Globalization, Foreign Languages and National Identity in the Dominican Republic

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Abstract

Due to the fact of the transformation of the Dominican economy, jumping from a rural, sugar cane exporting-country to a more diverse economy, based in four pillars: The Remittance of US Dollars of Dominicans living in America, the Tourism Industry, the Duty-free Industrial Parks and the Major League Base-ball Players and Academies, it is not difficult to imagine that English has been the language *par excellence* behind those advancements.

Those socio-political facts besides the phenomenon of globalization have had a tremendous impact in popularizing this language with the correspondent academic impact of modernizing and reforming our national curriculum, for both private and public schools, and colleges and universities as well. So, the English language has come a long way in our nation, ranging from the language of a *social elite*, to a language of mass instruction all over the nation. But the English language had not been the only language that our nation has faced, beginning with the imposition of Spanish over the living population of Tainos during the time of the colonization to suffering the invasion of foreign powers up to recent times, and the subsequent languages interchanges.

Keywords: Globalization, Foreign Languages, National Identity.

Introduction

The main purpose of this essay it is to offer an ample scope as possible as it could be in this brief work, on the historical, sociological, economical and linguistic facts the shaped our nation before and after becoming a sovereign country.

Chapter One deals with a briefing on prehistory and the process undergone by our aborigines in the Taino's society when abruptly conquered by the Spaniards, thus suffering a traumatic process that eventually disappeared them from the surface of earth.

Chapter Two, offers a series of sociological definitions for key words and terminology presented throughout these pages, such as Nationalism, Chauvinism, and Globalization.

Chapter Three exposes a meticulous explanation on the legality aspects of our Law Corpus.

Chapter Four tell the story of the main historical facts that reinforced our sense of nationalism and belonging to this land in recent times.

Chapter Five enters in the arena of explaining why in a given period of our recent history and important language like English was rejected, as well as, the refusal of Dominicans to the use of Haitian's immigrant of their Creole language in our land.

Chapter Six analyses the upcoming of English as an operational language in the new model of the Dominican economy.

And finally, Chapter Seven tries to guess what the futures lies ahead of us, in a country shaken by external forces that are trying to impose an agenda on our country, not always favorable to the best interests of our nation.

Chapter I: The Dominican Republic as a Multilingual Society

The intention of the present observation, it is to offer a linguistic account of the historical facts that led to the shape of what is today our nation, the Dominican Republic, and of the different languages spoken here thus playing an important role in our history and shaping our society from the very beginning as a multilingual society, which according to West (1975) ¨ is the ability to function with equal facility in two or more languages¨. Another definition of Multilingualism is offered by as follows: https://www.wikipedia.org/ (Document retrieved on 09/12/17)

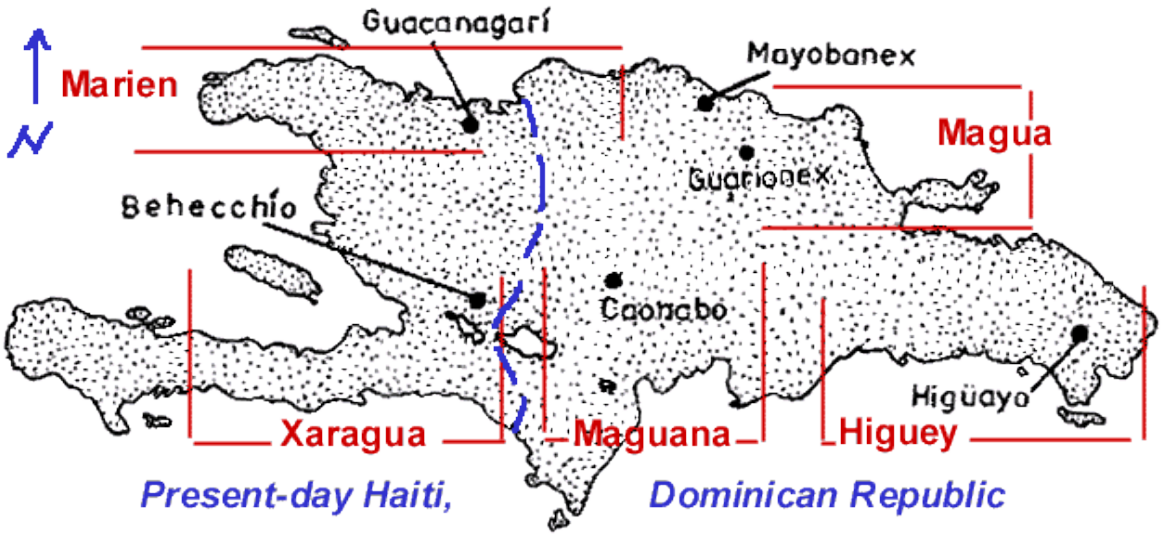
Multilingualism is the use of two or more languages, either by an individual speaker or by a community of speakers. It is believed that multilingual speakers outnumber monolingual speakers in the world's population. More than half of all Europeans claim to speak at least one other language in addition to their mother tongue. Multilingualism is becoming a social phenomenon governed by the needs of globalization and cultural openness. Owing to the ease of access to information facilitated by the Internet, individuals' exposure to multiple languages is becoming increasingly frequent, thereby promoting a need to acquire additional languages. People who speak several languages are also called polyglots.

Multilingual speakers have acquired and maintained at least one language during childhood, the so-called first language (L1). The first language (sometimes also referred to as the mother tongue) is acquired without formal education, by

mechanisms heavily disputed. Children acquiring two languages in this way are called bilinguals:

They are called simultaneous bilinguals. Even in the case of simultaneous bilinguals, one language usually dominates the other. People who know more than one language have been reported to be more adept at language learning People who know more than one language have been reported to be more adept at language learning compared to monolinguals. Additionally, bilinguals often have important economic advantages over monolingual individuals as bilingual people are able to carry out duties that monolinguals cannot, such as interacting with customers who only speak a minority language.

Multilingualism in computing can be considered part of a continuum between internationalization and localization. Due to the status of English in computing, software development nearly always uses it (but see also Non-English-based programming languages), so almost all commercial software is initially available in an English version, and multilingual versions, if any, may be produced as alternative options based on the English original.(*Document retrieved on 10/23/17)*



The Hispaniola Island has ever been since its pre-historical times, the settlement of the Tainos, Ciguayos and

Caribe people, formerly recognized groups from the trunk of the Arawak, the language they spoke before the arrivals of the Spanish Conquistadores was the Taino language, a language from which we can only trace some few remaining words, since the *Holocaus*t that followed the Discovering of the Island by Christopher Columbus in 1542, that literally swept off the aborigines' people and its culture left nothing to deal with.

Long before its foundation as an independent nation occurred on February 27, 1844, the territory that is now the Dominican Republic was occupied by Haiti for a period of 22 years, during that lapse of time there were enormous effort to unify the island of La Hispaniola according to the dogmatism of the Haitian revolution, so the Spanish language that was spoken in the east side of the island was prohibited, in an effort to try to unify the whole island. (Book Consulted of Moya, F. 1978)

Among those plans was Boyer efforts to *blacken* the whole island by bringing freed Black Americans to the Samana's Peninsula during President Lincoln administration

Boyer´s Plans to Dominate the Hispaniola Island

The migration of African Americans to other lands in search of freedom during the late eighteenth and nineteenth centuries was an expression of their belief that they would never achieve

a position of true equality in the United States. The only solution to this problem, they felt, was to establish separate, self-governing societies or nations. Though migrants found their way to Canada, Haiti, the West Indies, and Mexico, Africa was, most often, the refuge of choice. Emigration and colonization were controversial within the African-American community, and some of the consequences of these migrations were negative for the receiving populations.

Haitian leaders actively sought to attract African Americans to the island and believed they were crucial to improving Haiti's economic and political standing. African Americans became essential players in determining the nature of Haiti and U.S. relations, and the migration of thousands to Haiti in the 1820s proved to be the apogee of the two countries' Interconnectedness. Drawing on a variety of materials, including emigrant letters, diary accounts, travelers' reports, newspaper editorials, the National Archives' Passenger Lists, Haitian government proclamations, Haitian newspapers, and American, British, and French consulate records, there has been multiple analysis on the diverse political and social motivations that fueled African-American emigration.

The project links Haitian nation building and Haitian struggles for recognition to American abolitionism and commercial development. https://www.wikipedia.org/ (Document retrieved on 8/16/2017)

But one thing that undoubtedly led Boyer´s political plan to a failure was the fact that those early immigrants from the US to the Samana Peninsula did not adopted the customs and the language of their *Haitian Benefactor* and strongly stuck to the English language, the Presbyterian Religion and their customs. Language was a very determining factor for those immigrants to stay together in this new *Promised Land*. So those people did not go into the presupposed process of ¨Haitianizing¨ themselves, and becoming a dominant black force in the Spanish side of the island, on the contrary they remained as Americans living now in Samana, so the language spoken was American English or the American Dialect of the English Language as some reputed linguists prefer to say.

The republic established in the so-called *Saint Domingue Spagnol* or the Spanish Colony of the island so divided by the Aranjuez treaty (1777) re-established the *normal* course of the history and the *normal* course of the birth of a nation *in the verge*. The East side of the island like the Haitian nation on the West side was very aware of its own and differences in terms of language, race, ethnicity, religion, custom, way of being or

idiosyncrasy that set them apart as two separate colonies, and later as two separate nations.

And language was again a determining factor in that separation of the two different nations that once belonged together when the whole island was called Quisqueya, Babeque or Haiti and was inhabited by the Tainos, Ciguayos and Caribes, divided in five Cacicazgos or Aborigine's Chief Territories before the arrival of the Españoles, the African people brought as slaves to this island and who brought with them a variety of African languages and dialects as well as their cultures.

Chapter II: The Birth of a Nation

The Dominican People eventually became a truly separate people and the march of history continues its way, when the night of February 27th,1844, the Dominican Patriots organized by our Founding Fathers led by Juan Pablo Duarte, Francisco del Rosario Sanchez and Matias Ramon Mella, organized in the secret society of La Trinitaria, announced the world that a new Nation was born, under the Glorious name of The Dominican Republic. The Dominican Constitution was later promulgated on November 6, 1844. Thus, enacting the birth certificate of the Dominican Nation and of the Dominican State.

Definition of a Nation

As defined by J.V. Stalin (quoted from a Stalin's Tutorial webpage)

¨A nation is primarily a community, a definite community of people.
This community is not racial, nor is it tribal. The modern Italian nation was formed from Romans, Teutons, Etruscans, Greeks, Arabs, and so forth. The French nation was formed from Gauls, Romans, Britons, Teutons, and so on. The same must be said of the British, the Germans and others, who were formed into nations from people of diverse races and tribes.

Thus, a nation is not a racial or tribal, but a historically constituted community of people.

On the other hand, it is unquestionable that the great empires of Cyrus and Alexander could not be called nations, although they came to be constituted historically and were formed out of different tribes and races. They were not nations, but casual and loosely-connected conglomerations of groups, which

fell apart or joined together according to the victories or defeats of this or that conqueror.

Thus, a nation is not a casual or ephemeral conglomeration, but a stable community of people.

But not every stable community constitutes a nation. Austria and Russia are also stable communities, but nobody calls them nations. What distinguishes a national community from a state community? The fact, among others, that a national community is inconceivable without a common language, while a state need not have a common language. The Czech nation in Austria and the Polish in Russia would be impossible if each did not have a common language, whereas the integrity of Russia and Austria is not affected by the fact that there are a number of different languages within their borders. We are referring, of course, to the spoken languages of the people and not to the official governmental languages.

Thus, a common language is one of the characteristic features of a nation.

This, of course, does not mean that different nations always and everywhere speak different languages, or that all who speak one language necessarily constitute one nation. A common language for every nation, but not necessarily different languages for different nations! There is no nation which at one and the same time speaks several languages, but this does not mean that there cannot be two nations speaking the same language! Englishmen and Americans speak one language, but they do not constitute one nation. The same is true of the Norwegians and the Danes, the English and the Irish.

But why, for instance, do the English and the Americans not constitute one nation despite their common language?

Firstly, because they do not live together, but inhabit different territories. A nation is formed only because of lengthy and systematic intercourse, as a result of people living together generation after generation.

But people cannot live together, for lengthy periods unless they have a common territory. Englishmen and Americans originally inhabited the same territory, England, and

constituted one nation. Later, one section of the English emigrated from England to a new territory, America, and there, in the new territory, in the course of time, came to form the

new American nation. Difference of territory led to the formation of different nations.

Thus, a common territory is one of the characteristic features of a nation.

But this is not all. Common territory does not by itself create a nation. This requires, in addition, an internal economic bond to weld the various parts of the nation into a single whole. There is no such bond between England and America, and so they constitute two different nations. But the Americans themselves would not deserve to be called a nation were not the different parts of America bound together into an economic whole,

as a result of division of labor between them, the development of means of communication, and so forth¨.(Document retrieved on June/2017)

National Identity as Defined

National Identity is one's identity or sense of belonging to one state or to one. It is the sense of a nation as a cohesive whole, as represented by distinctive traditions, culture, language and politics National identity may refer to the subjective feeling one shares with a group of people about a nation, regardless of one's legal citizenship status. National identity is viewed in psychological terms as "an awareness of difference", a "feeling and recognition of 'we' and 'they'".

The expression of one's national identity seen in a positive light is patriotism which is characterized by national pride and positive emotion of love for one's country. The extreme expression of national identity is chauvinism, which refers to the firm belief in the country's superiority and extreme loyalty toward one's country.

Formation of National Identity

National identity is not an inborn trait and it is essentially socially constructed. A person's national identity results

directly from the presence of elements from the "common points" in people's daily lives: national symbols, language, colors, nation's history, blood ties, culture, music, cuisine, radio, television, and so on. Under various social influences, people

incorporate national identity into their personal identities by adopting beliefs, values, assumptions and expectations which align with one’s national identity People with identification of their nation view national beliefs and values as personally meaningful, and translate these beliefs and values into daily practices.

Conceptualization

Political scientist Rupert Emerson(19_ _) defined national identity as "a body of people who feel that they are a nation". This definition of national identity was endorsed by social psychologist, Henri Tajfel, who formulated social identity theory together with John Turner. Social identity theory adopts this definition of national identity, and suggests that the conceptualization of national identity includes both self-categorization and affect. Self-categorization refers to identifying with a nation and viewing oneself as a member of a nation. The affect part refers to the emotion a person has with this identification, such as a sense of belonging, or emotional attachment toward one's nation. The mere awareness of belonging to a certain group invokes positive emotions about the group, and leads to a tendency to act on behalf of that group, even when the other group members are sometimes personally unknown.

Self-Categorization

National identity requires the process of self-categorization and it involves both the identification of in-group (identifying with one's nation), and differentiation of out-groups (other nations). By recognizing commonalities such as having common descent and common destiny, people identify with a nation and form an in-group, and at the same time they view people that identify with a different nation as out-groups.

Social identity theory suggests a positive relationship between identification of a nation and derogation of other nations. By identifying with one's nation, people involve in intergroup comparisons, and tend to derogate out-groups. However, several studies have investigated this relationship between national

identity and derogating other countries, and found that identifying with national identity does not necessarily result in out-group derogation.

Effect

National identity, like other social identities, engenders positive emotions such as pride and love to one's nation, and feeling of obligations toward other citizens. The socialization of national identity, such as socializing national pride and a sense of the country's exceptionalism contributes to harmony among ethnic groups. For example, in the U.S, by integrating diverse ethnic groups in the overarching identity of being an American, people are united by a shared emotion of national pride and the feeling of belonging to the U.S, and thus tend to mitigate ethnic conflicts.

Salience

National identity can be most noticeable when the nation confronts external or internal enemy and natural disasters. An example of this phenomenon is the rise in patriotism and national identity in the U.S after the terrorist attacks on September 11, 2001. The identity of being an American are salient after the terrorist attacks and American national identity are evoked. Having a common threat or having a common goal unite people in a nation and enhance national identity.

Sociologist Anthony Smith argues that national identity has the feature of continuity that can transmit and persist through generations. By expressing the myths of having common descent and common destiny, people's sense of belonging to a nation is enhanced. However, national identities can disappear across time as more people live in foreign countries for a longer time, and can be challenged by supranational identities, which refers to identifying with a more inclusive, larger group that includes people from multiple nations.

National Identity as a Collective Phenomenon

National identity can be thought as a collective product. Through socialization, a system of beliefs, values, assumptions and expectations is transmitted to group members. The collective elements of national identity may include national symbols, traditions, and memories of national experiences and

achievements. These collective elements are rooted in the nation's history. Depending on how much the individual is exposed to the socialization of this system, people incorporate national identity to their personal identity to different

degrees and in different ways, and the collective elements of national identity may become important parts of individual's definition of the self and how they view the world and their own place in it.

Ethnic Identity

In countries that have multiple ethnic groups, ethnic identity and national identity may be in conflict. These conflicts are usually referred to as ethno-national conflict. One of the famous ethno-national conflicts is the struggle between the Australian government and aboriginal population in Australia. The Australian government and majority culture imposed policies and framework that supported the majority, European-based cultural values and a national language as English. The aboriginal cultures and languages were not supported by the state, and were nearly eradicated by the state during the 20th century. Because of these conflicts, aboriginal population identify less or do not identify with the national identity of being an Australian, but their ethnic identities are salient.

Immigration

As immigration increases, many countries face the challenges of constructing national identity and accommodating immigrants. Some countries are more inclusive in terms of encouraging immigrants to develop a sense of belonging to their host country. For example, Canada has the highest permanent immigration rates in the world. The Canadian government encourages immigrants to build a sense of belonging to Canada, and has fostered a more inclusive concept of national identity which includes both people born in Canada and immigrants. Some countries are less inclusive. For example, Russia has experienced two major waves of immigration influx, one in the 1990s, and the other one after 1998. Immigrants were perceived negatively by Russian population and were viewed as "unwelcome and abusive guests." Immigrants were considered outsiders and were excluded from sharing the national identity of belonging to Russia.

Globalization

As the world becomes increasingly globalized, international tourism, communication and business collaboration had increased. People around the world cross national borders more frequently to seek cultural exchange, education, business, and different lifestyles. Globalization promotes common values and experiences, and it also encourages the identification with the global community. People may adapt cosmopolitanism and view themselves as global beings, or world citizens. This trend may threaten national identity because globalization undermines the importance of being a citizen of a particular country. Several researchers examined globalization and its impact on national identity found that as a country becomes more globalized, patriotism declined, which suggests that the increase of globalization is associated with less loyalty and less willingness to fight for one's own country.

Issues

In some cases, national identity collides with a person's civil identity. For example, many Israeli Arabs associate themselves with the Arab or Palestinian nationality, while at the same time they are citizens of the state of Israel, which is in conflict with the Palestinian nationality. Taiwanese also face a conflict of national identity with civil identity as there have been movements advocating formal "Taiwan Independence" and renaming "Republic of China" to "Republic of Taiwan." Residents in Taiwan are issued national identification cards and passports under the country name "Republic of China", and a portion of them do not identify themselves with "Republic of China," but rather with "Republic of Taiwan".

Markers

National identity markers are those characteristics used to identify a person as possessing a particular national identity. These markers are not fixed but fluid, varying from culture to culture and also within a culture over time. Such markers may include common language or dialect, national dress, birthplace, family affiliation, etc.

Patriotism as Defined

Patriotism is an attachment to a homeland. This attachment can be viewed in terms of different features relating to one's own homeland, including ethnic, cultural, political or historical aspects. It encompasses a set of concepts closely related to those of nationalism. An excess of patriotism in the defense of a nation is called chauvinism; another related term is jingoism.

The English term patriot is first attested in the Elizabethan era, via Middle French from Late Latin (6th century) *patriota*, meaning "countryman", ultimately from Greek πατριώτης *(patriōtēs)*, meaning 'from the same country', from πατρίς *(patris)*, meaning 'fatherland'. The abstract noun patriotism appears in the early 18th century.

The general notion of civic virtue and group dedication has been attested in culture globally throughout the historical period. For the Enlightenment thinkers of 18th-century Europe, loyalty to the state was chiefly considered in contrast to loyalty to the Church. It was argued that clerics should not be allowed to teach in public schools since their *patrie* was heaven, so that they could not inspire love of the homeland in their students. One of the most influential proponents of this classical notion of patriotism was Jean-Jacques Rousseau.

Enlightenment thinkers also criticized what they saw as the excess of patriotism. In 1774, Samuel Johnson published *The Patriot*, a critique of what he viewed as false patriotism. On the evening of 7 April 1775, he made the famous statement, "Patriotism is the last refuge of the scoundrel." James Boswell, who reported this comment in his Life of Johnson, does not provide context for the quote, and it has therefore been argued that Johnson was in fact attacking the false use of the term "patriotism" by contemporaries such as John Stuart, 3rd Earl of Bute (the patriot-minister) and his supporters; Johnson spoke elsewhere in favor of what he considered "true" patriotism. However, there is no direct evidence to contradict the widely held belief that Johnson's famous remark was a criticism of patriotism itself. Patriotism is the will of the members of a country to support the country and help it continue.

Philosophical Issues

Patriotism may be strengthened by adherence to a national religion (a civil religion or even a theocracy). This is the opposite of the separation of church and state demanded by the Enlightenment thinkers who saw patriotism and faith as similar and opposed forces. Michael Billig and Jean Bethke Elshtain have both argued that the difference between patriotism and faith is difficult to discern and relies largely on the attitude of the one doing the labelling.

Christopher Heath Wellman, professor of philosophy at Washington University in St. Louis, describes that a popular view of the "patriotist" position is robust obligations to compatriots and only minimal Samaritan responsibilities to foreigners. Wellman calls this position "patriotist" rather than "nationalist" to single out the members of territorial, political units rather than cultural groups.

George Orwell, in his influential essay Notes on Nationalism distinguished patriotism from related concept of nationalism:

> "By 'patriotism' I mean devotion to a particular place and a particular way of life, which one believes to be the best in the world but has no wish to force upon other people. Patriotism is of its nature defensive, both militarily and culturally. Nationalism, on the other hand, is inseparable from the desire for power. The abiding purpose of every nationalist is to secure more power and more prestige, *not* for himself but for the nation or other unit in which he has chosen to sink his own individuality."

Marxism

Marxists have taken various stances regarding patriotism. On one hand, Karl Marx famously stated that "The working men have no country" and that "the supremacy of the proletariat will cause them [national differences] to vanish still faster." The same view is promoted by present-day Trotskyists such as Alan Woods, who is "in favour of tearing down all frontiers and creating a socialist world commonwealth."

On the other hand, Stalinists and Maoists are usually in favour of socialist patriotism based on the theory of socialism in one country.

Region-Specific Issues

In the European Union, thinkers such as Jürgen Habermas have advocated a "Euro-patriotism", but patriotism in Europe is usually directed at the nation-state and more often than not coincides with "Euroscepticism".

Chauvinism as Defined

Chauvinism is an exaggerated patriotism and a belligerent belief in national superiority and glory. Whereas patriotism and nationalism may represent temperate pride, chauvinism is intemperate. It can be also defined as "an irrational belief in the superiority or dominance of one's own group or people". Moreover, the chauvinist's own people are seen as unique and special while the rest of the people are considered weak or inferior.

According to legend, French soldier Nicolas Chauvin was badly wounded in the Napoleonic wars. He received a pension for his injuries, but it was not enough to live on. After Napoleon abdicated, Chauvin was a fanatical Bonapartist despite the unpopularity of this view in Bourbon Restoration France. His single-minded blind devotion to his cause, despite neglect by his faction and harassment by its enemies, started the use of the term.

Chauvinism has extended from its original use to include fanatical devotion and undue partiality to any group or cause to which one belongs, especially when such partisanship includes prejudice against or hostility toward outsiders or rival groups and persists even in the face of overwhelming opposition. This French quality finds its parallel in the British term jingoism, which has retained the meaning of *chauvinism* strictly in its original sense; that is, an attitude of belligerent nationalism.

In contemporary English, the word has come to be used in some quarters as shorthand for male chauvinism, a trend reflected in Merriam-Webster's Dictionary, which begins its third example of use of the term *chauvinism* with "an attitude that the members of your own sex are always better than those of the opposite sex".

As Nationalism

In 1945, political theorist Hannah Arendt described the concept thus:

Chauvinism is an almost natural product of the national concept in so far as it springs directly from the old idea of the "national mission." ... [A] nation's mission might be interpreted precisely as bringing its light to other, less fortunate peoples that, for whatever reason, have miraculously been left by history without a national mission. As long as this concept did not develop into the ideology of chauvinism and remained in the rather vague realm of national or even nationalistic pride, it frequently resulted in a high sense of responsibility for the welfare of backward people.

Male Chauvinism

See also: androcentrism, machismo, patriarchy, masculism, and feminism.

Male chauvinism is the belief that men are superior to women. The first documented use of the phrase "male chauvinism" is in the 1935 Clifford Odets play Till the Day I Die.

In the Workplace

The balance of the workforce changed during World War II through the dramatic rise of women’s participation as men left their positions to enlist in the military and fight in the war. After the war ended and men returned home to find jobs in the workplace, male chauvinism was on the rise, according to Cynthia B. Lloyd. Previously, men had been the main source of labour, and they expected to come back to their previous employment, but women had stepped into many of their positions to fill the void, says Lloyd.

Lloyd and Michael Korda have argued that as they integrated back into the workforce, men returned to predominantly holding positions of power, and women worked as their secretaries, usually typing dictations and answering telephone calls. This division of labor was understood and expected, and women typically felt unable to challenge their position or male superiors, argue Korda and Lloyd.

Causes

Chauvinism is seen by some as an influential factor in the TAT, a psychological personality test. Through cross-examinations, the TAT exhibits a tendency toward chauvinistic stimuli for its questions and has the "potential for unfavorable clinical evaluation" for women.

An often-cited study done in 1976 by Sherwyn Woods, Some Dynamics of Male Chauvinism, attempts to find the underlying causes of male chauvinism.

