrary to its obligation to ensure that women and girls need not resort to unsafe abortions; it will have to amend its legislation accordingly. The State party should not impose criminal sanctions on women and girls who undergo an abortion or on medical service providers who provide abortion assistance, as such measures force women and girls to resort to unsafe abortions. Furthermore, it should ensure unimpeded access to sexual and reproductive health services and education for men, women and adolescents nationwide. It should also ensure that all procedures to obtain the full and informed consent of persons with disabilities are followed with regard to sterilization. For this purpose, the State party should offer special training to health personnel to better acquaint them with these consent procedures and with the harmful effects and consequences of forced sterilization.

#### **Excessive use of force and extrajudicial executions**

17. The Committee welcomes the national police's Code of Ethics and the proposed regulations on the use of force, which include some of the key principles of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. It is concerned at reports of police brutality and the excessive use of force by law enforcement personnel, in particular the national police. It is further concerned at reports of the large number of extrajudicial executions (arts. 2, 6, 7, 10 and 14).

18. **The State party should take the necessary steps to combat the excessive use of force by law enforcement personnel. It should ensure that the regulations on the use of force and the application thereof are fully in line with international standards, including the Covenant and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and that law enforcement personnel are trained in these standards and apply them in practice. Moreover, the State party should ensure that cases of brutality or excessive use of force, including lethal force, by law enforcement personnel are automatically and promptly investigated, not only by the Public Prosecution Service but also by an independent, impartial and effective mechanism, and that the perpetrators of such acts are tried and punished in proportion with the seriousness of the offence. It should introduce the civil liability of the State in all cases involving the police, by, inter alia, amending article 61 of the National Police Institutional Act.**

#### **Prohibition of slavery, forced labour and trafficking in persons**

19. The Committee commends the State party on its efforts to combat trafficking in persons, sexual abuse and sexual exploitation. However, it is concerned about reports that these practices persist and involve primarily persons in a vulnerable situation, such as women, children and persons of Haitian origin. It is also concerned at the lack of resources available, including the limited number of shelters for trafficking victims, to provide victims with assistance and support. In addition, the Committee is concerned at the prevalence of child labour, despite the State party's efforts, especially in the area of domestic work and farming. It is further concerned at reports of labour exploitation and forced labour, in particular those concerning workers of Haitian origin, especially in the sugar industry (arts. 3, 7, 8 and 24).

20. **The State party should step up its efforts to combat trafficking in persons, sexual abuse and sexual exploitation and ensure that the measures it adopts to this end are implemented in practice. It should also ensure that these offences are investigated, that the perpetrators are tried and punished and that victims have access to appropriate protection and assistance, including shelters in all regions of the country. In addition, the State party should intensify its efforts to prevent and reduce child labour and forced labour, especially in the area of domestic work and farming, and to punish those responsible. It should establish legal protection and ensure that labour law is enforced, including through appropriate training, effective inspections and the imposition of penalties on employers.**

### **Persons deprived of their liberty and detention conditions**

21. The Committee is concerned about reports of persistently high levels of overcrowding and inadequate living conditions, especially in centres under the old prison model, and by the insufficient use of alternatives to incarceration, such as electronic monitoring and release (arts. 6, 7, 9 and 10).

**22. The State party should step up its efforts to improve detention conditions and reduce overcrowding, including by modernizing its prison system and promoting alternatives to deprivation of liberty. It should also ensure that pretrial detention is used only exceptionally, on a case-by-case basis, when it is reasonable and necessary, and that it is as short as possible. In addition, it should ensure that detention conditions in all the country's prisons are in line with the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules).**

### **Deportation and non-refoulement**

23. The Committee is concerned at the high number of persons of Haitian origin who are deported and at reports that mass, arbitrary deportations and expulsions, including pushbacks at the border, are carried out in the absence of procedural safeguards. It is also concerned at the extremely low number of people who are granted asylum, at the restrictive criteria for admission and the inadequate procedural safeguards for asylum seekers and refugee claimants, as illustrated by the 15-day period for submitting a request and the 7-day period for appealing a decision, and at the lack of information provided to asylum seekers and refugee claimants regarding their rights, which places them at risk of refoulement. The Committee is further concerned about reports that asylum seekers and refugee claimants are detained arbitrarily and for indefinite periods and that they have insufficient access to a lawyer. It is concerned that individuals who have been granted refugee status or asylum are impeded from obtaining ongoing protection, owing to, for example, the lack of documentation legalizing their stay, which puts them at risk of deportation and hinders their access to basic services. Moreover, the Committee is concerned at the inadequate training in international standards provided to immigration and border personnel. While the Committee notes the information provided by the State party that minors cannot be deported, it is concerned about reports of deportations of unaccompanied minors and about the vulnerable situation of the large number of unaccompanied migrant children from Haiti who are brought to the Consulate of Haiti or to the National Council for Children and Adolescents (arts. 2, 6, 7, 9, 13, 16, 24 and 26).