Male chauvinism was studied in the psychoanalytic therapy of 11 men. It refers to the maintenance of fixed beliefs and attitudes of male superiority, associated with overt or covert depreciation of women. Challenging chauvinist attitudes often results in anxiety or other symptoms. It is frequently not investigated in psychotherapy because it is ego-syntonic, parallels cultural attitudes, and because therapists often share similar bias or neurotic conflict. Male chauvinism was found to represent an attempt to ward off anxiety and shame arising from one or more of three main prime sources: unresolved infantile strivings and regressive wishes, hostile envy of women and power and dependency conflicts related to masculine self-esteem. Mothers were more important than fathers in the development of male chauvinism, and resolution was sometimes associated with decompensation in wives.

Female Chauvinism

See also: misandry *and* gender feminism

The term *female chauvinism* has been adopted by critics of some types or aspects of feminism; second-wave feminist Betty Friedan is a notable example. Ariel Levy(19_ _) used the term in similar, but opposite sense in her book, Female Chauvinist Pigs, in which she argues that many young women in the United States and beyond are replicating male chauvinism and older misogynist stereotypes. https://www.wikipedia.org/ (Document retrieved on 10/23/2017.)

Our Nation

With the coming of the centuries the Dominican nation was a succession of republican leaders and presidents. The Second Republic was proclaimed when in 1863 a group of patriots led by General Gregorio Luperon defeated the band of traitors led by General Santana and along with him, the Spanish Army in the War of the Restoration of our Independence.

After that historical event, a true carnival of crooked politicians ruined the country decades after decades (Santana, Baez, Salcedo, Heraux, Jimenez, Morales, Caceres, Vasquez, etc.) until the year 1916 when due to the enormous and unplayable foreign debt the United States occupied the nation with that excuse.

That first American occupation paved the way to Trujillo´s 31-year dictatorship, backed up by Washington and the conservative forces, a turning point of the relationships between Trujillo and the US, was the celebration of the treaty Trujillo-Hall by means of which the nation paid its external debt to the United States and the Dominican Customs Office was held back to Trujillo regime. It was a highlighted point of the influence of the English language as a

language of political power and prestige in this part of the island, but similar circumstances affected also Haiti.

Another current of immigrants that had important effects on the life of the Dominican nation was that of the so-called Cocolos or Black immigrants coming from the neighboring islands of Turk &Caicos and others which were British possessions, so the language they brought with them to city ports like Puerto Plata, San Pedro de Macoris and Samana was, British English or the British Dialect of the English Language, as some reputed linguist preferred to say. That added an additional linguistic curiosity; inside this little half an island the two different varieties of English were naturally spoken, besides Spanish as a national and official language with all of its regional diversity and of course, Creole was broadly spoken in the bordering cities with Haiti.

But in the year of 1938 an event that changed the not so friendly co-existence between the two nations made its mark into history. That was the murdering of thousands of Haitians living in this country, a fact that called the attention of the international community, and that trembles Trujillo´s regime and brought problems between the US and Trujillo, due to the fact that most of the Haitian citizen killed during the ***corte*** used to work for the sugar cane mills owned by American companies, So

the reaction of the liberals of Washington was felt very strong and Trujillo was forced to mount a masquerade to avoid losing the favor of the empire. Again, language played its role in determining life or death for those unfortunate people caught by Trujillo's Army when asked to pronounce the word ***perejil*** a sort of ***Shibbolet*** (West, 1975) ¨a word or phrase in one language which is difficult for nonnative speakers to pronounce, and which is therefore used as password to identify an enemy¨.

And in our case this word tragically determined the nationality of those suspected to be Haitians, due to their impossibility of French Creole speakers to pronounce it according to the standards of the Spanish phonetic rules.

After having escaped from the bad storm, Trujillo who usually presented himself as the Anti-Communism Champion of the Americas gained again the favor of Washington and continued his long and tortuous career of crimes and felonies against the Dominican people who bravely fought to overthrow that dictatorship right from the start.

The political ties or partnership between Washington and Trujillo seemed to permanently be forever, mostly after the fact of the rise of the communist leader in Cuba, Fidel Castro, so the fears of Washington with the uprising of a second Cuba, provoked a similar hysteria like that of the McCarthyism during

the beginning of the so called Cold War, right after World war II was over.

That hysteria that in the American territory had provoked the disgrace of those American citizens, mostly artists and intellectuals who were blacklisted, and publicly accused by the militant conservatism of being ´red´ found a convenient echo in our country and again the unconditional allied of the United States erected himself as Washington best friend in the whole region.

Those were the years that broadcasting American Rock and Roll music in Dominican radio station became a must, and although Trujillo himself looked with suspicion those new rhythms, the taste for them of his beloved son Ramfis, paved the way for the Americanization of the music in the country and soon we found ourselves of having Dominican Rock and Roll bands , and radio programs, and American artists like Bill Haley and his comets being invited here during the glamorous celebrations of La Voz Dominicana Anniversary Week, where Petan Trujillo one of Trujillo´s brothers who intelligently established himself in the Villa of Bonao, to set for his own feud, had initiated that radio station long before it became the first TV Station of the country, and one of the first of Americas. It was usual for

those years for the Dominican people to witness the pompous celebrations and wasting of money of the Trujillo family and their acolytes, counting among them a *squalid character* named Joaquin Balaguer who was not capable of dancing a good Dominican merengue nor having a woman with whom to marry, that Balaguer later became the inheritor of that dictatorship. It was for the desperation of the Dominican people that that carnival parade of bloodshed and robbery will never seemed to come to an end, although the end was nearest than suspected by all.

In the aftermath of the fall of many of the Latin-American dictators like Batista from Cuba, Peron from Argentina, Rojas Pinilla from Colombia or Perez from Venezuela, many of them chose Santo Domingo as their natural refuge, seeking to escape from the justice of their people and also bringing with them their fortunes, something which in many cases arose Trujillo ambition to confiscate them and that troubled their lives in this country.

But Trujillo not only allowed that kind of refugees in our country, in a magnanimous act, a *beau geste*, proper of his megalomania, he accepted the arrival of Spaniards immigrations escaping from Franco´s dictatorship and of the horror of the Spanish civil war, from Portuguese and Japanese as well, and

even negotiated the settlement of a Jewish community in the small village of Sosua, needless to say that language played its role and again, soon in Sosua the German language came in use by those refugees, since they were mostly German-Jews people. And ever since that time, German, although not spoken by Dominicans, was not a strange language in that rural section which eventually became one of the most attractive touristic destination of the island today, and a preferred spot for Europeans mostly Germans and Italians to permanently establish. A paradox of history?

Chapter III: The Legal Framework of The Dominican State and Nationality.

The Sources of Law in The Dominican Republic

1.-The Doctrine

It is understood by legal doctrine on a specific subject the set of opinions issued by experts in legal science. It is a formal source of law, has an undeniable transcendence the legal field. In the nineteenth century Savigny emphasized the importance of work and the doctrine of jurists.

The legal doctrine arises mainly from the universities, which study the law in force and interpret it within the science of law. It has no binding force, and is not recognized as an official source of law in most legal systems.

By way of facts, however, it constitutes a force of conviction for the judge, the legislator and the development of customary law, since the opinion and criticism of law theorists influences the formation of the opinion of those who, Then create new standards or apply existing standards.

The doctrine studies the springs from where the law springs: it investigates the historical role and the relations existing between the diverse sources; clarifies the meaning of the norms and elaborates, to understand in all their extension, the meaning of the judiciary models.

2.-The Constitution

A Constitution (from the Latin constitutio, -ōnis) is the fundamental law of a State, ranking higher than the rest of the laws, which defines the regime of the rights and freedoms of citizens and delimits the powers and institutions of political organization .1 It is also designated by the terms carta magna2 or fundamental law.3 As the supreme legal rule of a state of law, it establishes the origin of sovereignty in the nation or people (national sovereignty, popular sovereignty), recognizes fundamental rights (Or constitutional rights) and mechanisms of participation and political representation, establishes the form of state (in terms of its territorial organization), the form of government (or political regime) and the political system; Particularly in setting the limits and controls to which each State's powers are subject and to define its affiliations and balances (checks and balances, 4 in the classic division of powers: legislative, executive and judicial). The rule or, if applicable, the set of constitutional norms, are those that

determine the bases of the legal order; Especially the organization of public powers and their powers, the fundamentals of the economic system and social relations, the duties and rights of its citizens. (*The Dominican Constitution*, See Appendix A)

3.-The Law

The law (in Latin, lex, legis) is a legal norm dictated by the legislator, that is to say, a precept established by the competent authority, in which something is ordered or prohibited in accordance with justice whose non-compliance leads to a sanction.1 According to the Panamanian jurist Cesar Quintero, in his book Constitutional Law, the law is a "rule dictated by a public authority that orders, prohibits or permits all, and to which all owe obedience." On the other hand, the Chilean-born Venezuelan jurist Andrés Bello defined the law in Article 1 of the Civil Code of Chile as "A declaration of the sovereign will, which manifests itself in the form prescribed by the Constitution, orders, prohibits or It allows".

Laws are delimiting the free will of people within society. It can be said that the law is the external control that exists for human behavior, in short, the norms that govern our social behavior. It is one of the sources of law, currently considered the main one, which, to be issued, requires a competent authority, that is, the legislating body. (*Dominican Migration Law*, See Appendix C)

4.-The Jurisprudence

The jurisprudence is the set of constitutional rights of the magna carta of the courts on a determined subject, from which the interpretation given by the judges can be extracted to a concrete situation. It has a fundamental value as source of knowledge of the Positive law, which seeks to prevent the same legal situation from being interpreted differently by the courts; This is what is known as the unifying principle.

Jurisprudence refers to the doctrine established by the judicial organs of the State (usually the Supreme Court or Supreme Courts of Justice) which is repeated in more than one resolution. This means that in order to know the full content of the current regulations, it is necessary to consider how they have been applied in the past. In other words, jurisprudence is the understanding of legal rules based on judgments that have settled cases based on those rules. (Dominican *Jurisprudence Case of Mrs. Deguis*, See Appendix B)

Our First Written Constitution

Preamble

The first Dominican written Constitution took as model aspects of the French and American constitutions. Our constitution consists today of 120 articles.

The Dominican constitution is rigid, since the process for its modification is complicated and includes the formation of a Constituent Assembly. Our constitution has been modified in more than 100 occasions and recently the aspects that have prevailed in its modification are the electoral ones, like the presidential re-election.

The constitution of 1844 was liberal, but Santana(First Dominican President) made that it was annexed the Article 210 that radically changed its content granting full powers to the president. We can mention the constitution of Moca in 1858 as one of the most liberal and that of 1963(President Bosch) which is considered as the most democratic of the Dominican constitutions.

After organizing the Central Governmental Meeting on March 1, 1844, it adopted as constitution the Trinitarian Manifesto of January 16 of that year. In July of that same year, General Pedro Santana took over the Presidency of the Central

Governmental Board and the members of the same were attributed the quality of Deputies.

On July 24, 1844, the Central Governmental Board issued a decree, as an Electoral Law, calling on the people to elect the members of the Constituent Assembly that was to draft the new Constitution of the Republic. The days of 20 to 30 of August were designated to meet the Electoral Assemblies.

The Constitutional Congress, in addition to drafting the Fundamental Pact of the Republic, had the task of electing the first Constitutional Executive, and was to begin its work on September 20.

Once elected, constituent deputies met solemnly in the city of San Cristobal on September 21, 1844. The election of San Cristobal, some thirty kilometers from the capital, was made, according to the statement of the French consul Eustache Juchereau de Saint- Denys, in order to leave the deputies "all the freedom of opinion and action and to remove them to the pernicious influence of the spirit of party". In principle, the town of Guerra was chosen but, due to the lack of facilities, the same Constituent Congress decreed the transfer to the city of San Cristóbal. (Rosario, 2015)

The president of the Congress was elected Manuel María Valencia, Deputy for Santo Domingo, and on the 26th of the same month a commission of the Central Governmental Council, escorted by a company of dragons, went to congratulate the constituents for their installation, pronouncing with such A long speech Tomás de Bobadilla, who headed the commission.

But the formal act of presenting to the Constituent Congress a spokesman for the agency that provisionally directed the destinies of the Republic had two main objectives: one, the purpose of recognizing it or granting to the Assembly special powers proper to an ordinary National Congress, since Bobadilla's speech was in part a report of the main activities of the Executive Power during the time the Republic had been alive; And the other, to remind the constituents what the tone and compass of politics were at that moment; Whereby the speaker expressed himself in such a way that the Members could draw their own . (Rosario, 2015)

Aspects to be Highlighted from Our Constitution

1.-THE NATION AND THE GEOGRAPHICAL SPACE.
A nation, understood as a group of people who share a culture, can exercise that culture in any geographical space without losing its nationality. It is possible that during this exercise, the transported nationality (by emigration) undergoes some changes in its cultural structure, modifying the behavior of its members; Such a change can be generated by meeting other

cultural groups and assimilating some of their customs, including assimilating the group to their own nation. This cultural change directly affects the essence of the nation, being able to generate a new nationality distinct and independent from the original; Such effect has been present in every social interaction of man related to the geographical displacement of a nation, including exploration, wars, invasions or colonization, all of them have generated cultural transformations that lead to the founding of new nations.

Understand that this transformation can only happen if a large group with a national identity is displaced or relocated; An individual entity, including invested and identified with a nationality, could not impose such an effect, since its solitary state does not have a force of social force to achieve the change; On the contrary, this same geographical space / nation relationship, could achieve an inverse effect and assimilate the individual to the collective and national feeling that dominates the region. It is also possible that in the same geographic space two or several nations coexist, in that sense it is necessary that these nations share several customs in common.

2.-Nationality and the Law.

With the creation of a state by a nation, nationality acquires a legal character. To constitute a state is necessary a legal framework that regulates the operation and power that exerts to its settlers on its territory, understand its own constitution, laws and norms. The domination of the nation that generates the state exerts its force to legalize and preserve within these instruments the cultural identity of the nation, so that a state is inseparably associated with a nation (and with a cultural identity), although by fact several Cultural nations exercise life and interaction within the territory of that nation, since they are located in a geographical space.

3.-Nationality and Citizenship.

At the moment of its constitution, the generating nation adopts by right the nationality of the state to which they have formed, and generates a new concept to invest the entities that will make life within the state, with which all the inhabitants of its dominated territory can Participate and interact with each other and with the state. This concept is citizenship, is a state of law for a settler within a state, rule of law because it is regulated by a legal framework, the citizenship, endows rights and duties to a settler with whom it can participate,

within its limitations, in the public life of the state; Such rights may be those related to the benefits guaranteed by the state, as well as the delivery of a national identity document, consular assistance abroad or any other right contemplated in the state rules.
The concept of nationality must be distinguished from that of citizenship. Usually and by right, all members of a nation are citizens of their state or enjoy all their rights and are subject to their duties.

The foregoing supports the scenario that different groups of different nationalities can enjoy the benefits of citizenship of another nation, provided they comply with established legal or cultural norms. At present, it is very rare to find stateless nations, so that nationality and citizenship, and all legal concepts related to both are inseparably associated.

4.-The Right to Nationality
For the above, it must be recognized that a nationality can be adopted by way of fact by recognizing a feeling and sympathy for the nation; As well as by way of law when through an organ of the state of a nation, the legitimate right to nationality is conferred. Newborns have nationality by fact if the nation or state accept the concepts that the child of one or both parents belong to the nation, such an application is shown as a sympathy of the parents to transfer the nationality to their offspring; Likewise, the fact that a life is generated within the territory dominated by a nation or state, confers a sympathy on the part of its members to recognize the national identity of the new member that was born under its spatial control.

In another context, and if it were allowed by the norm and if the citizen of the state (who owns another nationality) manifests his will to accept it, he could acquire the nationality of the state where he normally lives. There are also other forms by law, related to marriage and adoption, all this if the state allows it.

Multiple Nationalities

The foregoing indicates that a citizen of another nationality may adopt, if his right entitles him, the nationality of the state where he is developing his life. In legal terms, it is possible that the authority requires him to resign under oath to his previous nationality, however this procedure is incomplete because it should resign formally before the consular authorities of the country or in the country of which it intends

to leave; It can also be conferred the possibility of retaining both nationalities or multiple nationalities.

6.-Active and Passive Nationality.
A citizen with one or more nationalities could only exercise one nationality at a time. Such an exercise is that of active nationality. Every legal system of any state confers upon its citizens and its nation a series of rights and duties, which must be fulfilled for the enjoyment of the benefits of nationality. Any state, does not give the citizens their rights if they have not fulfilled their duties, A citizen, could in a state be entitled to a retirement pension paid by the state, but such a right can only be surrendered if this citizen complies with his obligation to pay taxes and deductions in the state systems, which help the maintenance of the and the formation of the pension system.

In that sense, a citizen, could not simultaneously maintain two lives in two different states, which would disqualify him to fulfill his obligations and the enjoyment of his benefits. Normally, this situation is regulated by the states and is required of the fulfillment of procedures to exercise their rights that the nationality confers. Therefore, it is understood that the nationality (s) that are not exercised are passive, which are not lost but cannot be exercised. The active nationality is measured by the interrupted or consecutive residence time that sum half of days of the year plus one day, in the span of a year. Likewise, it is measured in their international travels by the passport of whose nationality they use to enter other countries.

7.-Subjects of national quality
Given the notion of nationality as the legal status of a person in the constituent population of a State, only natural persons are capable of possessing a nationality. The same would occur if nationality, as Niboyet does, is considered as a political link between an individual and a state. Meanwhile, moral persons, who are legal persons in the sense that they enjoy rights, are extended the notion of nationality. The doctrine is divided in what respects to attribute to them the notion of nationality to the moral people. As we noted, the acceptance or denial of the nationality of persons depends on the concept of nationality. However, even supporters of moral persons as subjects of nationality agree that in no way can the nationality of natural persons be fully identified with the nationality of moral persons.

There will be common features, but the differences are easily detectable.
"The word - says Batiffol referring to the nationality of the moral people - responds to a conception that is profoundly different ... the term nationality has here no more than an imaginary value.
Later we will examine the moral people, where we will expose the various criteria to determine the attribution of nationality to them.

Many authors, even those who deny nationality to moral persons, admit the widespread and entrenched thesis that attributes nationality to moral persons. "The idea of a nationality of societies is too ingrained in practice so that doctrine can impose a modification." "Positive Law," says Batiffol, "persists in an employee referring to the term nationality to moral persons - so that one can dissociate the study of them."

8.-Rules on Nationality.
Nationality is substantially regulated by the legislation of each State. This approach has been recognized as a principle in doctrine, jurisprudence and international instruments.
Article 1 of The Hague Convention of 1930 "Concerning certain questions relating to conflicts of laws on nationality" admitted that "it is for each State to determine according to its legislation who are its nationals."
The Permanent Court of International Justice, in its advisory opinions on the issue of nationality decrees in Tunisia and Morocco, and on the interpretation of the Treaty on Minorities of 28 June 1919 between Poland and the Allied Powers, confirmed the principle Alluded The same principle was repeated by the International Court of Justice in its judgment on the Nottebohm Matter of April 6, 1955. Now, to what extent does International Law bind the national legislator in his freedom to set the rules on nationality?

International jurisprudence and some international instruments have mentioned the existence of limits to that freedom, relying on "international conventions, international custom and generally recognized principles of law." However, as some authors point out, neither The Hague Convention of 1930 nor the views of the Court indicate the positive rules of International Law that would limit the freedom of States to set the rules on nationality.
The doctrine, however, does not question the competence of the State to determine by its legislation who are its nationals,

admits the existence of certain rules that the States should not ignore in the said matter.
They are generally considered by States and have been accepted in some international instruments.
The Institute of International Law pronounced in its session of Cambridge of 1895 in favor of the observance, in matter of nationality, of the following principles:
1.- No one should be without nationality.
2.- No one can have simultaneously two nationalities.
3.- Everyone must have the right to change their nationality.
4.- Renunciation pure and simple is not enough to lose it.

5.- Nationality of origin should not be transmitted indefinitely from generation to generation established abroad.

The Preamble to The Hague Convention of 1930 states that "it is in the interest of the international community to admit by all its members that every individual should have a nationality and not possess more than one."
The Universal Declaration of Human Rights of 1948, Article 15, states that "Everyone has the right to a nationality. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality."
The various authors who deal with this matter agree with the existence of these rules. Niboyet, for example, cites three fundamental rules; namely.
1) Every individual must have a nationality.
2) You must have it from birth.
3) Every individual may voluntarily change his nationality with the assent of the State concerned. "
Certainly, states in legislating generally take these rules by giving it a broadly recognized basis. However, in practice there are frequent cases of individuals without nationality and individuals possessing more than one nationality. Thus, arise the cases of stateless and dual nationality, generators of conflicts of nationalities.

9.- Systems of Acquisition of the Nationality.
A generally accepted classification of the ways of acquiring nationality is that of origin or origin and acquired.
Nationality is original when it is derived from birth, and in this case, is based on the will of the State, in other words, is forced by the imposition of legislation. It is acquired when it results from a fact of the person, in which case it is voluntary or semi-voluntary.

Legislation on acquisition of nationality can be reduced to three different systems: the system founded on Jus Sanguinis,

which is determined by filiation; The Jus Soli system, also called territoriality, because it is determined by the place of birth; And the mixed system, a combination of the enumerated systems, completing the opposite system.

10.- Original Method of Acquisition of the Nationality.

Jus Sanguinis System.
According to this system, the nationality of individuals is determined by filiation. Children have the nationality of their parents. The foundation of this system rests, first and foremost, on the biological factor, making the nationality of the child dependent on that of the father, and ignoring the place of birth. Most of the European States belong to the Jus Sanguinis system. Some countries of America have sustained this system in a certain period of its constitutional development. Thus, for example, the Mexican constitution of 1857, and that of 1917, establish that "Mexicans by birth are the children of Mexican parents, born in or outside the Republic," provided that in the latter case the parents are Mexicans by birth. From the 1933 reform to the 1917 Constitution and from the Nationality and Naturalization Act, the Jus Sanguinis system, although not eliminated in absolute terms, is combined with the Jus Soli system.

The Current Haitian Constitution Adopts the Jus Sanguinis System.
By saying in its article II that "they have the Haitian nationality of origin, every individual born of a Haitian father or a Haitian mother who, in turn, are Haitians by birth and have never renounced their nationality at the time of their birth".

-Jus Soli System.
In the Jus Soli system, the main characteristic is the determination of nationality by the place of the birth of the individual. All individuals born in the territory of a State have the nationality of the same, regardless of the nationality of their parents. Unlike the Jus Sanguinis system, whose foundation lies first and foremost in biology, it can be said that the Jus Soli system is based on a sociological law that, under the influence of the environment, links individuals through education, ideas and the customs to the country where he was born. The origins of the Jus Soli system go back to the feudal era, a system that, as A. Weiss says, "made man the slave and the inseparable accessory of his native land."

Meanwhile, the Jus Soli system has not always responded to the idea of subjecting man to the dominion of the feudal lord. The motivation or rational basis for the choice of it has been, as we shall see, different in the American States. In fact, most of them adopted the Jus Soli system, constituting the fundamental basis of their legislation on nationality, although over the years the trend of combined with Jus Sanguinis has become apparent. The Constitution of the Dominican Republic of 1907, established that they were Dominicans: 1st. All born in the territory of the Dominican Republic, "whatever the nationality of their parents." True, as we will analyze later, that same constitution contemplates an exception to that support of Jus Soil.

11.-The Naturalization,

Establishing the rule that every person has the right to adopt a nationality other than the original, must be considered naturalization as the legal acquisition of a new nationality. The basis of naturalization is the will. A will on the part of the recipient of the nationality, that is the individual who is naturalized, and on the part of the State that admits naturalization. In other words, between both entities, State and individual, there is always agreement of wills in naturalization. We see, therefore, that this modality of acquiring nationality could be adapted to the definition of the institution of nationality as a contractual juridical link between the individual and the State; Definition not appropriate when it comes to the original nationality.

The Dominican Constitution, in number 7, art. 18, says: Naturalized persons, in accordance with the conditions and formalities required by law. Naturalization can be done in various ways; Individual and voluntary; Ipso jure, that is by ministry of the law; And collectively. The most widespread form of naturalization is when it operates under the express request of the interested party. Naturalization constitutes a discretionary act of the State, which grants it in the conditions it deems appropriate. The conditions of substance and procedure for acquiring Dominican citizenship by naturalization are contemplated in Law No. 1683 on Naturalization of April 21, 1948, and the one we insert in this chapter. Dominican citizenship by naturalization is provided by the Constitution in force in paragraph 4 of the article.

12.-The Naturalization

The current Haitian Constitution provides in article 12 that "Haitian nationality can be acquired by naturalization." The same article sets certain conditions in saying that "Every foreigner after five (5) years of continuous residence in the territory the republic can obtain the nationality by naturalization, conforming to the rules established by the Law." The system of naturalization of the United States, as we warned in previous pages, preceded the system of nationality.
Until the aforementioned amendment XIX, the Congress sanctioned different laws on naturalization. The first of them dates from 1802, which establishes the conditions for obtaining it; Among other residences of five years in the North American territory. The effect of naturalization on the previous nationality is exclusively of the respective domestic law. That is to say, naturalization does not impose any obligation on the State of which the naturalized individual was originally national, either to recognize the acquisition of a nationality, or to deprive the individual of his original. However, according to the legislation of many States, a national who is naturalized in another State loses his or her previous nationality.

Article 13 of the current Haitian Constitution states that Haitian nationality is lost due to naturalization acquired in a foreign country. "The same consideration is observed in the American legislation on naturalization
La Constitución haitiana vigente contempla en su artículo 12 que "La nacionalidad haitiana puede ser adquirida por naturalización".

The scope of naturalized rights is not uniform across countries. The current Dominican constitution states that to be President or Vice President of the Republic, or Judge of the Supreme Court of Justice, it is required to be a Dominican by birth or origin. Secretaries or Undersecretaries of State, if naturalized, must have acquired naturalization ten years before obtaining the position. To be a Senator or deputy, naturalized citizens can only be ten years after they have acquired nationality.

13.-Naturalization *Ipso Jure* or by Ministry of Law
Usually occurs the phenomenon that people meeting the conditions to naturalize, for dissimilar reasons, do not come to request it. A mechanism has been implemented, let us call it a system, under which the foreigner who meets certain conditions

contemplated by law: residence time, possession of goods, marriage with a national, children born in the national territory, provision of special services; Is invested ipso jure with the nationality of the country in which it is, without requiring for its part an expression of will.

In the meantime, since naturalization is a voluntary act, so that it does not operate in a taxing way, the foreigner must make an express declaration declaring naturalization ex officio. The so-called privileged naturalization, that is, that which is granted to individuals who meet certain qualities, may be included in the category classified in this paragraph.

The Dominican Republic's Naturalization Act contemplates this form of naturalization in saying that: "Art. 18. The President of the Republic may invest by decree with the Dominican nationality, by way of privileged naturalization, to those foreigners who to his Judgment are deserving of the dispensation of the requirements ordinarily necessary to obtain the Dominican naturalization, for having rendered services to the Republic.

Art. 19.- Foreigners who thus obtain Dominican nationality, do not need to fill any requirements or comply with any formality so that the corresponding decree is enforceable

14.-Collective Naturalization
It is usually included in this category that naturalization that extends to a collectivity of individuals. Among the examples inserted here are naturalization in case of annexation or territorial cession and family naturalization. We will not analyze the first case because we consider that the annexation is an institution contrary to contemporary International Law and also because in case of voluntary assignment of territory the eventual change of nationality would rather fit the notion of option. In relation to family naturalization is specifically thought in the case when the head of the father or mother family obtains naturalization, it extends to their children.
The Dominican Law on Naturalization, for example, states in its article 4 that "children under the age of eighteen, unmarried, legitimate, legitimized or recognized natural, acquire full rights for the naturalization of their father, Dominican nationality, and for one year, Of resignations to it, declaring by act drafted by a public official sent to the Executive Power, who wish to have their nationality of origin.

Paragraph. The same effects produce the naturalization of the mother when there is no father, or when, in existence, the mother has custody of her children.

15.-Nationality Acquired by Marriage.
The acquisition of nationality by marriage is considered by some authors as semi-voluntary, given that it is the result of a legal fact alien to the purpose of this acquisition. Hence, the personal application requirements and other background and procedural conditions established in ordinary naturalization are not always necessary. We cannot speak of a uniform system in this way of acquiring nationality. It has been observed that there are countries that in their civil legislation maintain the original nationality of the married national woman. Others adopt an inverse criterion, attributing to the national woman the nationality of her foreign husband.
Other legislation makes the nationality of the married woman dependent on the fact of the domicile. The latter has the nationality of her foreign husband if both are domiciled outside the national territory. He does not have it, if he domiciles in it. There are legislations that contemplate granting the married national woman the nationality of her husband only when, according to the law of the latter, the wife must acquire her nationality. On the other hand, other laws adopt a contrary rule in the sense that it is the husband who acquires the nationality of the woman.

The change of nationality of the wife in the wake of her marriage is admitted in many legislations. This change is sometimes subject to certain conditions, such as the change of domicile, the will of the married woman to legislative provisions corresponding to the husband's legislation. Thus, for example, the foreigner acquires by marriage the nationality of the husband, but a woman married to a foreigner does not lose her nationality of origin, if she does not acquire the nationality of the husband. The latter is the spirit of some international conventions.

The Dominican Constitution in its article 18, number 5, says: Those who marry a Dominican or Dominican, as long as they choose the nationality of their spouse and meet the requirements. This last provision is also contemplated in article 12 of the Civil Code of the Dominican Republic. The nationality acquired by the wife or the husband under marriage may have effect only with respect to the spouse, and not with respect to the children. It is not possible therefore the naturalization called collective

of the family by change of the nationality of the woman or the husband.

16.-Nationality Acquired by Option.
The option or voluntary choice of nationality is the way of acquiring the nationality that is presented in the cases in which an individual with the right to more than one, can choose between them. The option has its nature in the benefit granted by a law to the individual empowering him to make discretionary use of it. It is a corollary of the principle of respect for individual freedom.
There are several circumstances when individuals can opt for a nationality. We will expose the best known:
-Many are the known cases of territorial modifications of the States. As a result of the transfer of territory from one State to another State, by virtue of an assignment, the nationality of its inhabitants is affected. In such circumstances, each individual who is a national of the State transferring the territory, or State, may acquire the nationality of the State to which the said territory passes, or retain its original nationality.
-Document, practice and international instruments have recognized this faculty of choice in favor of the national persons of the transferor. In America, for example, in the peace treaties of 1822 between Colombia and Peru, between Chile and Peru, in 1883, which deal with this matter of cession and territory, contemplate the option.
-The Treaties of Versailles of 1919 "of Paris of 1947, also treat the option for territorial changes.

In the cases of the children of foreign born nationals who are granted the original nationality based on the Jus sanguinis system and possess the nationality of the State where they were born. The constitution of many American countries enshrines the principle of choice for these children of national parents.

The current Dominican constitution, in its article 18 subsection 4, already cited in this chapter, also recognizes the right of option for the children of Dominican parents born abroad. That is, there are laws that make the change of nationality of the married woman depend on a manifestation of her will. The paragraph of article 18, paragraph 7 of the current Dominican Constitution, already cited, can be interpreted as an example of an option in the case of marriage.

17.-Double Nationality.
Although the principle or rule that states "No one can simultaneously have two nationalities" has a broadly recognized legal basis, no less true, as we pointed out in this chapter, that in practice there are frequent cases of individuals possessing more than A nationality.
According to Art. 20 on Double nationality, of our present constitution, it says: Dominicans and Dominicans are recognized the power to acquire a foreign nationality. The acquisition of another nationality does not imply the loss of the Dominican.
The causes that generate this phenomenon are varied; Some are implicit in the diversity of nationality systems. We have seen that the acquisition of the nationality of origin is governed by the Jus Soli, Jus Sanguinis and the Mixed systems. A child may have two nationalities at the same time when he is born in the territory of a State where Jus Soli is governed and whose parents are nationals of another State applying Jus Sanguinis. Dual citizenship can also occur in cases of naturalization.

We note here that the effect of naturalization on the former nationality is exclusively of the respective domestic law; In the sense that it does not oblige the State of which the individual was originally a national, or to recognize the acquisition of the new nationality or to deprive it of its original. Thus, a naturalized person who has not been deprived of his nationality of origin, would have dual nationality. The same would occur if, by the effect of marriage, a woman automatically acquires the nationality of her husband and, at the same time, can retain the original nationality of her husband.

The current Haitian Constitution also states in article 15 that: "Dual Haitian and foreign nationality is not admitted in any case." Several American constitutions also expressly state that naturalization in a foreign country entails the loss of nationality.
In Private International Law, this phenomenon raises the question of determining the applicable law as to its status and capacity. Diplomatic protection is also an example of a disturbance of nationality.

International Conventions Proposed to Address Cases of Dual Nationality. These agreements include those that seek to attenuate some effects of the phenomenon of dual nationality. Thus, there are bilateral agreements, which, based on the so-called principle of effective nationality, deal with the question of military obligations.

18.-Stateless People(*Apatridas*).
One of the relevant principles applied to the institution of nationality is that no one should be without nationality; Principle to which we allude at the beginning of this chapter. Meanwhile, the practice reveals, as it happens with other principles analyzed here, the vulnerability of the same. That is to say, they have been frequenting the cases of people lacking nationality, generating the phenomenon denominated stateless, apoloides or heimtloses.
Stateless status is very uncomfortable because it depends on the laws of the state where you live, but does not enjoy any political right, has no right to protection and can be expelled from any country. In the current state of the international community, the circumstances generating this phenomenon and the remedies to be overcome are diverse. We will cite some of these circumstances:
(A) A child is born in the territory of a State which implements the Jus sanguinis system and its parents come from a State of the Jus soli system and whose legislation does not admit the transfer of nationality in those circumstances.
B) Children of stateless parents born in the territory of a State governed by Jus sanguinis.
(C) A married woman from a State who attributes to the national woman the nationality of her foreign husband, and the State from which the latter is born is not automatically granted.
D) A person renounces his nationality without automatically implying the acquisition of another.
(E) Persons who incur in some of the causes of their loss of nationality (such as the residence abroad of a naturalized person, etc.) in their State of nationality.

It is possible to list other known circumstances in modern history. Some of the causes listed here have been sought remedy both in the national laws of some States and in international conventions.

19.- Nationality in Dominican Law.
In Dominican Law, we can find three categories of legal rules applicable to the institution of nationality.
A) Constitutional legal norms.
B) Ordinary Legal Norms.
C) International treaties.
Article 18.- Nationality, of the current constitution tells us.
- They are Dominican and Dominican:
1) The sons and daughters of a Dominican mother or father;

2) Those who enjoy Dominican nationality before the entry into force of this Constitution;
3) Persons born in national territory, with the exception of the sons and daughters of foreigners who are members of diplomatic and consular legations, foreigners who are in transit or who reside illegally in Dominican territory. Any person in transit is considered to be any foreigner or foreigner defined as such in Dominican law;
4) Those born abroad, of a Dominican father or mother, despite having acquired, by the place of birth, a nationality other than that of their parents. Once they reach the age of eighteen, they may express their will, before the competent authority, to assume dual nationality or to renounce one of them;
5) Those who marry a Dominican or Dominican, as long as they choose the nationality of their spouse and comply with the requirements established by law;
6) The direct descendants of Dominicans residing abroad;
7) Naturalized persons, in accordance with the conditions and formalities required by law.
Paragraph - The public powers will apply special policies to conserve and strengthen the ties of the Dominican Nation with its nationals abroad, with the essential goal of achieving greater integration.
Limitations on naturalized persons.
But according to Article 20.- Double nationality. Dominicans and Dominicans are recognized as having the power to acquire a foreign nationality. The acquisition of another nationality does not imply the loss of the Dominican.
Paragraph. - Dominicans and Dominicans who adopt another nationality, by voluntary act or place of birth, may aspire to the presidency and vice presidency of the Republic, if they renounce the acquired nationality ten years before the election and reside In the country during the ten years prior to the position. However, they may hold other elective, ministerial or diplomatic representations of the country abroad and in international organizations, without renouncing acquired nationality.

According to article No. 15 of the Universal Declaration of Human Rights, it says: 1st. Everyone has a right to citizenship. 2nd. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

20.- Constitutional Legal Rules.
In the Dominican Republic, as we have seen, nationality has always been embedded in constitutional texts. The current constitution, in CHAPTER V, OF THE POPULATION, SECTION I, OF

NATIONALITY, specifically in Article 18. It says: Nationality. They are Dominicans and Dominicans:
1) The sons and daughters of a Dominican mother or father;
2) Those who enjoy Dominican nationality before the entry into force of this Constitution;
3) Persons born in national territory, with the exception of the sons and daughters of foreigners who are members of diplomatic and consular legations, foreigners who are in transit or who reside illegally in Dominican territory. Any person in transit is considered to be any foreigner or foreigner defined as such in Dominican law;
4) Those born abroad, of a Dominican father or mother, despite having acquired, by the place of birth, a nationality other than that of their parents. Once they reach the age of eighteen, they may express their will, before the competent authority, to assume dual nationality or
To give up one of them;
5) Those who marry a Dominican or Dominican, as long as they choose the nationality of their spouse and comply with the requirements established by law;

6) The direct descendants of

7) Naturalized persons, in accordance with the conditions and formalities required by law.
Paragraph - The public powers will apply special policies to conserve and strengthen the ties of the Dominican Nation with its nationals abroad, with the essential goal of achieving greater integration.
These provisions of the Constitutional text outline the general guidelines that will guide the ordinary legislation. This text covers or relates to the acquisition of nationality by birth, by naturalization, by choice, the situation of foreign women married to Dominican, loss and recovery of nationality. In paragraph I, concerning nationality by birth, the jus soli ample is sustained. The only exception is the sons and daughters of

Foreigners belonging to diplomatic and consular legations, foreigners who are in transit or who reside illegally in Dominican territory. Any person in transit is considered to be any foreigner or foreigner defined as such in Dominican law. Established in number 3, of the same article.

21.-Ordinary Legal Rules.
The current civil code of the Dominican Republic regulates, among other things, chapters I and II, the matter related to nationality. Article 9 in its first paragraph and Article 10

refer to the acquisition of nationality by birth. Let us see:
"Art. 9. They are Dominicans: First: All persons who were born or born in the territory of the Republic, regardless of the nationality of their parents, for the purposes of this provision shall not be considered as born in the territory Of the Republic the legitimate children of the foreigners residing therein in representation or service of the country. "
Art. 10. The children of Dominican parents who have been born in another territory, will be Dominicans, if they live and will be domiciled in the country. 9 of the code, although it does not contradict the provision of art. 1 of the constitution in its section, does not exclude in its extension of the jus soli persons who are in transit in the national territory, as contemplated in Article 11 of the Dominican Constitution in force. Article 10, in turn, adopts the jus sanguinis conditioning only the domicile of the children of Dominican parents in the country. Or specifies other conditions as the constitution does in its third section of the article. The second, third and fourth paragraphs of Article 9 of the Dominican Civil Code deal with naturalization. They say like this: Second. All the children of the Spanish American Republics, and those of the old Spanish neighbors who want to enjoy this quality, after having lived for a year in the territory of the Republic. "
Third. All naturalized according to the laws. "

Fourth. All foreigners of any friendly nation, whenever they establish their domicile in the territory of the Republic, declare that to be enjoy this quality, have two years of residence at least, expressly renounce their His nationality before whom is of right. "
Article 12 of the Code contemplates the situation of foreign women married to Dominican citizens; The content of this article does not differ from the text inserted in the third paragraph of section 4 of article 11 of the Dominican Constitution and which says: "A foreign woman who marries a Dominican shall continue her husband's condition, unless her National law allows him to retain his nationality, in which case he will have the power to declare in the marriage certificate that he declares Dominican nationality. "
This provision, which constitutes an innovation in the constitutional text, has been the object of observation by some Dominican analysts, especially in the light of the Convention on the Nationality of Married Women, of which the Dominican Republic is a party. The observation goes in the sense that this provision of the constitutional text and the Civil Code violates the principle of free will of changes of nationality.

Article 19, provided for in Chapter II of the Civil Code, which deals with the situation of married Dominican women, tells us: The Dominican woman who marries a foreigner and wishes to acquire the nationality of her husband, provided that the law of the country of his / her permission, expressly declare his / her will, recording it in the marriage certificate. If you wish to acquire the nationality of your husband after the marriage, you must do so by naturalization. Paragraph. When naturalization is inoperative because the husband's personal laws impose on him his nationality, it will be necessary that he makes a declaration to the Secretary of State of the Interior, opting for the nationality and his husband.

The same Law 1683, of April 21, 1948, with some modifications that was introduced, is the current law on naturalization in the Dominican Republic. It contains the conditions of substance and procedure to obtain it, as well as the various kinds of naturalization.

22.- Individual Ordinary Naturalization.
FUND CONDITIONS:
The art. 1 of Act No. 1683, as amended by Law No. 4063, of May 6, 1955, establishes that Dominican citizenship may be acquired by naturalization any foreigner who is of legal age who meets certain of the following requirements:
A) That he has obtained a fixation of domicile in the Republic in accordance with article 13 of the Civil Code, six months after the granting of the domicile.
B) That justifies an uninterrupted residence of at least two years in the Republic.
C) To justify at least six months of uninterrupted residence in the country, whether it has founded and sustained urban and rural industries, or if it owns real property residing in the Republic.
D) That he has lived without interruption in the country for six months or more, if he has married a Dominican, and is married to her at the time of requesting naturalization.
E) That the Executive has the concession of the domicile in accordance with article 18 of the Civil Code, having at least three months of the concession, provided that it justifies in cultivation a parcel of land of not less than 30 hectares.
In relation to the provisions of subsection (b), the law states in paragraph 1 that "Interruptions of residence for foreign travel of not more than one year, with intent to return shall be computed at the residence in the country. A residence of not

more than one year abroad may also be computed if it has been on a mission or function conferred by the Dominican Government. "

In the case of a foreign woman married to a Dominican, the residence requirement and other conditions referred to in article 1 also have no application, since according to the provisions of said paragraph II, the Executive Power is empowered to grant Dominican naturalization to the persons of that situation outside the aforementioned requirements and conditions.

23.- Ordinary Naturalization Procedures.
In article 6 amended by Law No. 4063 of March 6, 1965, the following procedural conditions are established:
Art. 6. Naturalization will be requested to the Executive Power through the Secretary of State of the Interior, and the following documents must be annexed to the request:
a) A certificate of non-delinquency issued by the Public Prosecutor of the corresponding Judicial District;
b) The birth certificate, with the official translation, if not written in Spanish. In the absence of the birth certificate, because of a material impossibility to obtain it, a special act drawn up before the justice of the peace, signed by three persons of legal age, can be accepted as equivalent, attesting that they know the applicant, his nationality and age approximate the interested party. Paragraph 1. If the person concerned has a nationality other than his / her nationality of origin, the application must be accompanied by a summary record of this circumstance.
Art. 7. Although all the requirements and conditions required by this law have been fulfilled, the Executive Power may refrain from granting naturalization when it deems it convenient, it being understood that this power does not pray with the reacquisition of nationality in the case envisaged below. As can be seen in this article. 7, this is an exclusive power of the Executive, a discretionary act of his.
Art. 8. If naturalization is granted, the decree will be published in the Official Gazette, as soon as the corresponding publication right is paid.

Art. 9. The decree is published in the Official Gazette, the president of the Administrative Council, if the interested party lives in the National District, or the Civil Governor, if he lives in a province, and will give oath to the naturalized to be faithful to the Republic, and shall deliver to the interested

party a copy certified by the acting official and the secretary, a copy that must be attached and stamped a portrait of the naturalized and the members of his family who have naturalized with him, as the case may be,
Art. 10. The Secretary of State for the Interior and Foreign Relations shall keep records of all decrees issued pursuant to this law.
Article 11. The certified copy and the corresponding oath, provided for in Article 9, shall be recorded, a certified copy of which shall be sent to the Secretary of State for the Interior and Foreign Affairs for the corresponding file.
The oath must be applied in the Official Gazette, sent by the Secretary of State of the Interior. The publication shall be subject to payment of the corresponding fee. The Law on naturalization establishes in its article 27 the taxes to be paid by the person applying for naturalization. Although this law does not specify 10, foreigners who apply for Dominican naturalization must accompany such request for a Certificate from the General Directorate of Migration, stating the renewal of the residence permit of the interested party, dates of entries and exits of the country.
2.9.-ORDINARY FAMILIAR NATURALIZATION

CONDITIONS OF FUND.
Articles 3 and 4 of the Dominican Law on Naturalization deals with the direct effects or the implications as regards facilities granted to the members of a family when the foreigner, being married and father of family, is naturalized Dominican. Let's see:
Art. 3. A woman married to a foreigner who naturalizes the Dominican Republic may obtain naturalization without any condition of permanence in the country, provided that she requests it jointly with her husband and is in the Republic at the time of her request.
Subsequent to the naturalization of the husband, she may naturalize without being subject to any condition, provided she resides in the country when making the request and is duly authorized by him; this authorization will not be necessary if, when applying for a woman, naturalization justifies in her instance that her national law does not require marital authorization to obtain another nationality. In both cases, the corresponding rights must be paid.
Paragraph I. Children over eighteen years of naturalization can obtain their naturalization, with only one year of residence in the country, if requested together with their mother.

Art. 4. Children under the age of eighteen, unmarried, legitimate, legitimized or recognized natural, acquire by right of naturalization of their father the Dominican nationality; but they will have the right, when they reach the age of majority, and for a year, to resign, declaring by act drafted by a public official sent to the Executive Power, who wish to have their nationality of origin. A notice of this declaration will be published in the Official Gazette and a case will be made in the records provided below.
Paragraph. The same effects produce the naturalization of the mother when the father does not exist, or when the mother has the custody of her children. Finally, with regard to the background conditions, established by the aforementioned Law 1683, article 5 raises an exception; states: Art. 5. It will not be necessary for the majority of twenty-one years to apply for naturalization when married, or when the petitioner is over 18 years of age, is authorized by his parents, and in the absence of these, by persons having their legal representation.

24.-Naturalization of Immigrants.
Articles 13 and 14 of the Naturalization Act establish the respective substantive and procedural conditions for this type of naturalization. Article 16 emphasizes the conditional nature of the same subject to certain conditions, and in turn indicates the causes that could lead to its revocation. Finally, a paragraph is inserted that specifies in what circumstances the naturalization will become definitive. Let's see:
Art. 13. Foreigners over the age of twenty-one who come to the Republic to engage in agriculture or other productive activity in the agricultural colonies of the State, through special agreements that regulate and guarantee their behavior, and which are established as settlers, may Shall be granted the benefit of naturalization, subject to the formalities, conditions and restrictions established in this law.

Art. 14. In this case, the application must be accompanied by a certificate issued by the Administrator of the colony in which the applicant is established, signed by the Secretary of State for Agriculture, stating that the applicant belongs to said colony and Which observes good behavior.

Art. 15. The provisions of articles 3,4,5,6,7,8,9 shall apply to this kind of naturalization, as well as to the wife and children of foreigners established in the agricultural colonies of the State., 10, 11 and 12 of this law.
Art. 16. The naturalization granted in accordance with this chapter is essentially subject to the condition that the

naturalized person observes good conduct in compliance with and compliance with the constitution and laws of the Republic, refraining from any illegal activity and acts contrary to and hostile to Government of the Republic or to friendly foreign governments, and dedicating itself to the tasks for which it has been admitted in the country.
Consequently, naturalization may be revoked when the naturalized becomes an author or accomplice of crime or crime; When it is delivered to propaganda or acts contrary and hostile to the government of the Republic or to friendly foreign governments; And when he fails to fulfill his obligations as a settler.

Art. 17. The revocation of naturalization will be dictated by decree, in which the causes of the revocation will be summarily indicated

25.-Priviledge Naturalization.
Law 1683 on naturalization, contemplates favoring with a simpler and expeditious procedure all those foreign individuals who, in the judgment of the President of the Republic, deserve this privilege for having rendered outstanding services to the Republic. Articles 18 and 19 of the aforementioned law refer to that discretion of the executive regarding the persons who are in possession of the qualities discussed, as well as to the exemption of the necessary requirements and formalities.
Articles 20 and 21 deals with the limit for each year of that concession, and the possibility of revocation of privileged naturalization. Let's see:
Art. 18. The President of the Republic may invest by decree with the Dominican nationality, by way of privileged naturalization to those foreigners who in his judgment are deserving of the exemption of the requirements ordinarily necessary to obtain the Dominican naturalization, for having rendered services Eminent to the Republic or distinguished by outstanding services rendered to humanity.
Article 19. Foreigners who thus obtain Dominican nationality will not need to fill any requirements or comply with any formality so that the corresponding decree is enforceable.
Paragraph. The publication of the decree will be based on the records provided for in article 10 of this law.
Art. 20. Naturalization in this case cannot be granted to more than five people for each calendar year.
Article 21. Decrees granting privileged nationality in accordance with this law or with the previous law on this subject may be revoked by the President of the Republic, ceasing completely in its effects, when the persons in favor of which

Have been issued commit acts of ingratitude or indignity towards the Republic or its institutions.

Paragraph. The revocation shall be recorded in the records provided for.

26.- International Treaties Subscribed by the Dominican Republic on Nationality.
Among the Conventions subscribed by the Dominican Republic on nationality counts the Montevideo Convention on Nationality; Of December 28, 1933. From the reading of its operative part article Iro to 6to it is clear that the basic purpose of this international instrument was to avoid double nationality. Let's see:
"Art.1 Naturalization before the competent authorities of any of the signatory countries implies the loss of the original nationality."
Art. "Through the diplomatic channel will be given knowledge of the naturalization of the State of which the naturalized person is a national."
Art. In the case of a transfer of a portion of territory from one of the signatory States to another of them, the inhabitants of the transferred territory shall not be considered as nationals of the State to which it is transferred, unless they expressly choose to change their territory. Original nationality. "
Art. 5. Naturalization confers the nationality only to the naturalized person and the loss of the nationality, in any way that happens affects only the person who has lost it.

In 1963 the Convention on Consular Relations was signed in Vienna. At the same time, the Optional Protocol on the Acquisition of Nationality is inserted. The Dominican Republic ratified the instrument on February 19, 1964 and is published in the Official Gazette No. 9271 of August 5, 1972. The abovementioned optional protocol seeks, as expressed in its preamble, "to establish among them rules on the acquisition of Nationality by the members of their diplomatic missions and of the families forming part of their respective houses. "

Article 1 specifies the meaning of the term "members of the mission", stating that: "For the purposes of this Protocol, the term" members of the mission "shall have the meaning indicated in article 1 (b) of Convention, that is, "the head of the mission and the members of the mission staff".

The fundamental objective of this instrument is centered on article n which reads as follows: "Members of the mission who are not nationals of the receiving State and members of their families forming part of their household do not acquire the nationality of that State by the Only made of its legislation. " This formula fully agrees with the provisions of the Dominican Constitution, which exempts the application of jus soli to the children of foreigners residing in the country in diplomatic representation. The Convention on the Nationality of Married Women, approved by the Dominican Congress on August 28, 1957 and published in the Official Gazette No. 8159 of August 31, 1957, was celebrated in February 1957. Articles 1, 2 and 3 establishes the objective of the Convention.

Art. L. The Contracting States agree that neither the conclusion nor dissolution of marriage between nationals and aliens nor the change of nationality of husband during marriage may automatically affect the nationality of the woman.