**24. The State party should, as a matter of urgency, take specific steps to:**

(a) **Revise laws and practices to ensure that deportations and expulsions are carried out in keeping with the Covenant and international standards and in strict compliance with due process and the principle of non-refoulement;**

(b) **Guarantee in practice the protection of asylum seekers and refugee claimants, including Haitian and non-Haitian minors and migrants, in keeping with the Covenant and international standards, first and foremost by revising the admissibility criteria and application and appeal procedures and by automatically issuing refugees with recognized identification documents with the aim of protecting them against needless deportation and ensuring that they have access to basic services;**

(c) **Avoid the arbitrary and indefinite detention of migrants, asylum seekers and refugee claimants, ensure that they have access to a lawyer and information on their rights, including at the border, and provide for alternatives to detention for asylum seekers and refugee claimants, ensuring that detention is used only as a last resort;**

(d) **Implement training programmes regarding the Covenant, international standards on asylum and refugee status, and human rights for the staff of migration institutions and border personnel;**

(e) **Publish statistical data on the number of individuals who have applied for asylum or refugee status and those that have received or been denied such status.**

### Statelessness

25. The Committee regrets Constitutional Court decision No. TC/0168/13 of 2013, which left thousands of Dominicans, mostly of Haitian descent, without Dominican nationality and in a situation of statelessness. The Committee notes with disappointment the State party's denial of cases of statelessness and regrets that the State party has not complied with the August 2014 judgment of the Inter-American Court of Human Rights in the case of *Expelled Dominicans and Haitians v. Dominican Republic*. The Committee is concerned at information regarding the situation of a large number of first-generation immigrants and their descendants, whose Dominican nationality has been denied as a result of decision No. TC/0168/13. While it notes the adoption of Act No. 169/14 to mitigate the consequences of decision No. TC/0168/13, the Committee is concerned at the limited scope of the Act and the additional barriers that it has created, including unreasonable procedures and requirements. In this connection, the Committee is concerned about the situation of: persons in group A who still have not received their nationality documents; persons in group B who still await naturalization in order to recover their Dominican nationality and whose naturalization proceeding has been postponed; persons who were unable to register during the special registration process; and persons born between 18 April 2007 and 26 January 2010. The Committee is further concerned at allegations that some individuals in group A were denied the right to vote in the latest elections. The Committee notes the State party's statement that all children have access to primary education; nevertheless, it is concerned at reports of a lack of access to basic services, including education, employment, housing, health care and justice, among individuals without Dominican nationality documents, including children, and at the denial of their civil and political rights (arts. 2, 14, 16, 23, 24, 25 and 26).

26. **The State party should, as a matter of urgency, take specific steps to:**

(a) **Restore the Dominican nationality of all persons affected by decision No. TC/0168/13 in accordance with the Covenant and other relevant international instruments, including by enforcing the judgment of the Inter-American Court of Human Rights of August 2014. Specifically, the State party should ensure that all persons in group A receive their nationality documents, thereby restoring their Dominican nationality, and that all those who meet the requirements under group B promptly recover their Dominican nationality, including through the adoption of special measures for group B individuals who were unable to register during the special registration process. In addition, it should restore the Dominican nationality of those persons born between 18 April 2007 and 26 January 2010. It should also periodically publish updated information on all persons who have benefited from Act No. 169/14 and on those who have received identity documents;**

(b) **Adopt all necessary legal and practical measures to prevent and reduce cases of statelessness, including by considering accession to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, as previously recommended by the Committee (CCPR/C/DOM/CO/5, para. 22).**

### Independence of the judiciary

27. The Committee is concerned about the fact that existing mechanisms do not sufficiently guarantee the independence and competence of the judiciary or the non-interference of other branches of government in judicial affairs. It is also concerned about the lack of safeguards in place to select and appoint judges in a manner that effectively ensures their independence, ability and integrity (arts. 14 and 26).