Article 2. The Contracting States agree that the fact that one of the nationals voluntarily acquires the nationality of another State or that which renounces its nationality shall not prevent the spouse from retaining the nationality which he possesses.

Article 3. The Contracting States agree that a foreign woman married to one of her nationals may, at her request, acquire the nationality of the husband through a special procedure of privileged naturalization, subject to limitations that may be imposed for reasons of Security and public interest. The Contracting States agree that this Convention shall not be construed as affecting legislation or judicial practice which would enable foreign women of one of their nationals to acquire the nationality of the husband, if he so requests.

On March 15, 1968 was signed the Agreement of Dual Nationality between the Dominican Republic and Spain. The same was approved by the Dominican Congress on October 22 of the same year and published in Official Gazette No. 9105 dated October 23, 1968. Article 1 states: "Spaniards and Dominicans may acquire Dominican or Spanish nationality, in accordance with the conditions and in the manner established by the legislation in force in each of the contracting parties, without thereby losing their previous nationality. The drafting of this text shows that the beneficiaries of the agreement are the Spaniards and the Dominicans, regardless of the way in which they have acquired the respective nationality, that is to say both. Of origin, as derived or by naturalization.

Some agreements of this nature have specified that the beneficiaries are only the national of origin. It is required, according to the agreement to be eligible for it, the acquisition of Dominican or Spanish nationality by naturalization. Each of these countries provides in their respective legislation the substantive and procedural conditions for granting naturalization.
Article 2 states: "Dominicans who have acquired Spanish nationality and Spaniards who have acquired Dominican nationality in accordance with the preceding article shall be entered in the records determined by the nation where the new nationality is acquired.

The said registrations shall be communicated to the other Contracting Party through diplomatic or consular channels, in accordance with the procedures established by Article 5. From the date of registration, Dominicans in Spain and Spaniards In the Dominican Republic, shall enjoy the full legal status of nationals, as provided for in this Convention and in the laws of both countries. It can be observed that these provisions seek to establish a control of the situation of the beneficiaries of the Convention, as regards their nationality, change and loss of the same. As regards the latter, it is intended that, should the beneficiary lose the new nationality, his country of origin may grant him the rights inherent in his original with a view to preventing
it from becoming stateless.
Article 3. "For the persons referred to in the preceding article, the granting of passports, diplomatic protection and the exercise of civil and political rights shall be governed by the laws of the country, which grants the new nationality, from the Date on which the inscriptions have been made.
Labor and social security rights shall be governed by the law of the place where the work is performed. The nationals of both contracting parties to whom this Convention refers shall under no circumstances be subject to the laws of both countries, as nationals of the same, but only to the legislation of the country which has granted the new nationality.
The same legislation will regulate the fulfillment of military obligations, being understood as already fulfilled if they had been satisfied, or were not demanded such obligations, in the country of origin.

The exercise of civil and political rights, regulated by the laws of the country granting the new nationality, cannot be carried out in the country of origin if this entails the violation of its rules of public order. In the paragraph of this

article 3 regarding the military obligations, the expression is used by the same legislation, being understood like sizes laws of the State that has granted the new nationality.
In the present state, military service is not required in the Dominican Republic. Act No. 5564 of 196110 abolished, having been established in 1947 by Act No. 1520. This implies that the Dominican who obtains Spanish nationality, in accordance with the provisions of Article 3 of the agreement, is exempt from complying with The Spanish military obligations, since this is not required in the Dominican Republic country of origin.
The provisions referred to in article 3 are quite explicit when referring to the exercise of civil and political rights, in the sense that these will be governed by the laws of the country granting the new nationality.
As noted earlier, Dominican laws establish restrictions on the access of certain public offices to naturalized persons. The same is provided for by Spanish legislation. Under the precept that labor laws are territorial, Article 3 takes stock of it when referring to the exercise of labor rights.
With regard to obtaining the passport as proof of nationality abroad, the beneficiary of the agreement will carry the passport corresponding to the country of the new nationality, the latter also corresponds to the exercise of the right of diplomatic protection.

It is not possible, for example, to claim that a Dominican who, by virtue of the agreement, obtains Spanish nationality and is in a third country enjoying the diplomatic protection of the Spanish State and the Dominican State. It would enjoy only in the case cited, the diplomatic protection of the Spanish State.

Art. 4. "Dominicans who are naturalized Spaniards and Spaniards who naturalize Dominicans under this agreement, who establish habitual residence again in their country of origin and wish to recover in it, and in accordance with their laws, the exercise of the rights and duties specified in article 3, must be submitted and submitted to the relevant provisions in the Dominican Republic and Spain.
The change referred to in the previous paragraph shall be registered in the same registers referred to in article 2 and the registration shall also be communicated in the same way in the diplomatic representation of the other country.
If a person who enjoys dual citizenship moves his residence to the territory of a third State, he will continue to be subject to the legislation of the country that has granted the new nationality. As we observe, in the first and second paragraph of this article 4, the procedure for the reacquisition of

nationality of origin is established; By simply setting the address to the country of origin.
Art. 5. "The contracting parties undertake to communicate, through the respective embassies, within 60 days, the acquisitions and losses of nationality and the changes of domicile that have taken place in application of this agreement, as well as Acts relating to the civil status of persons benefiting from it. "
Article 6. Dominicans and Spaniards who, prior to the validity of this agreement, have acquired Spanish or Dominican nationality, may avail themselves of the benefits of this agreement and retain their nationality of origin, stating that such is "their will" Competent authorities. As long as this declaration is entered in the register, the provisions of the agreement shall apply without prejudice to rights already acquired.

Parts: 1, 2, 3.
http://www.monografias.com/trabajos91/nationalidad-republica-dominicana/nacionalidad-republica-dominicana2.shtml#ixzz4mRmDyaiR

(Document retrieved on 05/18/2017)

Chapter IV: Recent Historical Factors that Reinforced Dominican Patriotism

1.- The Invasion of June 14th, 1959

By June 14, 1959 a second military invasion of Dominicans who were trained in Cuban style *Guerra of Guerrillas* invaded the country to overthrow the dictatorship came down in three fronts: Constanza by airway, Maimon and Estero Hondo by vessels, in the bay near the Northern city of Puerto Plata.

The martyrdom and the sacrifice of those valiant Dominicans, accompanied by a scattered group of people of different nationalities, including Americans, encouraged the nation to end the dictatorship

2.- The Fall of Trujillo's Dictatorship

On the night of May 30th, 1961 Trujillo and a group of *conspirators* had a *rendezvous* with destiny when he was finally executed by a group of Dominican heroes conformed by Antonio Imbert Barreras, Luis Amiama Tio, Antonio de la Maza, Salvador Estrella Shadala, Tunti Caceres, Lieutenant Amado Garcia Guerrero, Pedro Livio Cedeno and others involved in the Conspiracy to end the ancient regime. That was undoubtedly one of the most memorable moment in recent History, and resulted in an exaltation of patriotism.

3.- The Rise of Democracy

A brilliant and popular strategy catapulted Juan Bosch to the power by gaining the first democratic election held in the country after Trujillo´s decapitation (December 1962). But our country will be soon discovering a new Bosch as president.

From the very inaugural day of his short presidential administration, Juan Bosch emerged as an atypical president; he was sworn into office in a very simple way, in an exterior esplanade where all the official guests gathered to listen to this new president speaking out of respecting the separation of powers, the reform of the political constitution to forbid reelection, the consecration of the long time announced agrarian reform to oust the poverty of our peasants, and many others political reforms which were soon to be seen with suspicion by the urban upper classes, the country side oligarchy, the high clergy of the catholic church and of course, the American embassy. But this new president was inevitable beloved by the masses, the non-conservative sectors of the population and even for some radicals, who began to discover and admire this new Bosch who brilliantly began separating himself from the traditional way of making politics in the island, from the highness of power.

4.-The Military Coup D'état against President Bosch

President Bosch was himself a victim of the system, a victim of the establishment, a victim of the Status Quo, as it was to be later President Kennedy, when assassinated in Dallas, Texas, on that fatal day of November 22nd, 1963. So those obscure, conservative forces that were in operation during the theater of the so called Cold War, found a fertile soil to plant their seeds, and Latin America, with the excuse of the anti-communism struggling, became the proper scenario for overthrowing democratic governments and installing in turn military regimes.

5.-The Revolution of April 24th, 1965

Young soldiers, led by Colonel Fernandez Dominguez, took the historic decision to distribute weapons among civilians, members of the parties of the left and the Dominican Revolutionary Party; so-called command form of military organization, typical of urban guerrillas were organized. The Civil War on April 25, 1965, was an unstoppable done. Two opposing sides, the constitutionalists, whose military objective was to destroy the old National Army, which was controlled entirely by the Trujillist military, as to the political objective is simply and restore the government of

Bosch without elections.

An interesting fact to be mentioned was the conversation by Constitutionalists military, led by Francisco Alberto Caamaño, with the American ambassador; who was asked to mediate, precisely to avoid civil war. This however, merely he tells the constitutionalists to surrender to avoid greater evils. Outraged, the military constitutionalists went immediately to the head of Duarte Bridge since CEFA troops led by Colonel Wessin y Wessin, were heading to the city center with the intention of taking it and defeat the Constitutionalists. The Duarte´s Bridge battle was one of the bloodiest scenarios, but at the end of it, the reactionary Wessin y Wessin troops were defeated and forced to retrace his steps. It was so formidable popular participation, that very soon the regular military, was virtually dismantled by the military actions of armed people. It was taken the Ozama fortress where the hated National Police was, in its version of the White Helmets (Cascos Blancos).

At the time the constitutionalists, who had already defeated in Santo Domingo to regular troops, preparing for the decisive attack of San Isidro air base where the troops of the CEFA, led by Coronel Wessin y Wessin along with Coronel Benoit, who is reputed of having asked the American Government to send

troops to the country due to the imminent defeat of their troops.

6.-The Second American Military Intervention

The Second Military American Occupation to the Dominican Republic, took place on 28 April 1965. Our country reached approximately 42,000 American soldiers. The pretext almost the same as 1916 to save American lives and protect American interests in the Dominican Republic. To others, the US government justified the military occupation, noting that it was to prevent the formation of a new Cuba in the Caribbean. American soldiers were dedicated to give logistical support and even actively participate in military skirmishes against the constitutionalist side, which from the arrival of the American troops retreated to the nearby colonial area of the capital, called New Town (Ciudad Nueva).

7.-The Generational Change in the Political Leadership

With the passing of the Balaguer's regime twelve years, a new generation of political leaders came up to power, starting with the Dominican Revolutionary Party(PRD) the old party founded by Juan Bosch and mostly with the rise to power of Dr. Leonel Fernandez (1996) catapulted by the Dominican Liberation

Party(PLD)the other party founded by Professor Bosch; a new generation of Dominicans imposed upon our society a new imprint and style in the public administration, thus, modernizing ang globalizing the Dominican’s Life.

CHAPTER V: English and Haitian Creole: Two Rejected Languages

Due to the historical facts previously enumerated it is not difficult to imagine why both languages (English and Haitian Creole) were properly or unproperly rejected by an important segment of the Dominican population, mostly public high school and college students, who were highly politicized at that time.

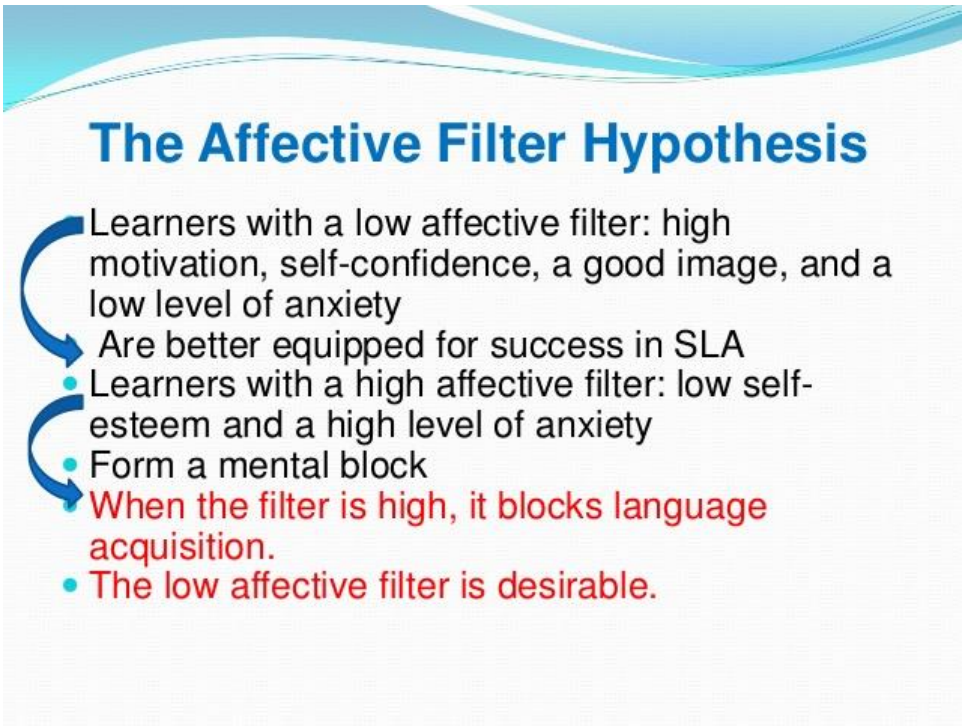
To that respect Krashen (1998) cited by Asian Social Council (2009) explains that: The Affective factors in Second Language Acquisition, are mainly four; which are responsible

for the individual variation. But he stated for explaining the complexity of the phenomena five different Hypothesis:

Krashen's Five Hypotheses

The ***Natural Order Hypothesis***	'we acquire the rules of language in a predictable order'
The ***Acquisition/ Learning Hypothesis***	'adults have two distinctive ways of developing competences in second languages .. acquisition, that is by using language for real communication ... learning .. "knowing about" language' (Krashen & Terrell 1983)
The ***Monitor Hypothesis***	'conscious learning ... can only be used as a Monitor or an editor' (Krashen & Terrell 1983)
The ***Input Hypothesis***	'humans acquire language in only one way - by understanding messages or by receiving "comprehensible input"'
The ***Affective Filter Hypothesis***	'a mental block, caused by affective factors ... that prevents input from reaching the language acquisition device' (Krashen, 1985, p.100)

Krashen´s Affective Filter Hypothesis that explain how having a negative attitude toward a nation or culture (Affective Factors) can affect a Second language learning.



Motivation: Most researchers and educators would agree that motivation "is a very important, if not the most important factor in language learning", without which even 'gifted' individuals cannot accomplish long-term goals, whatever the curricula and whoever the teacher. In terms of the definition of motivation, recent educational theory has tended toward the interpretation of Gardner (1985) defining motivation to learn an L2 as "the extent to which the individual works or strives to learn the language because of a desire to do so and the satisfaction experienced in this activity". So, the motivation of SLA refers to the desire and impetus of the acquirers. Gardner and Krashen point out that there are two motivations,

integrative one and instrumental one. With the former motivation, the L2 acquirers are interested in the target language and willing to participate in that social life. But with the latter motivation, the L2 acquirers only want to pass some examination, go overseas to study, travel or be promoted.

We can easily see that these two motivations are positive and negative to the SLA respectively.

Attitude: Collins Cobuild Student's Dictionary explains that: "Your attitude to something is the way you think and feel about it". Psychological theories on attitudes refer to an evaluative, emotional reaction (i.e. the degree of like or dislike associated with the attitudinal object) comprising three components: affect, cognition, and behavior. How attitude influences the SLA are shown as follows:

The acquirers with positive attitude tend to learn L2 easily and with rapid progress; while those with negative attitude make slowly progress.

Attitude decides the commitment. Those who give up halfway are probably passive with lower commitment whose achievements are lower than those positive and persistent learners.

Attitude influences the class participation. The students with positive learning attitude perform actively and can have high grade.

Anxiety from the SLA perspective, Gardner & MacIntyre (1993) see language anxiety as "the apprehension experienced when a situation requires the use of a second language with which the individual is not fully proficient", this apprehension being characterized by "derogatory self-related cognitions ..., feelings of apprehension, and physiological responses such as increased heart rate". There are correlations between anxiety and performance. Foreign language classroom anxiety has three types: Communication apprehension Communication apprehension (CA) has been defined as an "individual level of fear or anxiety associated with either real or anticipated communication with another person or persons". The question of communication apprehension becomes increasingly important. It is a prevalent impairing and chronic condition, and it has been one of mental health condition that afflicts L2 acquirers' achievement. General personality traits such as quietness, shyness, and reticence frequently precipitate CA. When the ability and desire to participate in discussion are present, but the process of verbalizing is inhibited, shyness or reticence is occurring. The

degree of shyness, or range of situations that it affects, varies greatly from individual to individual. About one of every five persons--20 percent of all college students--is communication apprehensive. Communication apprehensive people may not appear apprehensive unless they are engaging in a particular type of communication.

Test anxiety is a psychological condition in which a person experiences distress before, during, or after an exam or other assessment to such an extent that this anxiety causes poor performance or interferes with normal learning. Test anxiety can develop from a number of reasons. There may be some prior negative experience with test taking that serves as the activating event. Students who have experienced, or have a fear of, blanking out on tests or the inability to perform in testing situations can develop anticipatory anxiety. Worrying about how anxiety will affect you can be as debilitating as the anxiety itself.

This kind of anxiety can build as the testing situation approaches, and can interfere with the student's ability to prepare adequately. Lack of preparation is another factor that can contribute to test anxiety. Poor time management, poor study habits, and lack of organization can lead to a student feeling

overwhelmed. Students who are forced to cram at the last minute will feel less confident about the material covered than those who have been able to follow a structured plan for studying. Being able to anticipate what the exam will cover, and knowing all the information has been covered during the study sessions, can help students to enter the testing situation with a more positive attitude. Test anxiety can also develop genetically. Lack of confidence, fear of failure, and other negative thought processes may also contribute to test anxiety. The pressure to perform well on exams is a great motivator unless it is so extreme that it becomes irrational. Perfectionism and feelings of unworthiness provide unreasonable goals to achieve through testing situations. When a student's self-esteem is too closely tied to the outcome of any one academic task, the results can be devastating. In these situations, students may spend more time focusing on the negative consequences of failure, than preparing to succeed.

Fear of negative evaluation the feeling of negative evaluation accompanying anxiety is defined as being overly concerned with others' opinions, hiding from the negative feelings of their unfavorable impressions, avoiding situations where there is potential evaluation, and expecting others to

have a low opinion of them. Fear of negative evaluation occurs when L2 learners feel that they are not able to make the proper social impression. It is an apprehension about others' evaluation, avoidance of evaluative situations, and the expectation. Fear of negative evaluation itself was found to be a strong source of language anxiety.

Self-confidence L2 acquirers' personality factors relate a lot to the learning effect. Among the personality factors, self-confidence is the most important one. Those who have enough self-confidence and positive personal image succeed more. Self-confident people dare to adventure, to communicate in foreign language and can gain more. While those who lack self-confidence will lose the chances to practice their target language, for they are afraid of losing face and making mistakes.

How to make use of Affective filter hypothesis in second language teaching?

Analyze students' learning motivation, motivate them, and help them possess a positive attitude Some students have very poor performance on the L2, only because they have little or not enough motivation for it and there are mainly five reasons: 1) no interest. 2) No confidence. 3) Teacher's inappropriate

teaching method. 4) Some negative national emotions against the target language. 5) Students think it no use to learn. From the above reasons, we can see that teachers can motivate students' learning motivation. First teachers should cultivate their interest in L2, as we all know interest is the best teacher.

Teachers should introduce more diversified teaching method, use vivid and humorous language to enlighten students, create a harmonious and light atmosphere for learning, and regularly introduce some culture and background knowledge of the target language. Then more language practice is needed to inspire students' motivation, such like speaking contest, improvised speech, informal discussion with foreign language teachers, and some parties. If possible, teachers also can help Students attend some social activities where they can use their target language, through which students can know their advantages and disadvantages, can know what they can do and what they cannot do, and then can have a clear idea of the future SLA.

It is also very important to create more chances for students to practice in the classroom. Students can be encouraged to design and organize classroom activities, which can not only inspire them but also help them better understand

and consolidate what they have got and increase their efficiency. When students have both interest and motivation for the L2, they can naturally develop a positive attitude toward L2 which will help their SLA.

Boost up students learning confidence and lower their language anxiety as is talked above, self-confidence plays a very import role in SLA. The cultivation of self-confidence depends on students themselves and teachers' help as well. Teachers should let students have the feeling that they can learn a L2 well by using more encourage and praise. Classroom atmosphere is very important, which should be delighted, lively, friendly and harmonious that can help students overcome their psychological barrier, and lower their anxiety. Teachers also should tolerate some small mistakes made by students only if those mistakes do not affect the communication process, because it releases pressure and strengthen their self-confidence.

In the classroom, teachers should not only encourage students' active participation but be patient with and allow their keeping quiet. There is little use pushing or forcing them to say something they are unwilling or not ready to say. On the contrary, it can only bring more mental burden. So, teachers should teach students in accordance of their individual

variations. To be more exact, some of the factors that can reduce classroom communication apprehension include: Taking time to allow classmates to get to know each other, particularly at the beginning of the year; Creating a warm, welcoming classroom environment; Promoting group projects and group discussions; Letting shy children work with whom they feel most comfortable; Encouraging social and oral activities as opposed to just pen and paper assignments. (p 163)

Collective Consciousness

It seems to be like there is a collective consciousness that prevent a great portion of our country in accepting to learn those languages (English and Haitian Creole) after those traumatic historical experiences, to that respect some Piepmeyer (2007) warns us as follows:

The term *collective consciousness* refers to the condition of the subject within the whole of society, and how any given individual comes to view herself as a part of any given group. The term has specifically been used by social theorists/psychoanalysts like Durkheim, Althusser, and Jung to explicate how an autonomous individual comes to identify with a larger group/structure. Definitively, "collective" means "[f]formed by [a] collection of individual persons or things;

constituting a collection; gathered into one; taken as a whole; aggregate, collected" (OED). Likewise, "consciousness," (a term which is slightly more complex to define with the entirety of its implications) signifies "Joint or mutual knowledge," "Internal knowledge or conviction; knowledge as to which one has the testimony within oneself; esp. of one's own innocence, guilt, deficiencies," and "The state or fact of being mentally conscious or aware of anything" (OED). By combining the two terms, we can surmise that the phrase collective consciousness implies an internal knowing known by all, or a consciousness shared by a plurality of persons. The easiest way to think of the phrase (even with its extremely loaded historical content) is to regard it as being an idea or proclivity that we all share, whoever specifically "we" might entail.

Although history credits Émile Durkheim with the coinage of the phrase, many other theorists have engaged the notion. The term has specifically been used by social theorists like Durkheim, Althusser, and Jung to explicate how an autonomous individual comes to identify with a larger group/structure, and as such, how patterns of commonality among individuals bring legible unity to those structures. Durkheim and Althusser are concerned with the making of the subject as an aggregation of

external processes/societal conditions. Also, worth noting (though of a slightly different variety) are the writings of Vladmir Vernadsky, Katherine Hayles, and Slavoj Zizek, (specifically his pieces about cyberspace).

In his Rules of Sociological Method, Durkheim's social conscience arises from his social theory. Desperate to know what causes individuals to act in similar and predictable manners, he observes: "If I do not submit to the conventions of society, if in my dress I do not conform to the customs observed in my country and in my class, the ridicule I provoke, the social isolation in which I am kept, produce, although in an attenuated form, the same effects as punishment...." (Durkheim 3). He eventually concludes that "A social fact is to be recognized by the power of external coercion which it exercises or is capable of exercising over individuals, and the presence of this power may be recognized in its turn either by the existence of some specific sanction or by the resistance offered against every individual effort that tends to violate it" (Durkheim 8). Thus, humans come to act in certain ways via a kind of reward/punishment system enacted at the level(s) of both The State and the social spheres; subjects are trained in a kind of inward-outward movement; the individual may have certain

barbaric proclivities, but the assimilation process into the social sphere corrects those tendencies by the distribution of positive or negative reinforcements. Collective consciousness is the effect of the trained subject—through the process of becoming a subject, an individual learns to be common: to dress, speak, and act like her neighbors. The “socially conscious” subject is the legible subject, one who exists in a degree of visible sameness in relation to the other members of the group/society.

Louis Althusser, an avid Marxist, specifically concerned himself with the "making" of the individual as a process of external coercion. In his formulation, the subject is created via a top-down network of “Ideological State Apparatuses,” or ISAs, which “present themselves to the immediate observer in the form of distinct and specialized institutions” (Althusser 143). At the top of the structure is The State, which aims to control the bottom (the individual subjects) through a series of institutional mediations. ISAs present all forms of communication and information to the public. They are every imaginable institution: Education, The Media, Law, Religion, etc. These ISAs direct power onto the subject at all times, honing her from the outside into the subjective (and subjected)

body that will uphold and reproduce the power of The State. In Althusser's formulation, the inwardness of an individual member of the public is born from a lifetime bombardment of external coercion-- individuals come to fulfill certain common duties, have common aspirations, follow common life-trajectories, etc. The "consciousness" of each individual is not something which originates from a singular interior spirit, but rather is pressured into being by the external devices of the State. Thus, collective consciousness again represents the individual's relationship to a larger group or structure, but marks the sameness (the same set of ISAs applies to all subjects) among members of that group, which act to make that group a cohesive whole.

The aforementioned prescriptions of collective consciousness express the phrase as the internal representation of external conditions present in any given society. These are exerted upon the subject in a variety of ways, and then assimilated into the subject's consciousness. The idea is that the collective is a mass of like-minded persons who will (re)emerge to reproduce the production force. Thus, collective consciousness is the affect/effect upon and inside of any given public whose thoughts and actions are constantly mediated by

outside pressures.

The notion of collective consciousness also owes a tremendous amount to the emerging popularity of psychoanalysis in the 20th century. Carl Jung coined the term collective unconscious to denote the shared contexts and meanings of individual's dreams. According to Jung, there exists a pre-experiential set of "mythological motifs, combinations of ideas or images which can be found in the myths of one's own folk or in those of other races" which yield "a collective meaning, a meaning which is the common property of mankind" (Jung 322). The unconscious is the portion of the self of which the individual is unaware, yet which still exerts control over the behaviors, desires, and drives of that individual. As such, unconsciousness is never entirely divorced from the consciousness within the individual, and one necessarily informs the other. One of the main goals of psychoanalytic speech is to bring the unconscious into consciousness, so that the patient may become aware of why she behaves in certain fashions. The Jungian "collective unconscious" is important when considering its other, "collective consciousness" because it suggests an original set

of archetypes common to all members of a group, and out of which they formulate meanings, contexts, and patterns within the group. The Althusserian and psychoanalytic readings presents a more classic meaning of collective consciousness, yet its discursive qualities ring true for the ways in which we presently think of the term as a foundation of media studies. Marshall McLuhan defines media as an "extension of man," indicating that humans create the world and their tools in their image, likening technological apparatuses after their senses. Media, in the McLuhan vein, is intimately linked with the word medium, described as "Something which is intermediate between two degrees, amounts, qualities, or classes; a middle state" (OED). The internet is the ultimate medium; it provides a virtual meeting place for persons to gather and perform daily rituals of subjectivity (even at the micro-level of person to person discourse) all channeled through a technological network. Collective consciousness is a term much needed by media theorists because it postulates one, if not the, effect of media—whose broadest primary function is to carry/transmit/interpret/reify messages/information from one site to another. Having described the contemporary historical epoch as "posthuman," media theorists like Katherine Hayles strongly depend upon the notion of collective consciousness. In

a McLuhan-sequel maneuver, internet theorists mark “code” (the binary-numerical formulations which create internet-language) as direct replications of the human genome: differences are produced by slight variations on a set of simple, universal entities. In *How We Became Posthuman*, Hayles remarks that “the post human is ‘post’ not because it is necessarily unfree but because there is no a priori way to identify a self-will that can be clearly distinguished from another-will.” (Hayles 4) A coded human existence is one without the singularity of the liberal subject. Instead of a multiplicity of singular wills or a cacophony of different spirits and personalities, subjects are transcribed into codes operating via variations of ones and zeroes. Present media theorists sometimes link the notion of collective consciousness to signal the internet as a major intermediary in the creation of a truly global society. In a 1998 interview with online technology review “Telepolis,” Slavoj Zizek described the consciousness of Internet culture as “this neo-Jungian idea that we live in an age of mechanistic, false individualism and that we are now on the threshold of a new mutation...We all share a collective mind.” The “collective mind” that Zizek here discusses refers to Russian geochemist Vladimir Vernadsky’s noosphere. The noosphere is “The part of the biosphere occupied by thinking humanity”—the last of a

tripartite evolutionary system in which human cognition is freed from the confines of an organic body. The noosphere is also "characterized by (the emergence or dominance of) consciousness, the mind" (OED).

The Rejection for Learning Creole in Our Schools

As a matter of fact, the school tradition and the educational system during the dictatorship reflexed a severe anti-haitianism feeling among many Dominicans who ¨patriotically¨ rejected learning Creole, and who considered a futile effort to learn it; and viewed that language only as a tool of merchandizing for the poor people who live by the Haitian border and have to inevitably deal with our neighbors in that dance of hopelessness subsistence that everyday life brought to them. So, the language was rejected as the same Haitian population was rejected, not as gesture of racism, but rather as a gesture of patriotism, against those neighbors who once invaded us for a period of 22 years; and what not a better way of revenging from that historical offense than ignore, discard their language and culture as though being inferior to us.

A Definition of The Creole Language

The word *creole* is of Latin origin via a Portuguese term that means, "person (especially a servant) raised in one's house".

It first referred to Europeans born and raised in overseas colonies, but later was used to refer to the language as well.

Haitian Creole developed in the 17th and 18th centuries on the western third of Hispaniola in a setting that mixed native speakers of various Niger–Congo languages with French colonizers. In the early 1940s under President Élie Lescot, attempts were made to standardize the language. American linguistic expert, Frank Laubach and Irish Methodist missionary H. Ormond McConnell, developed a standardized Haitian Creole orthography. Although some regarded the orthography highly, it was generally not well received. Its orthography was standardized in 1979. That same year Haitian Creole was elevated in status by the Act of 18 September 1979. The *Institut Pédagogique National* established an official orthography for Creole, and slight modifications were made over the next two decades. For example, the hyphen (-) is no longer used, nor is the apostrophe.

The only accent mark retained is the grave accent in ⟨è⟩ and ⟨ò⟩. The Constitution of 1987 upgraded Haitian Creole to a national language alongside French. It classified French as the *langue d'instruction* or "language of instruction", and Creole

was classified as an *outil d'enseignement* or a "tool of education". The Constitution of 1987 names both Haitian Creole and French as the official languages, but recognizes Haitian Creole as the only language that all Haitians hold in common. Even without government recognition, by the end of the 1800s, there were already literary texts written in Haitian Creole such as Oswald Durand's *Choucoune* and Georges Sylvain's *Cric? Crac!* Félix Morisseau-Leroy was another influential author of Haitian Creole work. Since the 1980s, many educators, writers, and activists have written literature in Haitian Creole. On 28 October 2004, the Haitian daily Le Matin first published an entire edition in Haitian Creole in observance of the country's newly instated "Creole Day.

Haitian Creole contains elements from both the Romance group of Indo-European languages through its superstratum French language, as well as African languages. There are many theories on the formation of the Haitian Creole language.

John Singler suggests that" Creole was probably formed between the time the French colony of Saint-Domingue (now Haiti) was founded in 1659 and 1740. During this period, the colony moved from tobacco and cotton production to a mostly sugar-based

economy, which created a favorable setting for the Creole language to form”. At the time of tobacco and cotton production, the Haitian population was made up of colonists, the engagés

(employed whites), gens de couleur and slaves in relatively balanced proportions, with roughly equal numbers of people of color and *engagés*. Singler estimates the economy shifted into sugar production in 1690, and radically reconfigured the early Haitian people as "the big landowners drove out the small ones, while the number of slaves exploded". Before this economic shift, *engagés* were favored over slaves as they were felt to be easier to control. However, the sugar crop needed a much larger labor force, and larger numbers of slaves were brought in. As the colored slaves had decreasing contact with native French-speaking whites, the language would have begun to change.

Many African slaves in French ownership were from the Niger-Congo territory and particularly from Kwa languages such as Gbe and the Central Tano languages and Bantu languages. Many were sent to French colonies. Singler suggests that the number of Bantu speakers decreased while the number of Kwa speakers increased, with Gbe being the most dominant group. The first fifty years of Saint-Domingue's sugar boom coincided with the

Gbe predominance in the French Caribbean. During the time Singler places the evolution of the language, the Gbe population was 50% of the imported slave population.

In contrast to the African languages, a type of classical French (*français classique*) and langues d'oïl (Norman, Poitevin and Saintongeais dialects, Gallo and Picard) were spoken during the 17th and 18th centuries in Saint-Domingue, as well as in the other French colonies of New France and French West Africa. Slaves who seldom could communicate with fellow slaves would try to learn French. With the constant importation of slaves, the language gradually became formalized and became a distinct tongue to French. The language was also picked up by the whites and became used by all those born in what is now Haiti.

Although over 90% of the Haitian Creole vocabulary is of French origin, the two languages are mutually unintelligible. This is because the two grammars are different. In addition, both Haitian Creole and French have experienced semantic change; words that had a single meaning in the 17th century have changed or have been replaced in both languages.

For example, *"Ki jan ou rele?"* ("What is your name?") corresponds to the French *Comment vous appelez-vous?* Although

the average French speaker would not understand this phrase, every word in it is in fact of French origin: *qui* "what"; *genre* "manner"; *vous* "you", and *héler* "to call", but the verb *héler* has been replaced by *appeler* in modern French.

Lefebvre proposed the theory of relexification, arguing that the process of relexification (the replacement of the phonological representation of a substratum lexical item with the phonological representation of a superstratum lexical item, so that the Haitian creole lexical item looks like French, but works like the substratum language(s)) was central in the development of Haitian Creole.
https://www.wikipedia.org/ (Document retrieved on 11/22/2017).

Unlike today´s situation, no one would dare during the times of the dictatorship to publicly proclaim that the Creole language must be part of the National Curriculum of our Educational System. It would have been considered as a stupidity on part of the proponents of that idea, for there were no real need for the entire Dominican population to learn Creole, Why should us? Why learning the language of the ¨¨bastards¨ who invaded us, and to whom we later defeated when proclaiming the

separation of the Hispaniola Island in two completely difference countries by means of a Glorious Independence? -No way!

That would have been an act of cowardice, an act of treason to the memory of our founding fathers and to the collective

consciousness of the Dominican people. Even more if we take in our consideration that there has always been a tension between the two countries since the Haitian Elite, not the poor Haitian man, has never accepted the existence of the Dominican State; and on the contrary, has always insisted in the provocative theory of proclaiming that the ¨*Island is only one, and it is undividable*¨. Let us not forget those incidents that led to the manslaughter of Haitians occurred during the dictatorship of Trujillo (1932) and which exalted in some Dominicans a patriotic fervor, against what it was called a ¨pacific invasion¨ of Haitians coming to our nation, while gaining on the other hand the rejection of that cruelty by part of the International Community, the United States and the rest of the ¨civilized world¨. So, no one would have dared proponing during those times the inclusion of Creole in our schools to the dictator and his acolytes in the educational system.

The Rejection for Learning English In Our Public Schools

The learning of English, by the other hand was always considered as something important by the collective of most Dominicans, due to the tradition of moving mostly to New York in search of the so-called American Dream, as a part of seeking a better life, a better life that a poor country like this could never offer, however, after the second invasion of the US Army in 1965, a strong feeling of resentment among the patriotic population of high schools and the university students was evident, mainly those ones whose parents and relatives suffered the cruelty and shame of seeing our sovereignty violated by the occupation forces on the streets of Santo Domingo. For those students, the only word they should have learned it was shouting the gringos ¨Go Home Yankees¨

A Definition of American English

English is the most widely spoken language in the United States and is the common language used by the federal government, considered the de facto language of the country because of its widespread use. English has been given official status by 32 of the 50 state governments. As an example, while both Spanish and English have equivalent status in the local

courts of Puerto Rico, under federal law, English is the official language for any matters being referred to the United States district court for the territory.

The use of English in the United States is a result of British colonization of the Americas. The first wave of English-speaking settlers arrived in North America during the 17th Century, followed by further migrations in the 18th and 19th centuries. Since then, American English has developed into new dialects, in some cases under the influence of West African and Native American languages, German, Dutch, Irish, Spanish, and other languages of successive waves of immigrants to the United States.

Any American or even Canadian English accent perceived as free of noticeably local, ethnic, or cultural markers is popularly called "General American", described by sociolinguist William Labov as "a fairly uniform broadcast standard in the mass media". Otherwise, however, historical and present linguistic evidence does not support the notion of there being a mainstream standard English of the United States. According to Labov, with the major exception of Southern American English, regional accents throughout the country are not yielding to this

broadcast standard. On the contrary, the sound of American English continues to evolve, with some local accents disappearing, but several larger regional accents emerging.

https://www.wikipedia.org/. (Document retrieved on 11/22/17)

It seems to be that Krashen´s Theory of the Affective Filter, functioned very well to apply to both cases, and since in the post-revolution days (1966), the government of Balaguer Who was portrayed as an *illegal Muppet of the Yankee Imperialism*, was never accepted neither in terms of his political imprint nor in his educational proposal; everything coming from him was looked at with suspicion and resentment.

Needless to say, that the aftermaths of the revolution that brought him into power was a bloody dance that brought thousands and thousands of people cruelly executed by Balaguer´s police, armed forces and the security agencies; it was a phantasmagoric party of bloodshed and cruelty, there was not compassion for the defeated ones, all of the young people labeled as ¨communist¨ by the officials were arbitrarily sent to prison if not disappeared, to never be found alive again. And that disguised democracy, that vulgar masquerade was militarily, politically

and economically supported by the American Administration, so for many if not the vast majority of our public high school's students, to study English was considered as an act of treason against those Braves Dominicans that daring to defy the empire lost their lives on behalf of our country land, our dignity and our sovereignty as a nation, Why should us?

Balaguer´s regime fatally known as ¨The Doce Años¨ (The Twelve Years of Balaguer), sank the country in a virtual State-of-war, and political persecution was a common fact all over the country, and schools and the State University(UASD) were not an exception, since he, himself was an enemy of public education, and since he, himself never pardoned the then University of Santo Domingo (today Universidad Autonoma de Santo Domingo)) of having thrown him out, of having fired him as a Professor for his political compromise and close collaboration with the fallen dictatorship. Balaguer who was one of the closest collaborators and accomplice of the tyranny , Couldn´t get in good terms with the new airs that the PRIMADA DE AMERICA was transpiring, that was led by a transforming movement of democratic professors and students as well(Movimiento Renovador), and him along with the others intellectuals that shamefully served the dictatorship were cast out of the academy,

something that molested him deep inside his soul and as said before, he never pardoned it, so consequently any opportunity he had to send the para-military or military forces, like the Anti-Communist Gang (*Banda Colora)* to occupy the university on the risk of killing protesting students as well as professors, he sent mercilessly the forces, it seemed as though he enjoyed that bloodshed, that purulent coven of bloody and lusty sadism, as though he was in a pact with Lucifer to condemn that prestigious academy that dared to defy hell, to defy the *Averno* itself by ousting him along with all Trujillo´s accomplices from the academy.

CHAPTER VI: English as an Operational Language

The Four Major Sources of Today's Dominican Economy: *External Revenues, Tourism, Duty Free Zone and Major League Baseball.*

The Dominican Republic has the ninth largest economy in Latin America, and is the largest in the Caribbean and [[Central upper middle-income developing country primarily dependent on agriculture, mining, trade, and services. Although the service sector has recently overtaken agriculture as the leading employer of Dominicans (due principally to growth in tourism and Free Trade Zones), agriculture remains the most important sector in terms of domestic consumption and is in second place (behind mining) in terms of export earnings. Tourism accounts for more than $1 billion in annual earnings. Free trade zone earnings and tourism are the fastest-growing export sectors. According to a 1999 International Monetary Fund report, remittances from Dominican Americans, are estimated to be about $1.5 billion per year. Most of these funds are used to cover basic household needs such as shelter, food, clothing, health care and education. Secondarily, remittances have financed small businesses and other productive activities.

The Dominican Republic's most important trading partner is the United States (75% of export revenues). Other main markets

are the People's Republic of China, Haiti, Mexico, Colombia, Spain, and Brazil, in that quantitative order.

The country exports free-trade-zone manufactured products (garments, medical devices, and so on), nickel, sugar, coffee, cacao, and tobacco. It imports petroleum, industrial raw materials, capital goods, and foodstuffs. On 5 September 2005, the Congress of the Dominican Republic ratified a free trade agreement with the U.S. and five Central American countries, the Dominican Republic – Central America Free Trade Agreement (CAFTA-DR). CAFTA-DR entered into force for the Dominican Republic on 1 March 2007. The total stock of U.S. foreign direct investment (FDI) in Dominican Republic as of 2006 was U.S. $3.3 billion, much of it directed to the energy and tourism sectors, to free trade zones, and to the telecommunications sector. Remittances were close to $2.7 billion in 2006.

An important aspect of the Dominican economy is the Free Trade Zone industry (FTZ), which made up U.S. $4.55 billion in Dominican exports for 2006 (70% of total exports). Reports show, however, that the FTZs lost approximately 60,000 between 2005 and 2007 and suffered a 4% decrease in total exports in 2006. The textiles sector experienced an approximate 17% drop in

exports due in part to the appreciation of the Dominican peso against the dollar, Asian competition following expiration of the quotas of the Multi-Fiber Arrangement, and a government-mandated increase in salaries, which should have occurred in 2005 but was postponed to January 2006. Lost Dominican business was captured by firms in Central America and Asia. The tobacco, jewelry, medical, and pharmaceutical sectors in the FTZs all reported increases for 2006, which somewhat offset textile and garment losses. Industry experts from the FTZs expected that entry into force of the CAFTA-DR agreement will promote substantial growth in the FTZ sector for 2007.

Dominican Republic According to ECLAC estimates, the Dominican Republic is expected to post economic growth of around 6.0% in 2014 (compared with 4.6% in 2013). Inflation might reach about 3.5% in late December (compared with 3.9% in December 2013), grazing the floor of the target range, which is 4.5% with a 1-percentage-point margin in either direction. The balance-of-payments current account deficit is expected to remain at around 4% of GDP, similar to the level recorded in late 2013, while the consolidated public-sector deficit is expected to come in at about 3.5% of GDP.

In 2015, economic activity could expand by approximately 5%, driven by sustained growth in consumption and rallying exports, assuming the United States continues to recover. This, together with low oil prices, could bring the balance-of-payments current account deficit down to about 3%.

The tax reform adopted in late 2012 (Act No. 253-12) raised the industrialized goods and services transfer tax (ITBIS) from 16% to 18% and introduced a lower rate of 8% on goods that had previously been exempt. This boosted central government revenue, which was up by 14.9% in nominal terms in September 2014 to 15.6% of GDP, while the total expenditure of the central government rose by 12%. These fiscal consolidation efforts should allow the consolidated deficit to fall to a level equivalent to 3.5% of GDP by year-end, despite the higher central bank operating losses resulting from the decline in recapitalization transfers. The total debt of the non-financial public sector amounted to US$ 23.997 billion (38% of GDP) at the end of October. Of this total, external debt accounted for US$ 15.642 billion.

Tax revenues could represent 15% of GDP by December 2014. Indeed, they showed a nominal increase of 14.9% to September, owing primarily to higher corporation tax revenues on the back

of the sale of two companies, Orange and Tricom. Also noteworthy is the increase in revenues from taxes on foreign trade (11.5% to September) resulting largely from administrative improvements in customs revenue collection procedures.

The uptick in spending is attributable mainly to higher current expenditure, with wages and salaries up by 21.5%, while capital expenditure dropped by 2.9%, largely owing to an 18.5% reduction in fixed investment, and capital transfers rose by 28.6%.

Fiscal contraction was combined with a neutral monetary policy, with the base rate being held steady at 6.5% as of November 2014. This, together with a loss of net reserves of some US$ 363 million, held inflation near the floor of the target range set by the monetary authority earlier in the year (3.5% to 5.5%).

The interest rate on lending to the private sector, as a weighted average, was 13.5% in October 2014, and outstanding credit is expected to have expanded by some 9% in real terms by year-end. The expansion in lending was attributable primarily to increases in nominal credit for real estate services (70.2%), social services (54.9%), consumption (18.6%) and housing (14.7%).

As a result of the country's robust economic and credit performance, the financial sector reported a return on assets of 2.0% and a return on equity of it.

Dominican Republic: GDP and Inflation, 2012-2014

Source: Economic Commission for Latin America and the Caribbean (ECLAC), on the basis of official figures.

some 18.48% as of September 2014, these being similar to the figures recorded up to September 2013.

The external sector has performed well owing to higher exports as a result of increased gold production, exports from free zones and tourism revenues.

Total exports to September came to US$ 7.419 billion (representing year-on-year growth of 4.3%), including record non-monetary gold exports totaling US$ 1.143 billion (a 34.9% increase over September 2013). Tourism revenue increased by over US$ 440 million (11.5% year-on-year) to total US$ 4.285 billion by the end of the third quarter. Family remittances also performed very favorably, growing by 10.8% to September owing to the improving United States economy, the main source of remittances to the Dominican Republic. As a result, remittances should represent about 7.5% of GDP by year-end.

Total imports amounted to US$ 13.038 billion to September 2014 (a year-on-year increase of 5.5%), the great bulk being non-oil imports, while the oil bill fell by US$ 165.8 million (5.0% year-on year) as one major company suspended imports for re-export and crude oil prices dropped.

Imports of consumer goods, which represent over 50% of the total, expanded by 4.7% to September, while imports of raw materials for industry were up by 6%. Imports of capital goods remained virtually unchanged, edging up by only 0.7%, despite the fact that foreign direct investment grew by 19.8% to US$ 1.807 billion (3.8% of GDP), largely on the back of the communications, commerce and tourism sectors.

Balance-of-payments operations brought net consolidated international reserves down by US$ 75.9 million (2.1%) between year-end 2013 and September 2014. Gross reserves totaled US$ 4.282 billion, equivalent to 2.8 months of imports.

Year-on-year inflation was 2.9% in October, while core inflation, which is directly related to monetary conditions, stood at 3.1%. Food and non-alcoholic beverages, alcoholic beverages and tobacco, education, and restaurants and hotels were the groups contributing most to this outcome, together accounting for 76.4% of cumulative inflation between January and

October, which stood at 2.4%. On the basis of that trend to October, inflation could be very close to the floor of the target range set by the central bank at the end of the year. The open unemployment rate fell from 6.9% to 6.0% in October 2014.

Dominican Republic Trade	Last	Previous	Highest	Lowest	Unit	
Balance of Trade	-787.00	-776.30	-80.60	-1028.20	USD Million	[+]
Exports	754.90	839.50	912.00	282.80	USD Million	[+]
Imports	1541.90	1615.80	1687.60	445.10	USD Million	[+]
Current Account	-592.70	-452.00	587.00	-1561.10	USD Million	[+]
Current Account to GDP	-1.40	-1.90	5.00	-9.40	percent	[+]
Remittances	4960.60	4571.30	4960.60	1807.00	USD Million	[+]
Gold Reserves	0.57	0.57	0.57	0.56	Tonnes	[+]
Terrorism Index	1.56	2.58	2.58	0.00		[+]

Source: Google Webpage World Bank Statistics (Doc. Retrieved on 1/11/17)

Major League Baseball in The Dominican Republic

According to Mayer (2007) ¨*Baseball is something special in the Dominican Republic. Just one town in the southeast corner of this island – San Pedro de Macorís -- has produced 78 major league players including Sammy Sosa. (Kurlansky, 2007) Many other major league stars and hundreds of other major league players have come from small towns scattered around this island nation less than a third the size of Illinois. Young Dominican boys have lived and breathed baseball for many decades, with dirt streets as playing fields, sticks as bats, and rolled up socks as baseballs. The love of the game, which is played year-round, permeates the culture. Baseball gives young Dominicans hope and something to strive for; for some -- Vladimir Guerrero, Pedro Martinez, David Ortiz, Albert Pujols, Manny Ramirez, Alfonso Soriano, and Miguel Tejada -- it has provided a ticket to a much better life.*

Baseball was introduced to the Dominican Republic from Cuba around 1890. Professional Dominican teams were formed in the early 1900s, and amateur baseball teams grew up in the sugarcane fields that at this time dominated the country's economy. Baseball was introduced by the sugar refineries to entertain the workers during the slow work season. But before long community spirit ignited intense rivalries between the various refinery communities and the sport began to take off. (Klein, 1991: 25) During the U.S. occupation of the country in 1916-1924, Dominican teams took on U.S. military teams. Some Dominican historians believe that the best baseball in the world was played in the DR in 1937 during the Ciudad Trujillo championship, attracting talented players from Cuba and the Negro Leagues in the United States. (Ruck, 1991: 10-33)

Osvaldo Virgil was the first Dominican to debut in a MLB game in 1956. Since then hundreds have played; the Dominican Republic contributes more foreign-born talent to the MLB rosters than any other country - 94 players in 2007. Venezuela ranked second with 50 players, but it has more than twice the population of the Dominican Republic. Puerto Rico followed with 28 MLB players. (Kurlansky, 2007). Dominicans and other foreign-born players have an even larger presence in the minor

leagues. Foreign-born players made up 46.2 percent of minor leaguers at the start of the 2007 season; the percentage in the major leagues was about 26 percent. More than half of foreign-born minor league players are from the Dominican Republic – one quarter of all minor league players. (Moore, 2007; Cary, 2007)

But it's not just a love of the game that puts Dominican players on MLB teams. The Dominican Republic, although it has been growing rapidly in over the last two decades, is still among the poorest countries in Latin America. Jobs are scarce, wages are low, and unemployment and underemployment are high. MLB has increasingly searched for and cultivated talent in the Dominican Republic for economic reasons – talented players come cheap there. The New York Mets General Manager in the late 1990s was quoted as saying, "You can develop 30 to 45 players from the Dominican for what it costs to sign a second-round draft pick in the States." (As cited in Juffer, 2002: 348)

Major league teams began to establish academies in the Dominican Republic in the late 1970s. The Los Angeles Dodgers and the Toronto Blue Jays were among the first teams to do so. Today almost every team has some form of an academy there, where promising players are provided with food, healthcare, and

training. Those prospects that are selected to sign contracts get both a salary and a signing bonus.