28. **The State party should pursue its efforts to ensure that the judicial selection and appointment process is carried out by an independent body and should ensure the independence, ability and integrity of judges, including by providing protection from political interference.**

## Corruption

29. The Committee is concerned about reports of high corruption rates in the State party at all levels of government, including allegations of bribes being paid to access basic services and to influence government officials, and about the impunity surrounding some of these cases (art. 25).

**30. The State party should step up efforts to fight and eradicate corruption and impunity at all levels, including through the investigation of cases, most importantly by the Public Prosecution Service, and the appropriate punishment of those responsible, taking into account the recommendations of the Conference of the States Parties to the United Nations Convention against Corruption in respect of the Criminal Code, bribery and misappropriation of funds by public officials.**

## Freedom of expression, freedom of association and violence against human rights defenders and journalists

31. The Committee is concerned at the acts of violence and intimidation to which human rights defenders and journalists, including those who oppose Constitutional Court ruling No. TC/0168/13, are subjected. It regrets the lack of information on the steps taken to safeguard the right of migrant workers to freedom of assembly and association, which includes the right to engage in trade union activities without the exercise of these rights triggering the loss of their employment or their deportation. The Committee is further concerned at reports that the right to freedom of association and the right to organize are restricted by employers and supervisors (arts. 6, 7, 19, 21 and 22).

**32. The State party should pursue its efforts to guarantee the effective protection of human rights defenders and journalists who are victims of threats, violence and intimidation. It should also ensure that these incidents are investigated promptly, thoroughly, independently and impartially, that the perpetrators are tried and punished with appropriate penalties and that the victims receive assistance, protection and comprehensive reparation. Furthermore, it should ensure that migrant workers effectively enjoy their right to freedom of peaceful assembly and that the exercise of this right does not become justification for dismissal or deportation. The State party should adopt measures to safeguard workers' freedom of association in practice, including the right to organize, the right to collective bargaining and the right to strike.**

## Rights of the child and birth certificates

33. While it notes the State party's efforts to increase birth registrations, the Committee is concerned at the low rate of registration, especially in cases where one of the parents does not hold Dominican nationality. It is also concerned at reports of barriers and unreasonable requirements for the registration of children of Haitian descent, including when one of the parents is of Dominican origin, putting them at risk of statelessness and limiting the exercise of their rights. It is further concerned that children born in the Dominican Republic to parents of Haitian descent or to foreign parents who are in an irregular situation are registered as foreigners. The Committee is also concerned at the prevalence of child marriage, particularly in rural and poor areas (arts. 16, 23 and 24).

**34. The State party should continue efforts to ensure that all children born in its territory, including those who were not born in a hospital or whose parents are not of Dominican nationality, are registered and issued with an official birth certificate. Furthermore, it should ensure that Dominican nationality is recognized and granted in keeping with the principle of non-discrimination. In addition, it should take the necessary steps to eradicate child marriage in law and in practice, including through the adoption of legislative measures to introduce an absolute ban and to raise the minimum marriage age from 16 to 18 years for both spouses.**

**D. Dissemination and follow-up**

35. The State party should widely disseminate the Covenant and its two optional protocols, its sixth periodic report, the written replies to the list of issues prepared by the Committee and the present concluding observations with a view to raising awareness of the rights enshrined in the Covenant among the judicial, legislative and administrative authorities, civil society, non-governmental organizations (NGOs) operating in the country and the general public, including members of minority communities and indigenous peoples.

36. In accordance with rule 71 (5) of the Committee's rules of procedure, the State party is requested to provide, by 10 November 2019, relevant information on its implementation of the Committee's recommendations made in paragraphs 10 (non-discrimination), 16 (voluntary termination of pregnancy and reproductive rights) and 26 (statelessness).

37. The Committee requests the State party to submit its next periodic report, including information on the implementation of the present concluding observations, by 10 November 2022. The Committee also requests the State party, when preparing its next periodic report, to consult widely with civil society and NGOs operating in the country. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words. Alternatively, the Committee invites the State party to agree, by 10 November 2018, to use its simplified reporting procedure, whereby the Committee transmits a list of issues to the State party prior to the submission of its periodic report. The State party's response to this list of issues will then constitute its next periodic report to be submitted under article 40 of the Covenant.

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