While the signing bonuses earned by young Dominicans are usually quite low compared to those earned by American prospects, even the average bonus of $5,000 to $8000 is higher than average GDP per capita. (Elliott, 2006) (Seibel, 2006) Some young Dominican ballplayers benefit from a bidding war for their services and are able to command signing bonuses that are significantly higher than the average. Esmailyn Gonzalez was signed in 2006 by the Washington Nationals for $1.4 million when he was 17 years old. This enabled him to buy a Cadillac Escalade and build a new house for his family. (Svrluga, 2006)

It is not only the prospect himself who benefits from the signing bonus. Twenty percent of Gonzalez' bonus was paid to his buscon, or agent. (Svrluga, 2006) This is a substantially higher percentage than agents receive in the United States, but the role of buscones is commensurately more involved than that of a typical agent, combining the roles of scout, trainer, and agent. A talented Dominican youth is often discovered by a buscon at age 14 or 15. The prospect often lives and trains with the buscon who will arrange tryouts for his client upon his turning 16. Despite the allegations of corruption, the

estimated hundreds of buscones provide a service in discovering and developing talented ballplayers. Many Dominican major leaguers remain grateful to their agent. Wilson Betemit, third baseman for the Los Angeles Dodgers, supplies the training facility run by his uncle with the shoes, gloves, and bats that are so rare in the Dominican Republic. (Brown, 2006)

Of course, the vast majority of the hopeful young ballplayers do not make it to the major leagues, or are quickly released from the minor leagues if they make it to the States. Some neglect their schooling in pursuit of their baseball dream. And of those who do make it to the United States, an estimated 90 to 95 percent are released from their contracts at the minor league level. (Villegas and Breton, 2002)

On the other hand, the salaries and bonuses paid to the players, and the resources to run the academies, pump real dollars into poor Dominican neighborhoods. The economic benefits can no longer be considered negligible. For example, the San Diego Padres began building a state-of-

the-art training facility in San Cristobal in January of 2007. The cost of construction was expected to be about $8 million. The facility is being built on 15 acres overlooking the Caribbean, featuring two and one-half practice fields,

airconditioned accommodations for up to 60 players, residences for managers and coaches, administrative offices, a 20,000 sq-ft clubhouse, a dining hall, and classrooms. The Padres estimate that the cost of running the camp will be at least $1 million annually. (Center, 2007)

Not all of the academies in the Dominican Republic are state-of-the-art quality – but they are moving in that direction. Marcano Guevara and Fidler (2002) wrote about the experience of Alexis Quiroz in the Chicago Cubs Dominican Academy in the mid-1990s. The conditions were deplorable – three dozen players were crammed into a small house with only one toilet. When Quiroz first arrived, there was no running water. Later, in 1997, Quiroz trained with the Oakland Athletics at their Dominican facility in La Victoria, under conditions that were far superior. The Baltimore Orioles up until now have had a low-budget facility in the DR, but plan to rent a modern facility for an academy to open in April of 2007. The Pittsburgh Pirates also have plans for a new academy in the Dominican Republic. The New York Mets also broke ground in July 2007 on a $7.5 million state-of-the-art facility near Boca Chica.

John Seibel (2006) estimated the cost of operating 28 MLB academies in 2005 to be $14 million annually. They further estimated that signing bonuses paid to new prospects brought an additional $17.5 million into the country. Dominican Summer League would bring in $2.75 million for the 3-month salaries for and the administrative costs of the league. Observation trips by MLB official to the DR was estimated at $360,000. The total annual economic impact in terms of dollars spent in the Dominican Republic (excluding building costs) thus came to about $35 million in 2005. The new academies scheduled to open in the 2008 season will increase that significantly.

As MLB salaries grow, Dominicans earn a larger share

This grassroots level investment by MLB is only the beginning, however; and it is small when compared to the salaries of those select few ballplayers that eventually make it to the top of the major leagues in the United States. Dominican-born players on MLB rosters earned nearly $300 million in 2007. The growth of the academies since the late 1970s has sent increasing numbers of Dominicans to the major leagues during a period of rapidly rising salaries.

In 1988, MLB had 31 Dominican-born players on its rosters on opening day, with salaries totaling $13.9 million. By 2007, that had grown to at least 94 players with salaries totaling $291.9 million. Over the same period, the number of MLB teams increased, and the total number of players increased from 660 to 818, but the Dominican Republic has also doubled its share of players. In the late 1980s and early 1990s 5 to 6 percent of MLB players had been born in the Dominican Republic; but in the last few years about 11 percent of the players are Dominican born.

Over the entire 20-year period, the total payroll to Dominican-born players has grown at the astonishing rate of 17.4 percent. Dominican-born players are taking home a larger share of the MLB total payroll, not only because Dominicans make up a larger share of the players, but also because Dominican salaries have increased faster than average. Average MLB salaries increased at the rapid rate of 9.5 percent over the period, but average Dominican salaries increased at a rate of 10.7 percent. Top MLB salaries have grown faster than those for the majority of players and Dominican-born players are increasingly found among the highest-paid players in Major League Baseball.

Baseball's contribution to a growing, diversified Dominican economy

In real terms (adjusted for inflation) baseball salaries paid to Dominican-born players that make it to the major leagues have been galloping upward at a growth rate of 14.3 percent per year from 1988 to 2007. The Dominican economy has also grown rapidly in recent years; GDP growth in real terms over the decade from 1992 to 2002 was 6.2 percent.

(World Bank data). The collapse of a major bank due to poor investments, embezzlement, and fraud provoked an economic crisis in 2003, and growth slowed to around 1 percent in 2003-04, but the economy bounced back to real growth rates of 9.5 percent in 2005, 10.7 percent in 2006, and 8 percent in 2007. (EIU Country Report, August 2007: 12) While the salaries of Dominican MLB players and the costs of running academies and signing promising players have surely made contributions to this positive overall growth, how significant are these effects in the big picture? ¨ (Pages 2-6).

CHAPTER VII: What the Future Lies Ahead

In recent years, the Dominican Republic has suffered an international onslaught from countries such as the United States, Canada and the European Union, regarding the treatment that these nations wish, given to immigrants from Haiti, and basically in what respects its migratory status in this part of the island. The international campaign, echoed by the NGOs based in the country, which has been joined by the governments of Cuba and Venezuela, reached its highest point when a mission of the OAS Human Rights Commission visited the country, to supposedly check the number of "Dominicans" of Haitian origin, who were "stateless" in this nation.

The nation, the government and the Dominican people were victims of a whole campaign of discredit at the level of the international media, and we tried to call ourselves the "Gestapo" of the Caribbean, a racist nation that kept those Dominicans black and descendants of Haitians in a virtual "apartheid".

The Haitian political class in exile, which had the aid of the Black or African American Caucus, in the American Congress, played a role of Stelarity to those ends,

before the then timid Dominican diplomacy, and forced the government of President Medina (2012-2016) to carry out a re-engineering work in terms of organizing and relaunching both the Ministry of Foreign Affairs (Chancellery) and our foreign policy, to be able to withstand such an onslaught.

The Dominican nation, which was partly divided, had to confront the international community, and specifically within the international organizations, such as the OAS, the United Nations and other forums no less important, the pretensions of the powers to interfere in our immigration policy, which, as a free and sovereign state, we have every right in the world to enforce any foreigner residing legally or not in our territory.

The hypocrisy of great nations such as France itself (the main historical culprit of the deterioration of the Haitian people) and the United States, were veiled in their desire to embarrass a poor nation such as the Dominican Republic, the weight of misery and hunger, of that failed state; when they in their own land, do not consider them desirable immigrants, and at the slightest hint of problems, deport them mercilessly.

And in spite of being in front of an electoral scene, breeding ground for all the opportunisms, the nation came out airy, against the dangers that they listened in the horizon.

In this sense, Núñez (2012) presents the following considerations:

"For Don Américo Lugo, teacher of the generations of the beginning of the twentieth century, the Dominican Republic was not a nation. It could be considered, at most, as a human grouping, with its own language, common customs; but without a consciousness of its destiny, without personality to constitute a State, and, therefore, given to the chaos of its indefinition. For many years, Lugo and with him, many Dominicans, became involved in a pessimistic desolation and without response. The evolution of Lugo's thought occurred when national sovereignty disappeared with the American occupation of 1916. The great Dominican thinker was then revealed the consequences of the loss of control of national destiny; the disappearance of the self-determination of the Dominicans. Facing the demise of the state, Américo Lugo discovers the heroic character of the Dominican people. That's when he wrote:

"The Dominican people is not a degenerate, because although incapable of persistence in the virtues, it pulls strongly towards them; for though he lacks intellectual vigor and flight, he still has the talent and strength to stand and dominate the great space of the heavenly vault, because, still prostrate and miserable, the sacred mountain where the eagle of civilization forms its nest ".

And in spite of being in front of an electoral scene, *breeding ground for all the opportunisms, the nation came out airy, against the dangers that they listened in the horizon.*

I could enumerate the disdainful visions, forged by the intellectuals of a pessimistic line, which are many, and come to the lapidary conclusion of Juan Isidro Jiménez Grullón, for whom the Dominican Republic was a fiction. To such conclusions came a French sociologist, Alain Touraine, invited by the Dominican Government, and received with superstitious veneration, as received the great gurus, and proclaimed that the Dominican Republic did not exist. That we were, strictly speaking, a fiction. A statement that could well appear in the collection of stupidities collected by Jean Jacques Barrere and Christian Roché (Stupid of the philosophers, Madrid, Cátedra, 1999) or in the antics that are said to attract attention. Despite the contempt manifested by so many people inside and outside the country against our historical continuity. The lives of Dominicans would not make sense, without that fiction. The world would fall on our heads, if one day we lack, the Dominican Republic. "

The historian Núñez (2012), is more emphatic when he expands his thesis on the subject and says "*Historiography must explain to*

our population, which nations have attacked our territory to dominate or conquer it, and how have the Dominicans beat their oppressors.

The Dominican people do not record in their annals that they acted as an oppressive people, as a conquering nation of another nation, but have defended nobly, in all the calamitous moments of their history, their right to self-determination. Consequently, their heroes have only wielded their arms to defend our independence, not to snatch it from another nation. For all this, they deserve the recognition and respect of all Dominicans.

The disqualification of the national project that we are Dominicans.

For 170 years, the Dominicans have maintained the national project that left us the effort of Juan Pablo Duarte. In these special circumstances face one of the greatest challenges to our ability to survive; the integrity of our national being, the definition of our borders, the recognition of the sovereignty of the Dominican people and the preservation of the symbols of our culture and of our institutions have been put in the pillory.

The efforts to disqualify the national project that the Dominicans constitute have two aspects:

1) *The international conspiracy. At the OAS, Secretary General Luis Almagro and the UN, Ban Ki Moom launched to grant Dominican citizenship to the children of Haitians, and the demographic unit of the Dominican State. In this way, our social and political constitution will definitely remain. There is no finding in the calculations of the Dominicans, neither in those living in the country nor in those outside the territory, that all the operations carried out alone do not divorce the initial meaning of our cultural and social life. Following these maneuvers is the Haitian Foreign Ministry, its political allies, who, at the same time as they accuse them of the worst calamities, try by all means to transfer their problems to the Dominican State*
2) *The other side is the representation of government regulations, the most influential of all Ministers, and the one that is qualified, and there is no lack of reason, power behind the throne, the Minister of the Presidency, Mr. Gustavo Montalvo. In governments as in monarchies, the valid ones have played a fundamental role in the exercise of power, and in some cases, they have overshadowed the ruler. The world recalls more Gaspar Guzman and Pimentel, the famous Count Duke of Olivares than Carlos IV; has more*

references of the Count of Floridablanca, than of Carlos III himself and, of course, with the bad reputation that had Carlos IV, the King Alfeñique, the figure of Manuel Godoy, the Duke of Alcudia, character of sad registry for the Dominicans;" (OPINION).

Finally, Nunez concludes with the following premonitory words:"t*he teaching of historiography must provide the Dominican with the indispensable information to understand the past. So that the citizen has a responsible attitude and solidarity with the effort undertaken by the generations that have preceded them. Developing a critical spirit, the ability to reflect on events, valuing the feeling of independence of the Dominican, rejecting the attitude of conquest and any other way that seeks to excuse or disguise foreign domination. Evaluate the historical behavior of our nation's leaders in the light of international legal norms that recognize the right of nations to their territorial self-determination.*

The teaching of history has as its main function to manufacture the past to the future citizens of the Dominican nation. To create the conscience to him to belong to a history and to be part of the evolution of a town. In other words: lay the foundations of identity, show the role played by the Dominican people in the pursuit of their well-being. In his statement by Juan Dolio, the Minister proposes that we destroy loyalties founded on remembrance.

But history is also the mechanism of formation in the values of citizenship and the linking of citizens with their territory and with the ideals that have made possible the existence of a people with their own personality. It is the demonstration, in short, of the presence of a collective will that has fought with determination for self-determination. It is everything that characterizes us: culture, territory and the right to self-government.

The ideological war spirit developed by Minister Montalvo against all those who defend the independence of the Haitian influence leads him to compare the social and political duality that the two States maintain on the island of Santo Domingo with the unsustainable and nauseating circumstance of South Africa of apartheid. It is the greatest accusation that can be made to the Dominican nation itself; there can be no greater manifestation of contempt against ourselves:

Nelson Mandela said no one is born hating another person for the color of their skin, their origin, their religion, hatred is learned, and if they are able to learn to hate, can also be taught to love.

The best example of this is precisely South Africa (...) In both nations there are millions of people who want more development, more education, more health, more security, better jobs and more opportunity. A new era begins in Dominican Haitian relations. An era of understanding and mutual cooperation, which will bring more prosperity and progress to both nations." (OPINION, 2012)

But no doubt whatsoever, the tensions generated by the external forces which wanted to solve Haiti's problems by endorsing it to the Dominican Nation, provoked a sense of patriotism, and of defense of our nationality that many analysts presumed it was lost; and once reaffirmed the national self-consciousness of being two different nation, two different peoples, and two different expressions of life within a single island, that can influence one another, that can reach mutual understanding, as well as, mutual cooperation, but that never will become one country.

Those external forces, that is to say, the Superpowers, wanted to implement as part of a Geopolitical design, the fusion of the two nations, thus ignoring or pretending to ignore that since the separation of the two nations(1844) the vital space that for us, the Dominican People which is the east side of the Hispaniola island cannot be part of the Haitian Republic again,

and due the historical development that differentiated our nation from that of them, it is ours, and our only national space, our *vital space* where the state was constructed, it is not an illusion or a whimsical behavior of racist people, because racism had nothing to do with the formation of the republic; it is worthy to quote and mention some considerations and conceptualization on the matter(geopolitics)

Geopolitics as Defined

Geopolitics (from **Greek** γῆ *gê* "earth, land" and πολιτική *politiké* "politics") is the study of the effects of geography (human and physical) on international politics and international relations. Geopolitics is a method of studying foreign policy to understand, explain and predict international political behavior through geographical variables. These include area studies, climate, topography, demography, natural resources, and applied science of the region being evaluated.

"Geopolitics focuses on political power in relation to geographic space. In particular, territorial waters and land territory in correlation with diplomatic history. Academically, geopolitics analyses history and social science with reference to geography in relation to politics. Outside of academia, a variety of groups offer a geopolitical prognosis, including non-profit groups and for-profit private institutions (such as brokerage houses and consulting companies). Topics of geopolitics include relations between the interests of international political actors, interests focused to an area, space, geographical element or ways, relations which create a geopolitical system. "Critical geopolitics" deconstructs classical geopolitical theories, by showing their political/ideological functions for great powers during and after the age of imperialism.

The term has been used to describe a broad spectrum of ideas, from "a synonym for international relations, social, political

and historical phenomena" to various pseudo-scientific theories of historical and geographic determinism.

International Backgrounds on Geopolitics

Alfred Thayer Mahan and Sea Power

Alfred Thayer Mahan (1840–1914), a frequent commentator on world naval strategic and diplomatic affairs, believed that national greatness was inextricably associated with the sea—and particularly with its commercial use in peace and its control in war. Mahan's theoretical framework came from Antoine-Henri Jomin, and emphasized that strategic locations (such as chokepoints, canals, and coaling stations), as well as quantifiable levels of fighting power in a fleet, were conducive to control over the sea. He proposed six conditions required for a nation to have Sea power:

1. Advantageous geographical position;
2. Serviceable coastlines, abundant natural resources, and favorable climate;
3. Extent of territory
4. Population large enough to defend its territory;
5. Society with an aptitude for the sea and commercial enterprise; and
6. Government with the influence and inclination to dominate the sea.[9]

Mahan distinguished a key region of the world in the Eurasian context, namely, the Central Zone of Asia lying between 30° and 40° north and stretching from Asia Minor to Japan.[10] In this zone independent countries still survived – Turkey, Persia, Afghanistan, China, and Japan. Mahan regarded those countries, located between Britain and Russia, as if between "Scylla and Charybdis". Of the two monsters – Britain and Russia – it was the later that Mahan considered more threatening to the fate of Central Asia. Mahan was impressed by Russia's transcontinental size and strategically favorable position for southward expansion. Therefore, he found it necessary for the Anglo-Saxon "sea power" to resist Russia.[11]

The association of German Geopolitik with Nazism.

After World War I, the thoughts of Rudolf Kjellén and Ratzel were picked up and extended by a number of German authors such

as Karl Haushofer (1869–1946), Erich Obst, Hermann Lautensach and Otto Maull. In 1923, Karl Haushofer founded the *Zeitschrift für Geopolitik* (Journal for Geopolitics), which was later used in the propaganda of Nazi Germany. The key concepts of Haushofer's Geopolitik were Lebensraum, autarky, pan-regions, and organic borders. States have, Haushofer argued, an undeniable right to seek natural borders which would guarantee autarky.

Haushofer's influence within the Nazi Party has recently been challenged,[38] given that Haushofer failed to incorporate the Nazis' racial ideology into his work. Popular views of the role of geopolitics in the Nazi Third Reich suggest a fundamental significance on the part of the geo-politicians in the ideological orientation of the Nazi state. Bassin (1987) reveals that these popular views are in important ways misleading and incorrect.

Despite the numerous similarities and affinities between the two doctrines, geopolitics was always held suspect by the National Socialist ideologists. This was understandable, for the underlying philosophical orientation of geopolitics did not comply with that of National Socialism. Geopolitics shared Ratzel's scientific materialism and geographic determinism, and held that human society was determined by external influences—in the face of which qualities held innately by individuals or groups were of reduced or no significance. National Socialism rejected in principle both materialism and determinism and also elevated innate human qualities, in the form of a hypothesized 'racial character,' to the factor of greatest significance in the constitution of human society. These differences led after 1933 to friction and ultimately to open denunciation of geopolitics by Nazi ideologues.[39] Nevertheless, German Geopolitik was discredited by its (mis)use in Nazi expansionist policy of World War II and has never achieved standing comparable to the pre-war period.

The resultant negative association, particularly in U.S. academic circles, between classical geopolitics and Nazi or imperialist ideology, is based on loose justifications. This has been observed in particular by critics of contemporary academic geography, and proponents of a "neo"-classical geopolitics in particular. These include Haverluk et al., who argue that the stigmatization of geopolitics in academia is unhelpful as geopolitics as a field of positivist inquiry maintains potential in researching and resolving topical, often politicized issues

such as conflict resolution and prevention, and mitigating climate change.[40]

Kissinger, Brzezinski and the Grand Chessboard.

World map with the concepts of Heartland and Rimland applied

Two famous Security Advisers from the Cold War period, Henry Kissinger and Zbigniew Brzezinski, cared lest the United States lose its geopolitical focus on Eurasia and, first and foremost, on Russia despite the fall of Communism and the end of the ideological struggle. Ideological Cold warriors, both turned into convinced geopoliticians after the end of the Cold War,[25] and each wrote an influential book on the subject in the 1990s—Diplomacy (Kissinger 1994)and The Grand Chessboard: American Primacy and Its Geostrategic Imperatives . The Anglo-American classical geopolitical theories were revived.

Students of geopolitics and history, Kissinger wrote in Diplomacy, are uneasy about the approach that hostile intentions have disappeared, and traditional foreign policy considerations no longer apply. "They would argue … that Russia, regardless of who govern it, sits astride the territory Halford Mackinder called the geopolitical heartland, and is the heir to one of the most potent imperial traditions." The United States must "maintain the global balance of power vis-à-vis the country with a long history of expansionism."

After Russia, the second geopolitical threat traditionally remained Germany and, as Mackinder had feared ninety years ago, its partnership with Russia. During the Cold War, Kissinger argues, both sides of the Atlantic recognized that, "unless America is organically involved in Europe, it would be obliged to involve itself later under circumstances far less favorable to both sides of the Atlantic. That is even more true today. Germany has become so strong that existing European institutions cannot by themselves strike a balance between Germany and its European partners. Nor can Europe, even with Germany, manage by itself … Russia…" It is in no country's interest that Germany and Russia should fixate on each other as principal partner. They would raise fears of condominium. [Without America, Britain and France cannot cope with Germany and Russia; and "without Europe, America could turn … into an island off the shores of Eurasia."

Spykman's vision of Eurasia was strongly confirmed: "Geopolitically, America is an island off the shores of the large landmass of Eurasia, whose resources and population far exceed those of the United States. The domination by a single power of either of Eurasia's two principal spheres—Europe and

Asia—remains a good definition of strategic danger for America. Cold War or no Cold War. For such a grouping would have the capacity to outstrip America economically and, in the end, militarily. That danger would have to be resisted even were the dominant power apparently benevolent, for if the intentions ever changed, America would find itself with a grossly diminished capacity for effective resistance and a growing inability to shape events." The main interest of the American leaders is maintaining the balance of power in Eurasia

Having converted from ideologist into geopolitician, Kissinger in retrospect interpreted the Cold War in geopolitical terms—an approach not characteristic for his works during the Cold War. Now, however, he stressed on the beginning of the Cold War: "The objective of moral opposition to Communism had merged with the geopolitical task of containing the Soviet expansion." Nixon, he added, was geopolitical rather than ideological cold warrior.

Three years after Kissinger's Diplomacy, Brzezinski followed suit, launching The Grand Chessboard: American Primacy and Its Geostrategic Imperatives and, after three more years, The Geostrategic Triad: Living with China, Europe, and Russia. The Grand Chessboard described the American triumph in the Cold War in terms of control over Eurasia: for the first time ever, a "non-Eurasian" power had emerged as a key arbiter of "Eurasian" power relations. The book states its purpose: "The formulation of a comprehensive and integrated Eurasian geostrategy is therefore the purpose of this book." Although the power configuration underwent a revolutionary change, Brzezinski confirmed three years later, Eurasia was still a megacontinent. Like Spykman, Brzezinski acknowledges that: "Cumulatively, Eurasia's power vastly overshadows America's."

In classical Spykman terms, Brzezinski formulized his geostrategic "chessboard" doctrine of Eurasia, which aims to prevent the unification of this megacontinent.

"Europe and Asia are politically and economically powerful…. It follows that… American foreign policy must…employ its influence in Eurasia in a manner that creates a stable continental equilibrium, with the United States as the political arbiter.… Eurasia is thus the chessboard on which the struggle for global primacy continues to be played, and that struggle involves geo-strategy – the strategic management of geopolitical interests…. But in the meantime, it is imperative that no Eurasian challenger emerges, capable of dominating Eurasia and thus also of challenging America… For America, the chief geopolitical prize is Eurasia…and America's global primacy is directly

dependent on how long and how effectively its preponderance on the Eurasian continent is sustained."

German Geopolitik is characterized by the belief that life of States—being similar to those of human beings and animals—is shaped by scientific determinism and social Darwinism. German geopolitics develops the concept of Lebensraum (living space) that is thought to be necessary to the development of a nation like a favorable natural environment would be for animals. https://www.wikipedia.org/ (Document retrieved on 11/1/2017)

The New Influence of the Haitian Creole Language in the Dominican Republic

As a natural result of Haitian's labor force immigration to the Dominican Republic, in a larger scale than decades before (there is not a real or credible census of that immigration)

The influence and use of that language between the two people has grown enormously, up to the extent that many scholars and college professors openly favor the inclusion of that language in our national curriculum; as a matter of fact, Haitian Creole has been taught for security and military purposes in our Armed Forces, mostly for the troops and intelligence specialists to be posted on the Dominican-Haitian border, still some colleges and universities like UASD(The State College) offer a program of that language as part of their extracurricular courses, and in the best spirit of cultural exchange and mutual cooperation, but creole has been spoken since very long in the communities bordering that country by

common people to fill the basic necessity of life, that without any academic purposes, as it always has been since the beginning of the two separate nations. Some theorists have proclaimed, that had it not been for the two different spoken languages (Spanish and Haitian Creole), the Dominican Republic and Haiti would have become just one country, a single nation within a small Caribbean island.

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Appendix A

The Dominican Constitution

THE DOMINICAN CONSTITUTION

Table of contents

Preamble•

Source of constitutional authority •

Human dignity •

Political theorists/figures •

God or other deities •

Reference to country's history •

Reference to fraternity/solidarity We, representative of the Dominican people, freely and democratically elected, assembled in the National Revisory Assembly, invoking the name of God, guided by the ideology of our Founding Fathers, Juan Pablo Duarte, Matías Ramón Mella and Francisco del Rosario Sánchez, and the heroes of the Restoration of establishing a free, independent, sovereign and democratic Republic,

inspired by the examples of the struggles and sacrifices of our immortal heroes and heroines, propelled by the selfless work of our men and women, ruled by the supreme values and the fundamental principles of human dignity, liberty, equality, the rule of law, justice, solidarity, and fraternal coexistence, social well-being, ecological equilibrium, progress and peace, essential factors for social cohesion, we declare our desire to promote the unity of the Dominican Nation, for which in an exercise of our free determination we adopt and proclaim the following

Title I: On the Nation, the State, its Government and its fundamental principles

Chapter I: On the Nation, its Sovereignty and its Government

Article 1: Organization of the State

The Dominican people constitute a Nation organized as a free and independent State, named the Dominican Republic.

Article 2: Popular sovereignty

Sovereignty resides exclusively with the people, from whom flow all of the powers, which they exercise through their representatives or directly in the terms established by this Constitution and the law.

Article 3: Inviolability of the sovereignty and the principle of non-intervention

The sovereignty of the Dominican Nation, a State free and independent of all foreign power is inviolable. No public power organized by the present Constitution may realize or permit the occurrence of acts that constitute an intervention either direct or indirect in either internal or external matters of the Dominican Republic or an interference that threatens the personality and integrity of the State and the characteristics recognizes and enshrined in this Constitution. The principle of non-intervention constitutes an invariable norm of Dominican international policy.

Article 4: Government of the Nation and separation of powers

• Claim of executive independence • Judicial independence • Type of government envisioned

The government of the Nation is essentially civilian, republican, democratic, and representative. It is divided in the Legislative Power, the Executive Power, and the Judicial Power. These three powers are independent in the exercise of their respective duties. Their officials are responsible and may not delegate their responsibilities, which are determined solely by this Constitution and the law.

Article 5: Basis of the Constitution• Human dignity

The Constitution is based on the respect for human dignity and the indivisible unity of the Nation, common fatherland of all Dominican men and women.

Article 6: Supremacy of the Constitution• Constitutionality of legislation

All people and bodies that exercise public authority are subject to the Constitution, supreme law and basis of the legal system of the State. All laws, decrees, resolutions, regulations or acts contrary to this Constitution are null of plain right.

Chapter II: On the Social and Democratic State of Law

Article 7: Social and Democratic State of Law• Human dignity

The Dominican Republic is a Social and Democratic State of Law, organized in the form of a single Republic, bases on the respect of human dignity, fundamental rights, work, popular sovereignty, and the separation and independence of the public powers.

Article 8: Basic Function of the State• Human dignity

The effective protection of the rights of the person, the respect of their dignity and the securing of means that allow for their perfection in an egalitarian, equitable and progressive way, within a framework of individual liberty and social justice, compatible with the public order, the general well-being and the rights of all is an essential function of the State.

Chapter III: On the National Territory

Section I: On the Conformation of the National Territory

Article 9: National Territory• International law

The territory of the Dominican Republic is inalienable. It is composed of: 1. The eastern part of the Island of Santo Domingo, its adjacent islands and the combination of natural elemental and its marine geomorphology. Its irreducible land borders are fixed by the Borderland Treaty of 1929 and its Revision Protocol of 1936. The national authorities safeguard the care, protection and maintenance of the markers that identify the plot of the line of border demarcation, in accordance with the resolution of the borderland

treaty and the norms of International Law.

2. The territorial ocean, the corresponding ocean floor and sub ocean floor. The extension of the territorial ocean, its baselines, contiguous zone, exclusive economic zone and the continental platform shall be established and regulated by the organic law or by agreements on the delineation of marine borders, in the most favorable terms permitted by Maritime Law. 3. The air space over the national territory, the electromagnetic spectrum and the space where it acts. The law shall regulate the use of these spaces in accordance with the norms of International Law.

• Customary international law

Paragraph

The public powers shall procure the preservation of the national rights and interests in airspace in the framework of international agreements, with the objective of securing and improving communication and the population’s access to the assets and services developed there.

Section II: On the Security System and Borderland Development

Article 10: Borderland System

Security, economic, social, and touristic development of the Borderland Zone, its transportation, communication, and productive integration, as well as the spread of national and cultural values of the Dominican people are declared to be of supreme and permanent national interest.

• Right to culture

1. The public powers shall devise, execute, and prioritize policies and programs of public investment in social and infrastructure works in order to secure these objectives; 2. The systems of acquisition and transference of real estate in the Borderlands Zone shall be subject to specific legal requirements that favor the property of Dominicans and the national interest.

Article 11: Borderlands Treaties• Protection of environment • International law

The sustainable use and the protection of borderlands rivers, the use of the international highway and the preservation of the borderland stations using geodesic points are ruled by the principles established in the Revision Protocol of the year 1936 from the Border Treaty of 1929 and the Treaty of Peace, Perpetual Friendship and Arbitrage of 1929 endorsed by the Republic of Haiti.

Section III: On the Political Administrative Division

Article 12: Political administrative division

For the government and the administration of the State, the territory of the Republic is politically divided in a National District and the regions, provinces, and municipalities determined by law. The regions shall be composed of the provinces

and municipalities established by law.

Article 13: National District• National capital

The city of Santo Domingo de Guzman is the National District, capital of the Republic and seat of the national government.

Chapter IV: On Natural Resources

Article 14: Natural resources• Ownership of natural resources

Nonrenewable natural resources that are found in the territory and in the marine areas under national jurisdiction, genetic resources, biodiversity, and the radio-electric spectrum are national patrimony.

Article 15: Water resources• Protection of environment • Ownership of natural resources

Water constitutes an inalienable, imprescriptible strategic national patrimony for the use of the public that is not subject to seizure and is essential for life. Human consumption of water takes priority over any other use. The State shall promote the planning and implementation of effective policies for the protection of the water resources of the Nation.

Paragraph

The high watersheds of the rivers and the zones of endemic, native and migratory biodiversity, are subjects of special protection by the public powers in order to guarantee their management and preservation as fundamental assets of the Nation. The rivers, lakes lagoons, beaches and national coasts belong to the public domain and are freely accessible, always respecting the right to private property. The law shall regulate the conditions, forms and rights in which individuals shall access the enjoyment or management of these areas.

Article 16: Protected areas• Protection of environment • Ownership of natural resources

Wildlife, the conservation units that compose the National System of Protected Areas and the ecosystems and species that they contain constitute patrimonial assets of the Nation and are inalienable, imprescriptible, and not subject to seizure. The limits of the protected areas may only be reduced by law with the approval with two thirds of the votes of the members of the chambers of the National Congress.

Article 17: Exploitation of natural resources• Protection of environment • Ownership of natural resources

Mining deposits of hydrocarbons and, in general, nonrenewable natural resources may only be explored and exploited by private citizens, under sustainable environmental guidelines, according to the concessions, contracts, licenses, permits or fees, in conditions determined by law. The private citizens my exploit renewable natural resources in a reasonable manner with the conditions, responsibilities and limitations dictated by law. Accordingly: 1. The exploration and exploitation of hydrocarbons in the national territory and in the marine areas under the national jurisdiction is declared to be of high public interest;

2. The reforestation of the country, the conservation of the forests and the renewal of forestry resources are declared to be a national priority and in the social interest. 3. The preservation and reasonable exploitation of living and non-living resources from national marine areas, especially the joining of shoals and emersions within the national policy of marine development are declared a national priority; 4. The benefits received by the State for the exploitation of natural resources shall be dedicated to the development of the Nation and the provinces where they were found, under the proportions and conditions set by law.

Chapter V: On the Population

Section I: On Nationality

Article 18: Nationality• Requirements for birthright citizenship

The following are Dominicans: 1. The sons and daughters of a Dominican mother or father; 2. Those who enjoyed Dominican nationality before the entry into effect of this Constitution; 3. People born in the national territory, with the exception of the sons and daughters of foreign members of diplomatic and consular legations, of foreigners that find themselves in transit or reside illegally in Dominican territory. All foreigners are considered people in transit as defined in Dominican laws. 4. Those born abroad to a Dominican mother or father, notwithstanding having acquired by the place of birth a nationality different from those of their parents. Once having reached the age of eighteen, they may demonstrate their desire, before the appropriate authority, to assume dual nationality or to renounce one of theirs; 5. Those who enter into marriage with a Dominican, as long as they choose the nationality of their spouses and fulfill the requirements established by law;

• Requirements for naturalization

6. The direct descendants of Dominicans residing abroad; 7. Naturalized people, in accordance with the conditions and processes required by law.

• Requirements for naturalization

Paragraph

The public powers shall apply special policies to conserve and strengthen the ties of the Dominican Nation with its nationals abroad, with the essential goal of achieving greater integration.

Article 19: Naturalization• Requirements for naturalization

Foreigners may become naturalized in accordance with the law, they may not vote for the presidency or vice-presidency of the powers of the State, nor are they obligated to take up arms against their State of origin. The law shall regulate other limitations on naturalized people.

Article 20: Double nationality

The ability of Dominicans to acquire a foreign nationality is recognized. The acquisition of another nationality does not imply the loss of Dominican nationality.

Paragraph• Eligibility for cabinet • Eligibility for head of state • International organizations Dominicans that adopt another nationality, by a voluntary act or by their place of birth, may aspire to the presidency or vice-presidency of the Republic if they renounce their acquired nationality ten year prior to the election and reside in the country during the ten years previous to the post. Nevertheless, they may occupy other elected or ministerial offices or of diplomatic representation of the country abroad and in international bodies, without renouncing the acquired nationality.

Section II: On citizenship

Article 21: Acquisition of citizenship• Requirements for birthright citizenship

All Dominicans who are eighteen years of age and those who are or have been married, even though they have not reached this age, enjoy citizenship.

Article 22: Rights of citizenship

The following are rights of citizens: 1. To elect to and be eligible for posts established by the present Constitution;• Restrictions on voting 2. To decide on matters that are proposed to them by referendum;• Referenda 3. To exercise the right of popular, legislative, and municipal initiative, under the conditions established by this Constitution and the law; • Legislative initiatives by citizens • Initiation of general legislation 4. To formulate petitions to the public powers in order to petition measures in the public interest and to obtain a response from the authorities in the period established by the laws passed on this subject; • Right of petition 5. To denounce errors committed by public officials in the performance of their duties.

Article 23: Loss of the rights of citizenship• Conditions for revoking citizenship

The rights of citizenship are lost by irrevocable condemnation in cases of treason, espionage, conspiracy as well as for taking up arms and for aiding or participating in attempts of deliberate damages against the interests of the Republic.

Article 24: Suspension of the rights of citizenship• Conditions for revoking citizenship

The rights of citizenship are suspended in cases of: 1. Irrevocable condemnation to a criminal sentence, until that sentence is over; 2. Legally pronounced judicial interdiction, while it lasts; 3. The acceptance in Dominican territory of offices or public duties for a foreign government or State without prior authorization from the Executive Power; 4. Violation of the conditions by which naturalization was authorized.

Section III: On the regime of Foreigners

Article 25: Regime of foreigners• Restrictions on rights of groups

Foreigners have the same rights and duties as nationals in the Dominican Republic, with the exceptions and limitations that this Constitution and the laws establish; consequently: 1. They may not participate in political activities within the national territory, unless in exercising the right to suffrage of their country of origin; 2. They have the responsibility of registering themselves in the Book of Foreigners, in

accordance with the law; 3. They may resort to diplomatic protection after having exhausted the resources and processes before the national jurisdiction, except as provided international conventions.

• International law

Chapter VI: On international relations and international law

Section I: On the international community

Article 26: International relations and international law• Customary international law • International law

The Dominican Republic is a State member of the international community, open to cooperation and tied to the norms of international law, consequently: 1. It recognizes and applies the norms of international law, general and American, in the method in which its public powers have adopted them; 2. The norms in effect from international ratified agreements shall rule in the internal realm, once published in an official manner;

• Legal status of treaties

3. The international relations of the Dominican Republic are based and ruled by the affirmation and promotion of its national values and interests, respect for human rights and international law; 4. In equality of conditions with other States, the Dominican Republic accepts an international judicial system that guarantees respect of fundamental rights, peace, justice, and political, social, economic and cultural development of nations. It promises to act on the international, regional, and national levels in a manner compatible with national interests, the peaceful coexistence between peoples and the duties of solidarity with all nations.

• Reference to fraternity/solidarity

5. The Dominican Republic shall promote and favor integration with the nations of America, toward the end of strengthening a community of nations that defends the interests of the region. The State may enter into international treaties in order to promote the common development of the nations, that safeguard the well-being of the peoples and the collective security of their inhabitants, and in order to confer supranational organizations the required abilities to participate in processes of integration; 6. It declares itself in favor of economic solidarity between the countries of America and supports all initiatives in defense of its basic products, raw materials, and biodiversity.

• Protection of environment • Reference to fraternity/solidarity

Section II: Representatives of popular election before international parliaments

Article 27: Representatives• International organizations

The Dominican Republic shall have representatives before international parliaments with which it has signed agreements that recognize its participation and representation.

Article 28: Requirements• International organizations

In order to be a representative before international parliaments one must be Dominican in full exercise of civil and political rights and responsibilities and have reached an age of 25.

Chapter VII: On the official language and national symbols

Article 29: Official language• Official or national languages

The official language of the Dominican Republic is Spanish.

Article 30: National symbols• National anthem • National flag

The national symbols are the National Flag, the National Coat of Arms, and the National Hymn.

Article 31: National Flag• National flag

The National Flag is composed of the colors ultramarine blue and vermillion red, in alternating quarters, located in such a way that the blue is in the upper part of the flagpole, separated by a white cross half the width of the height of a quarter and that carries in its center the National Coat of Arms. The merchant flag is the same as the national, but without the Coat of Arms.

Article 32: The National Coat of Arms• God or other deities • National motto

The National Coat of Arms has the same colors as the National Flag used in the same way. It carries in its center the Bible open to the Gospel of Saint John, chapter 8, verse 32, and above the cross, which come from a trophy formed by two lances and four national flags without the coat of arms, facing both sides; it carries a branch of laurel on the left side and one of palm on the right side. It is crowned by an ultramarine blue ribbon which reads the motto "God, Country, and Liberty". At the base there is another ribbon, this one vermillion red, its ends are oriented upwards with the words "Dominican Republic". The form of the National Coat of Arms is of a rectangle, with the upper corners projecting and the lower ones rounded, the base at the center of which ends in a point and is oriented in a way in which a perfect square results from tracing a horizontal line that unites the two verticals of the rectangle from where the lower corners begin.

Article 33: National Hymn• National anthem

The National Hymn is the musical composition of José Reyes with the lyrics of Emilio Prud'Homme, and it is unique and invariable.

Article 34: National Motto• God or other deities • National motto

The National Motto is "God, Country, and Liberty".

Article 35: National holidays

The 27th of February and 16th of August, anniversaries of the Independence and the Restoration of the Republic, respectively, are declared national holidays.

Article 36: Regulation of the national symbols• National anthem • National flag

The law shall regulate the use of the national symbols and the dimensions of the National Flag and the National Coat of Arms.

Title II: On fundamental rights, guarantees and duties

Chapter I: Fundamental rights

Section I: Civil and political rights

Article 37: Right to life• Prohibition of capital punishment • Right to life

The right to life is inviolable from conception until death. The death penalty may not be established, pronounced, nor applied in any case.

Article 38: Human dignity• Human dignity • Inalienable rights

The State bases itself on respect for the dignity of the person and organizes itself for the real and effective protection of the fundamental rights that are inherent to it. The dignity of the human being is sacred, innate, and inviolable; its respect and protection constitute an essential responsibility of the public powers.

Article 39: Right to equality

• General guarantee of equality •

Equality regardless of gender •

Equality regardless of skin color •

Equality regardless of creed or belief •

Equality regardless of social status •

Equality regardless of political party •

Equality regardless of parentage •

Equality regardless of nationality •

quality regardless of language •

Equality regardless of religion •

Equality regardless of age •

Equality for persons with disabilities All people are born free and equal before the law, receive the same protection and treatment from institutions, authorities, and other people and enjoy the same rights liberties and opportunities, without any discrimination for reasons of gender, color, age, disability, nationality, family ties, language, religions, political or philosophical opinion, social or personal condition. Consequently: 1. The Republic condemns all privilege and situation that tends to fracture the equality of Dominicans, between whom differences beyond those resulting from their talents or virtues should not exist; 2. No entity of the Republic may give titles of nobility nor hereditary distinctions; •

Mentions of social class 3. The State should promote judicial and administrative conditions so that equality may be real and effective and shall adopt methods to prevent and combat discrimination, marginalization, vulnerability and exclusion; 4. Women and men are equal before the law. Any act that has the objective or result of diminishing or annulling the recognition, enjoyment or exercise of fundamental rights of woman and men in conditions of equality is prohibited.

5. The State should promote and guarantee the equal participation of women and men in candidate lists to the offices of popular election for the instances of guidance and decision in the public sphere, in the administration of justice, and in the State-controlled bodies.

• First chamber representation quotas •

Second chamber representation quotas

Article 40: Right to liberty and personal security

All people have a right to liberty and personal security. Accordingly: 1. No one may be sent to prison or denied his liberty without an order caused and written by the appropriate judge, except in cases of flagrante delicto;

• Protection from unjustified restraint

2. Every authority that exercises measures to deprive liberty is obligated to identify himself. 3. All people, at the moment of their detention, shall be informed of their rights; 4. All detained people have the right to communicate immediately with their families, lawyer, or trusted people, who have the right to be informed of the location of the detained person and of the reasons for the detention;

• Right to counsel

5. All people deprived of their liberty shall be submitted to the appropriate judicial authority within forty-eight hours of their detention or freed. The appropriate judicial authority shall notify the interested person, within the same time period, of the decision dictated to that effect.

• Protection from unjustified restraint

6. All people deprived of their liberty without cause or without the legal formalities or outside of cases provided for by law, shall be immediately freed at his request or at that of any other person. 7. All people may be freed once the imposed penalty has been completed or an order for freedom has been given by the appropriate authority; 8. No one may be submitted to methods of coercion unless by his own making; 9. The methods of coercion, restrictive of personal liberty, are of special character and their application should be proportional to the danger that they attempt to guard against; 10. Physical constraint may not be established for debts that do not come from an infraction against the penal laws;

• Rights of debtors

11. Every person that has a detained person under their guard is obligated to present him as soon as is required by the appropriate authority; 12. The transfer of any detained person from a prison to another location without an order written and caused by the appropriate authority is strictly prohibited;

13. No one may be condemned or punished for actions or omissions that at the time of taking place did not constitute a criminal or administrative infraction;

• Protection from ex post facto laws • Principle of no punishment without law

14. No one is criminally responsible for that done by another; 15. No one can be obligated to do that which the law does not order nor kept from doing that which the law does not prohibit. The law is equal for all: it may only order that which is just and useful for the community and it may not prohibit more than what is harmful.

• Principle of no punishment without law

16. Punishments that deprive freedom and the means of security shall be oriented towards reeducation and social reinsertion of the condemned person and may not consist of forced work; 17. In the exercise of the sanctioning power established by law, the Public Administration may not impose sanctions that implicate the deprivation of liberty in a direct or subsidiary form.

Article 41: Prohibition of slavery• Prohibition of slavery

Slavery, serfdom, and the trade and traffic of persons are prohibited in all their forms.

Article 42: Right to personal integrity

All people have the right to have their physical, psychic, moral integrity and the right to live without violence respected. They shall have the protection of the state in cases of threat, risk, or violation of the same. Consequently: 1. No one may be submitted to punishments, tortures, or degrading proceedings that imply the loss or decrease of his health or of his physical or psychic integrity;

• Prohibition of corporal punishment • Prohibition of cruel treatment • Prohibition of torture

2. Familial and gender based violence in any of its forms is condemned. The State shall guarantee through the law the adoption of necessary methods to prevent, sanction, and eradicate violence against women; 3. No one may be submitted, without prior consent to experiments or proceedings that do not conform to internationally recognized scientific and bioethical norms, nor to examinations of medical proceedings, except when his life is in danger.

• Reference to science

Article 43: Right to free development of the personality• Right to development of personality

All people have the right to the free development of their personality, without more limitations than those imposed by judicial order and the rights of others.

Article 44: Right to privacy and to personal honor• Right to protect one's reputation • Right to privacy

All people have the right to privacy. The respect and non-interference into private and family life, the home, and private correspondence are guaranteed. The right to honor, good name, and one's own image are recognized. All authorities or individuals who violate them are obligated to compensate or repair them in accordance with the law. Thus: 1. The home and domicile and all private premises of the person are inviolable, except in ordered cases, in accordance with the law, by the appropriate judicial authority or in cases of flagrante delicto;

• Inalienable rights

2. All persons have the right to access to the information and facts about them or their property that reside in official or private registers, as well as to know the destination and the uses of the same, with the limitations fixed by law. Treatment of personal facts or information or that regarding property shall be made respecting the principles of quality, lawfulness, loyalty, security, and finality. One may solicit the updating, oppose the treatment, rectification, or destruction of that information that illegitimately affects his rights from before the appropriate judicial authority;

• Right to information

3. The inviolability of private correspondence, documents, or messages in physical, digital, electronic, or all other formats is recognized. They may only be taken, intercepted, or searched by order of an appropriate judicial authority through legal proceeding in the substantiation of matters that are made public in the case and preserving the secrecy of private matters that are not related to the corresponding process. The secrecy of telegraphic, telephonic, cable, electronic, teleprocessing communication or that established by another mode is inviolable, unless by authorities authorized by a judge or appropriate authority, in accordance with the law;

• Regulation of evidence collection • Inalienable rights • Telecommunications

4. The management, use, or processing of data and information of official character gathered by authorities tasked with the prevention prosecution, and punishment of crime may only be processed or communicated to public registers, after the opening of a trial has intervened, in accordance with the law.

Article 45: Freedom of conscience and religion• Freedom of religion • Freedom of opinion/thought/conscience

The State guarantees the freedom of conscience and religion, subject to the public order and respect to good customs.

Article 46: Freedom of travel• Freedom of movement • International law

All persons that find themselves in the national territory have the right to travel, reside, and leave freely from the same, in accordance with legal dispositions. 1. No Dominican may be deprived of the right to enter the national territory. Nor may he be expulsed or exiled from the same, except in the case of extradition pronounced by an appropriate judicial authority, in accordance with the law and international agreements in effect on the subject;

2. All persons have the right to apply for asylum in the national territory in the case of persecution for political reasons. Those who find themselves in the condition of asylum shall enjoy protection that guarantees the full exercise of their rights, in accordance with the international agreements, norms, and instruments signed and ratified by the Dominican Republic. Terrorism, crimes against humanity, administrative corruption, and transnational crimes are not considered political crimes.

• Protection of stateless persons • Customary international law • Terrorism

Article 47: Freedom of association• Freedom of association

All persons have the right to associate with legal purposes, in accordance with the law.

Article 48: Freedom of assembly• Freedom of assembly

All persons have the right to meet, without prior permission, with lawful and peaceful purposes, in accordance with the law.

Article 49: Freedom of expression and information• Freedom of expression • Freedom of press

All persons have the right to freely express their thoughts, ideas, and opinions by any medium, without having allowed for prior censorship. 1. All persons have the right to information. This right encompasses searching for, researching, receiving, and spreading information of all types, of a public character, by any medium, channel or way, in accordance with the determinations of the Constitution and the law.

• Right to information

2. All information media have free access to the official and private sources of information of public interest, in accordance with the law. 3. The professional secret and the conscience clause of the journalist are protected by the Constitution and the law. 4. All persons have the right to reply and to correction when they feel damaged by information that has been spread. This right shall be exercised in accordance with the law. 5. The law guarantees the equal and plural access of all the social and political sectors to the means of communication that are property of the State.

Paragraph

The enjoyment of these liberties shall be exercised respecting the right to honor and to privacy as well as the dignity and morale of people, especially the protection of youth and children, in

Section II: On economic and social rights

Article 50: Freedom of enterprise• Right to establish a business • Right to competitive marketplace

The State recognizes and guarantees free enterprise, commerce, and industry. All persons have the right to freely dedicate themselves to the economic activity of their preference, without more limitations than those prescribed in this Constitution and those established by the law.

• Right to choose occupation

1. Monopolies shall not be permitted, except in favor of the state. The creation and organization of these monopolies shall be made by law. The State favors and safeguards free and loyal competition and shall adopt the necessary methods to avoid the harmful and restrictive effects of monopoly and of the abuse of the dominant position, establishing by law exceptions for cases of national security. 2. The State may dictate methods to regulate the economy and to promote national plans for competitiveness and to spur the integral development of the country

• Economic plans

3. The State may grant concessions for the time and the form determined by law, when they are about the exploitation of natural resources or the extension of public services, always ensuring the existence of adequate remuneration or compensation in public interest and for the environmental equilibrium.

Article 51: Right of property• Right to own property

The State recognizes and guarantees the right of property. Property has a social function and implies obligations. All persons have the right to the full use, enjoyment, and disposal of their assets. 1. No one may be deprived of his property, unless for a justified cause of public utility or social interest, previous payment of its just value determined by an agreement between the parties or the ruling of the appropriate court, in accordance with that established by law. In the case of the declaration of a State of Emergency or of Defense, the compensation may not be made previously.

• Emergency provisions • Protection from expropriation

2. The State shall promote, in accordance with the law, access to property, especially to titled real estate. 3. The dedication of land to useful ends and the gradual elimination of the system of large estates is declared to be in the social interest. Promoting agrarian reform and the integration of the rural, farming population into the process of national development in an effective way through stimulation and cooperation for the renewal of their methods of agricultural production and their technological training is a principal objective of the social policy of the State.

• Provisions for wealth redistribution

4. There shall not be confiscation of the assets of physical or judicial persons for political reasons.

5. The assets of physical or judicial persons, either nationals or foreigners, having their origin in illicit acts committed against the public patrimony, as well as those used in or coming from the illegal traffic of narcotics and psychotropic substances or relative to transnational organized crime and all crimes provided for in the penal laws may only be the object of confiscation or decommission through definitive

ruling. 6. The law shall establish the regime of the administration and disposal of assets seized and abandoned in criminal processes and in cases of forfeiture of domain, provided for in the judicial order.

Article 52: Right to intellectual property• Reference to art • Provisions for intellectual property • Reference to science The right to the exclusive property of scientific, literary, and artistic works, inventions, and innovations, names, brands, distinctive marks, and other productions of the human intellect for the time are recognized and protected, in the form and with the limitations established by law.

Article 53: Rights of the consumer• Protection of consumers

All persons have the right to enjoy quality goods and services, and objective, true, and opportune information about the content and characteristics of the products and services that they use or consume, under the previsions and norms established by law.

Article 54: Food security

The State shall promote research and the transference of technology for the production of foods and primary materials of agricultural origin, with the goal of increasing productivity and guaranteeing food security.

Article 55: Rights of the family• Right to found a family

The family is the basis of society and the fundamental space for the integral development of people. It is formed by natural or legal ties, by the free decision of a man and a woman to enter into marriage or by the responsible willingness to conform to it. 1. All persons have the right to form a family, in whose formation and development the woman and man enjoy equal rights and duties and owe one another mutual understanding and reciprocal respect.

• Provision for matrimonial equality

2. The State shall guarantee the protection of the family. The good of the family in unalienable and unattachable, in accordance with the law. 3. The State shall promote and protect the organization of the family on the basis of the institution of marriage between a man and a woman. The law shall establish the requirements to enter into it, the formalities of its celebration, its personal and patrimonial effects, the causes of separation or dissolution, and the regime of the property, rights, and duties between the spouses.

4. Religious marriages shall have civil effects in terms established by law, without prejudice to that dictated in international treaties.

• International law

5. The singular and stable union between a man and a woman, free from matrimonial impediment, that form a real home, creates rights and duties in their personal and patrimonial relationships, in accordance with the law. 6. Maternity, whether the social condition or the civil state of the woman, shall enjoy the protection of the public powers and causes the right to official assistance in the case of need. 7. All persons have the right to have their personality, their own first name, and the surnames of their father and mother recognized, and to know the identities of the same. 8. All persons have the right from their birth to be inscribed without payment in the civil register or in the book of foreigners and to obtain the public documents that prove their identity, in accordance with the law. 9. All sons and daughters are equal under the law, have equal rights and duties, and shall enjoy the same opportunities for social, spiritual,

and physical development. All mentions of the nature of parentage are prohibited in the civil registers and in all identity documents.

• Rights of children

10. The State promotes responsible paternity and maternity. The father and the mother, even after separation and divorce, have the shared and non-renounceable duty to feed, raise, train, educate, support, and provide safety and assistance to their sons and daughters. The law shall establish the necessary and appropriate methods to guarantee the effect of these obligations.

• Rights of children

11. The State recognizes work at home as an economic activity that creates aggregate value and produces social richness and well-being, therefore it shall be incorporated into the formulation and execution of public and social policies. 12. The State shall guarantee, through the law, safe and effective policies for adoption. 13. The value of young people as strategic actors in the development of the Nation is recognized. The State guarantees and promotes the effective exercise of their rights, through policies and programs that assure, in a permanent manner, their participation in all spheres of national life, and in particular, their training and access to first employment.

• State support for children

Article 56: Protection of minors• Rights of children • State support for children

The family, society, and State shall give preference to the superior interests of male and female children and adolescents, and shall have the obligation to assist and protect them in order to guarantee their harmonious and integral development and the full exercise of their fundamental rights, in accordance with this Constitution and the laws. Consequently: 1. The eradication of child labor and all types of mistreatment or violence against minors is declared of the highest national interest. Male and female children and adolescents shall be protected by the State against all forms of abandonment, kidnapping, states of vulnerability, abuse or physical, psychological, moral or sexual abuse, commercial, labor, economic exploitation or risky jobs. 2. The active and progressive participation of male and female children and adolescents in family, community, and social life shall be promoted. 3. Adolescents are active subjects to the process of development. The State, with the participation in solidarity of families and society, shall create opportunities to stimulate their productive movement towards adult life.

Article 57: Protection of the elderly• State support for the elderly

The family, society, and the State shall come together for the protection and the assistance of elderly people and shall promote their integration into active community life. The State shall guarantee the services of integral social security and food subsidies in the case of poverty.

Article 58: Protection of disabled persons• State support for the disabled

The State shall promote, protect, and ensure people with disabilities' enjoyment of all human rights and fundamental freedoms, in conditions of equality as well as in the full and autonomous exercise of their abilities. The State shall adopt the positive means necessary to foster their family, community, social, labor, economic, cultural and political integration.

Article 59: Right to housing• Right to shelter

All persons have the right to dignified housing with basic essential services. The State should determine the necessary conditions to make effective this right and promote plans for housing and human settlements in the social interest. Legal access to titled real estate is a fundamental priority of public policy and the advancement of housing.

Article 60: Right to social security• State support for the elderly • State support for the unemployed • State support for the disabled All persons have the right to social security. The State shall stimulate the progressive development of social security in order to ensure universal access to adequate protection in sickness, disability, unemployment, and old age.

Article 61: Right to health• Right to health care

All persons have the right to integral health. Consequently: 1. The State should safeguard the protection of the health of all persons, access to potable water, improvement of nutrition, sanitation services, hygienic conditions, environmental cleanliness, as well as procure means for the prevention and treatment of all sicknesses, ensuring access to quality medication and giving medical and hospital assistance for free to those who need it. 2. The State shall guarantee, through legislation and public policies, the exercise of the economic and social rights of the low-income population and, consequently, shall lend its protection and assistance to vulnerable groups and sectors, shall fight social vices with the appropriate means and with the aid of international agreements and organizations.

• International law

Article 62: Right to work• Right to work • Duty to work

Work is a right, a duty, and a social function that is exercised with the protection and assistance of the State. It is an essential purpose of the State to foment dignified and paid employment. The public powers shall promote the dialogue and agreement between workers, employers, and the State. Consequently: 1. The State guarantees the equality and equity of women and men in the exercise of the right to work. 2. No one may impede the work of others nor obligate them to work against their will. 3. Union freedom, social security, collective negotiation, professional training, respect for one's physical and intellectual abilities, privacy, and personal dignity are, among others, the basic rights of male and female workers.

• Right to join trade unions

4. Union organization is free and democratic, should adjust itself to its statutes, and be compatible with the principles inscribed in this Constitution and the law.

• Right to join trade unions

5. All kinds of discrimination in access to employment or during the extension of services are prohibited, excluding the exceptions provided for by law with the goal of protecting the worker 6. In order to resolve peaceful work conflicts, the right of workers to strike and of employers to halt private enterprises are recognized, always that they are exercised with respect to the law, which shall dictate the means to guarantee the maintenance of public services or those of public use

• Right to strike

7. The law shall dictate, according to what is required by the general interest, the workdays, the days of rest and vacations, the minimum wage and its forms of payment, the participation of nationals in all work, the participation of workers in the benefits of the business and, in general, all the minimum means that are considered necessary in favor of workers, including special regulations for informal work in the home and

any other form of human work. The State shall make use of the means at its disposal so that workers may acquire the tools and instruments that are indispensable to their work.

• Right to rest and leisure • Right to reasonable standard of living

8. It is the obligation of all employers to guarantee their workers adequate conditions of safety, health standards, hygiene, and work environment. The State shall adopt means to promote the creation of petitions integrated by employers and workers for the attainment of these goals

• Right to safe work environment

9. All workers have the right to a wage that is just and sufficient to permit them to live with dignity and cover the basic material, social, and intellectual needs of themselves and their families. The payment of equal wages for work of equal value is guaranteed, without discrimination by gender or of another type and in identical conditions of ability, efficiency, and seniority.

• Right to equal pay for work

10. The application of labor norms in relation to the nationalization of work is of high interest. The law shall determine the percentage of foreigners that may lend their services to a business as salaried workers.

Article 63: Right to education

All persons have the right to an integral education that is of quality, permanent, equal in conditions and opportunities, and without more limitations than those derived from their aptitudes, vocation, and aspirations. Consequently: 1. The goal of education is the integral formation of the human being for the length of his entire life, and should be oriented toward the development of his creative potential and his ethical values. It seeks access to knowledge, science, skill, and the other assets and values of culture.

• Reference to science

2. The family is responsible for the education of its members and has the right to choose the type of education for its minor children 3. The State guarantees free public education and declares it obligatory in initial, basic, and intermediate levels. The offer for the initial level shall be defined in the law. Superior education in the public system shall be financed by the State, guaranteeing a distribution of resources that is proportional to the educational offer of the regions, in accordance with that which the law establishes.

• Compulsory education • Free education

4. The State shall safeguard the free nature and quality of general education, the fulfillment of its goals and moral, intellectual, and physical formation of the educated. It has the obligation to offer the number of hours of instruction that assure the achievement of the educational goals.

5. The State recognizes the exercise of the teaching career as fundamental for the full development of the education and of the Dominican nation and, consequently, it is its obligation to tend to the professionalization, the stability, and the dignifying of teachers. 6. The eradication of illiteracy and the education of people with special needs and with exceptional abilities are obligations of the State. 7. The State should safeguard the quality of superior education and shall finance public centers and universities, in accordance with that established by the law. It shall guarantee university autonomy and academic freedom.

• Right to academic freedom

8. The universities shall choose their leadership and shall be regulated by their own statues, in accordance with the law. 9. The State shall define policies to promote and incentivize research, science, technology, and innovation that favor sustainable development, human well-being, competitiveness, institutional strengthening, and the preservation of the environment. Businesses and private institutions that invest toward these ends shall be supported.

• Protection of environment • Reference to science

10. The investment of the State in education, science and technology should be growing and sustained, in correspondence with the level of the macroeconomic performance of the country. The law shall allocate the minimum amounts and the percentages that correspond to the specified investment. Transferences of funds allotted for the financing of the development of these areas may not be made in any case.

• Reference to science

11. The means of social communication, public and private, should contribute to citizen formation. The State guarantees the public services of radio, television, and networks of libraries and computers, with the goal of permitting universal access to information. Educational centers shall incorporate the knowledge and application of new technologies and their innovations, according to the requirements established by law.

• Radio • Telecommunications • Television

12. The State guarantees the freedom on instruction, recognizes private initiative in the creation of educational institutions and services and stimulates the development of science and technology, in accordance with the law.

• Reference to science

13. With the end of forming citizens who are conscious of their rights and duties, in all public and private educational institutions instruction in social and civic formation, teaching of the Constitution, fundamental rights and guarantees, national values and the principles of peaceful coexistence shall be obligatory.

Section III: On cultural and sporting rights

Article 64: Right to culture• Reference to art • Right to culture • Provisions for intellectual property • Reference to science • Right to enjoy the benefits of science All persons have the right to participate and act with freedom and without censure in the cultural life of the Nation, to full access and enjoyment of cultural assets and services, of scientific advances and literary and artistic production. The State shall protect the moral and material interests over the works of authors and inventors. Consequently: 1. It shall establish policies that promote and stimulate, in the national and international spheres, the diverse scientific, artistic, and popular manifestations and expressions of the Dominican culture and shall incentivize and support the efforts of people, institutions, and communities that develop or finance cultural plans and activities. 2. It shall guarantee freedom of expression and cultural creation as well as equal opportunity for access to culture and shall promote cultural diversity and international exchange. • Freedom of expression 3. It shall recognize the value of cultural, individual and collective identity, its importance for complete and sustainable development, economic growth, innovation, and human well-being, through the support and diffusion of scientific research and cultural production. It shall protect the

dignity and integrity of cultural workers. 4. The cultural patrimony of the Nation, material and immaterial, is under the safeguarding of the State, which shall guarantee its protection, enrichment, conservation, restoration, and place of value. The assets of cultural patrimony of the Nation, whose property is State owned or has been acquired by the State, are inalienable and unattachable, and that ownership imprescriptible. The patrimonial assets in private hands and the underwater assets of the cultural patrimony shall be equally protected from illicit exportation and plunder. The law shall regulate the acquisition of the same.

Article 65: Right to sport

All people have the right to physical education, sport, and recreation. It is the responsibility of the State, in collaboration with teaching centers and sports organizations to foment, incentivize, and support the practice and diffusion of these activities. Accordingly: 1. The State accepts sport and recreation as public policies of education and health and guarantees physical education and school sports at all levels of the educational system, in accordance with the law. 2. The law shall make available the resources, stimuli, and incentives for the promotion of sports for all males and females, the integral assistance of sports players, support for highly competitive sports, to sporting programs and activities in the country and abroad.

Section IV: On Collective Rights and the Environment

Article 66: Collective and diffuse rights

The State recognizes collective and diffuse rights and interests, which are exercised with conditions and limitations established by law. Consequently, it protects: 1. The conservation of ecological balance, of fauna and flora.• Protection of environment 2. The protection of the environment.• Protection of environment 3. The preservation of the cultural, historical, urban, artistic, architectural, and archaeological patrimony. • Reference to art • Right to culture

Article 67: Protection of the environment• Protection of environment

Preventing contamination, protecting and maintaining the environment for the enjoyment of present and future generations constitute duties of the State. Consequently: 1. All people have the right, both individually and collectively, to the use and sustainable enjoyment of natural resources, to live in an environment that is healthy, ecologically balanced, and adequate for the development and preservation of the different forms of life, scenery and nature. 2. The introduction, development, production, tenancy, commercialization, transportation, storage, and use of chemical, biological, nuclear, and agro-chemical weapons that are internationally banned is prohibited, as well as nuclear residues and toxic and dangerous waste. 3. The State shall promote, in the public and private sector, the use of alternative and non-contaminating technologies and energies. 4. In the contracts made by the State or in the permits that it grants that involve the use and exploitation of natural resources, it shall include consideration of the obligation to conserve the ecological equilibrium, the access to technology and its transference, as well as to reestablish the environment to its natural state, if it were to be changed. 5. The public powers shall prevent and control the factors of environmental deterioration, shall impose legal sanctions, the objective responsibility for damages caused to the environment and to natural resources, and shall demand their repair. Additionally, they shall cooperate with other nations in the protection of ecosystems for the length of the marine and land borders.

Chapter II: On the Guarantees to Fundamental Rights

Article 68: Guarantees of fundamental rights

The constitution guarantees the effectiveness of fundamental rights, through mechanisms of guardianship and protection, that offer to people the possibility of obtaining the fulfillment of their rights, when faced with those subjected, obligated, or owing to the same. Fundamental rights link all the public powers, which should guarantee their effectiveness in the terms established by the present Constitution and by the law.

Article 69: Effective judicial guardianship and due process• Guarantee of due process

All persons, in the exercise of their rights and legitimate interests, have the right to obtain effective judicial guardianship, with respect to the due process that shall be formed by the minimum guarantees that are established in the following: 1. The right to accessible, timely, and free justice.• Right to speedy trial 2. The right to be heard, within a reasonable period and by a competent, independent, and impartial jurisdiction, established previously by law. • Judicial independence • Right to speedy trial 3. The right to be presumed innocent and treated accordingly, while not having been declared guilt by an irrevocable sentence. • Presumption of innocence in trials 4. The right to a public, oral, and adversarial trial, in all equality and with respect to the right of defense. • Right to counsel • Right to public trial 5. No person may be judged twice for the same charge.• Prohibition of double jeopardy 6. No one may be obligated to self-incriminate.• Protection from self-incrimination 7. No one may be judged in any way but in accordance to the laws that preexisted the act for which they are charged, before a judge or competent tribunal, and with observance of the full scope of the customs that pertain to each case. • Protection from ex post facto laws • Principle of no punishment without law 8. Proof that is obtained through violation of the law is null.• Regulation of evidence collection 9. All sentences may be appealed in accordance with the law. The superior court may not increase the sanction imposed when the only person to make an appeal is the convicted person. • Right to appeal judicial decisions 10. The norms of due process shall be applied to all kinds of judicial and administrative conduct.

Article 70: Habeas data• Right to information

All persons have the right to judicial action in order to gain knowledge of the existence of and to access the information about them which is held in registries or banks of public data and, in case of falseness or discrimination, to demand the suspension, rectification, update, and confidentiality of those, in accordance with the law. The secrecy of the sources of journalistic information may not be affected.

Article 71: Habeas corpus action• Protection from unjustified restraint

All persons deprived of their liberty or threatened with the same in an illegal, arbitrary or unreasonable manner have the right to an action of habeas corpus before a judge or competent tribunal, by themselves or by those who act in their name, in accordance with law, in order to gain knowledge of and to decide, in a simple, effective, quick, and summary way, the legality of the deprivation of or threat to their liberty.

Article 72: Amparo action• Right to amparo

All persons have the right to an action of amparo in order to demand before the courts, for themselves or by those who act in their name, immediate protection of their fundamental rights, not protected by habeas corpus, when they are violated or threatened by the action or omission of any public authority or of individuals, in order put into effect the fulfillment of a law or administrative act and in order to guarantee collective and diffuse rights and interests. In accordance with the law, the proceeding is preferential, summary, oral, public, free, and not subject to formalities.

Paragraph• Emergency provisions

The acts adopted during the States of Exception that violate protected rights that unreasonably cause suspended rights are subject to actions of amparo.

Article 73: Nullity of acts that subvert constitutional order

Acts that are issued from usurped authority, actions or decisions of public powers, institutions or persons that alter or subvert the constitutional order and any decision made by requisition of armed force are null of full right.

Chapter III: On the Principles of Application and Interpretation of the Fundamental Rights and Guarantees

Article 74: Principles of regulation and interpretation

The interpretation and regulation of the fundamental rights and guarantees, recognized in the present Constitution, shall be ruled by the following principles: 1. They do not have limiting character and consequently, do not exclude other rights and guarantees of an equal nature. 2. Only by law, in the cases permitted by this Constitution, may the exercise of the fundamental rights and guarantees be regulated, respecting their essential content and the principle of reasonableness.

3. Treaties, pacts, and conventions related to human rights, adopted and ratified by the Dominican State have constitutional hierarchy and are for direct and immediate application by the courts and other organs of the State.

• International law • Legal status of treaties

4. The public powers interpret and apply the norms related to fundamental rights and their guarantees, in the sense most favorable to the person in possession of the same, in the case of conflict between fundamental rights, they shall attempt to harmonize the assets and interests protected by this Constitution.

Chapter IV: On the fundamental rights

Article 75: Fundamental duties

The fundamental rights recognized in this Constitution determine the existence of an order of judicial and moral responsibility that rules the conduct of men and women in society. Consequently, the following are declared as fundamental duties of people: 1. To obey and follow the Constitution and the laws, to respect and obey the authorities established by it.

• Duty to obey the constitution

2. To vote, if one is legally capable of doing so. 3. To lend civil and military services that the Homeland requires for its defense and conservation, in accordance with that established by law.

• Duty to serve in the military

4. To lend services for development, required of male and female Dominicans between the ages of sixteen and twenty-one years. These services may be lent voluntarily by those older than twenty-one years. The law shall regulate these services. 5. To abstain from taking any act damaging to the stability, independence, or sovereignty of the Dominican Republic. 6. To pay taxes, in accordance with the law and in proportion to their contributory ability, in order to fund the public expenses and investments. It is a

fundamental duty of the State to guarantee the rationality of public spending and the promotion of an efficient public administration.

• Duty to pay taxes

7. To dedicate oneself to dignified work, of one's choosing, with the goal of providing for oneself and one's family in order to achieve the perfection of one's personality and to contribute to the well-being and progress of society

• Right to choose occupation • Duty to work

8. To attend the educational establishments of the Nation to receive required education, in accordance with that established by this Constitution.

9. To cooperate with the State with respect with social assistance and security, in accordance with its possibilities. 10. To act in accordance with the principle of social solidarity, responding with humanitarian action to situations of public calamity or that put the lives or health of people in danger.

• Reference to fraternity/solidarity

11. To develop and spread the Dominican culture and to protect the natural resources of the country, guaranteeing the conservation of a clean and healthy environment.

• Protection of environment

12. To safeguard the strengthening and quality of the democracy, the respect for the public patrimony, and the transparent exercise of the public function.

Title III: On the Legislative Power

Chapter I: On its formation

Article 76: The composition of Congress• Structure of legislative chamber(s)

The Legislative Power is exercised in the name of the people by the National Congress, formed by the Senate of the Republic and the Chamber of Deputies.

Article 77: Election of male and female legislators• First chamber selection • Second chamber selection

The election of senators and deputies shall be made by universal direct suffrage by the terms established by law.

• Claim of universal suffrage

1. When for any reason vacancies of senators of deputies occur, the corresponding chamber shall select its substitute from the shortlist presented to it by the superior body of the party that nominated them.

• Replacement of legislators

2. The shortlist shall be submitted to the chamber where the vacancy was produced within the thirty days following its occurrence, if the Congress was meeting and, in the case that it was not, within the first thirty days of its meeting. If the indicated time passes without the appropriate body of the party having submitted the shortlist, the corresponding chamber shall make the choice.

• Replacement of legislators

3. The offices of senator and deputy are incompatible with other offices or public employment, except for work as a teacher. The law shall regulate the regimen of other incompatibilities.

• Outside professions of legislators

4. The male and female senators and deputies are not tied by imperative order, they always act in adherence to the sacred duty of representation of the people that elected them, to whom they must be accountable.

Section I: On the Senate

Article 78: Composition of the Senate• Second chamber selection • Term length of second chamber

The Senate is composed of elected members, one for each province and one for the National District, who shall exercise their role for four years.

Article 79: Requirements for being a male or female senator

• Minimum age for first chamber • Eligibility for first chamber • Minimum age for second chamber • Eligibility for second chamber

In order to be a male or female senator one is required to be a male or female Dominican in full exercise of civil and political rights, to have reached twenty-five years of age, to be a native of the territory that elects him or to have resided in it for at least five consecutive years. Consequently: 1. The male and female senators elected for a territory shall reside in the same during the period for which they are elected. 2. Naturalized persons may only be elected to the Senate ten years after having acquired Dominican nationality, always having resided in the jurisdiction that elect them during the five years that precede their election.

Article 80: Powers

The exclusive powers of the Senate are: 1. To be familiar with the accusations made by the Chamber of Deputies against the public officials designated in Article 83, section 1. The declaration of culpability leaves the person stripped of their office, and may not exercise any public office, whether or not by popular election, for a term of ten years. The person so stripped shall remain subject, if that is the case, to be accused and judged before the ordinary courts, in accordance with the law. This decision shall be adopted with the vote of two thirds of the membership.

• Constitutional court removal • Electoral court removal • Head of state removal • Supreme/ordinary court judge removal • Removal of individual legislators

2. To approve or disapprove the appointments of ambassadors and heads of permanent authorized missions abroad that are submitted by the President of the Republic. 3. To choose the members of the Chamber of Accounts from the shortlists presented by the Chamber of Deputies, with the vote of two thirds of the senators present. 4. To choose members of the Central Electoral board and their substitutes, with the vote of two thirds of those present

• Electoral commission

5. To choose the Defender of the People, his substitutes and his adjuncts, from the shortlists presented to them by the Chamber of Deputies, with the vote of two thirds of those present.

• Ombudsman

6. To authorize, at the request of the President of the Republic, in the absence of a convention that permits him, the presence of foreign troops in military exercises in the territory of the Republic, as well as to determine the time period and the conditions of their stay. 7. To approve or disapprove the sending of troops on missions of peace abroad, authorized by international bodies, fixing the conditions and duration of said mission.

• International organizations

Section II: On the Chamber of Deputies

Article 81: Representation and composition• Size of first chamber • First chamber selection

The Chamber of Deputies shall be composed in the following manner: 1. One hundred and seventy-eight male or female deputies elected by territorial constituencies in representation of the National District and the provinces, distributed in proportion to the population density, with their being at least two representatives for each province in all cases. 2. Five male or female deputies elected at the national level by an accumulation of votes, preferably from parties, alliances, or coalitions that have not obtained seats and have achieved no less than one percent (1%) of the valid votes cast. The law shall determine their distribution. 3. Seven male or female deputies elected in representation of the Dominican community abroad. The law shall determine their form of election and distribution.

Article 82: Requirements for being a male or female deputy• Minimum age for first chamber • Eligibility for first chamber

In order to be a male or female deputy one must meet the same requirements as to be a senator.

Article 83: Powers

The exclusive powers of the Chamber of Deputies are: 1. To accuse before the Senate public officials elected by popular vote, those elected by the Senate and by the National Counsel of the Magistrature for the commission of serious wrongs in the exercise of the offices. The accusation may only be made with the favorable vote of two thirds of the membership. When they are about the President and the Vice President of the Republic, they shall require the favorable vote of three quarters of the membership. The accused person shall have their office suspended from the moment in which the Chamber declares that the accusation has been made.

• Constitutional court removal • Electoral court removal • Head of state removal • Supreme/ordinary court judge removal • Removal of individual legislators

2. To submit to the Senate the shortlists for the election of the members of the Chamber of Accounts with the favorable vote of two thirds of those present.

3. To submit to the Senate the shortlists for the Defender of the People, their substitutes, of which there cannot be more than two, and the adjuncts, of which there may not be more than five, with the favorable vote of two thirds of those present.

• Ombudsman

Chapter II: On the Common Provisions of Both Chambers

Article 84: Quorum of sessions• Quorum for legislative sessions

In each chamber the presence of more than half of the members is necessary for the validity of the deliberations. The decisions are adopted by the absolute majority of votes, except the issues previously declared to be urgent, which in their second discussion shall be decided by two thirds of those present.

Article 85: Immunity for opinion• Immunity of legislators

The members of both chambers shall enjoy immunity for the opinions that they express in the sessions.

Article 86: Protection of the legislative function• Immunity of legislators

No senator or deputy may be deprived of his liberty during the legislature, without the authorization of the chamber to which he belongs, except in the case that he is apprehended in the act of committing a crime. If a male or female legislator has been arrested, detained, or deprived in any other form of his or her liberty, the chamber to which he or she belongs, whether or not it is in session, and including one of its members, shall demand his freedom for the duration of the legislature. To this effect, the President of the Senate or of the Chamber of Deputies or a senator or deputy, according to the case, shall make a request to the Attorney General of the Republic and, if it is necessary, shall give the order to free him directly, for which all the support of the public force may be required and should be given to him.

Article 87: Reach and limits of immunity

Parliamentary immunity authorized in the previous article does not constitute a personal privilege of the legislator, but rather a prerogative of the chamber to which he belongs and does not stand in the way of the initiation of actions that proceed by law at the end of the congressional mandate. When the chamber receives a request from an appropriate judicial authority, with the goal of removing the protection of one of its members, it shall proceed in accordance with that established by its internal rules and shall decide to that effect within a maximum period of two months from the issuance of the request.

Article 88: Loss of investiture• Removal of individual legislators

Male and female legislators should attend the sessions of the legislatures and submit themselves to the rule of ineligibility and conflict of interest in the form and terms that the present Constitution and the internal regulations of the corresponding legislative chamber define. Those who do not comply with the preceding shall lose their investiture given political trial in accordance with the norms instituted by this Constitution and the regulations and may not run for a position in the National Congress within the ten years following his dismissal.

Article 89: Duration of the legislatures• Extraordinary legislative sessions • Length of legislative sessions

The Chambers shall meet in ordinary form the 27th of February and the 16th of August of each year. Each legislature shall last one hundred and fifty days. The Executive Power shall be able to convoke them in an extraordinary manner.

Article 90: Directive offices of the chambers• Leader of first chamber • Leader of second chamber

On the 16th of August of each year the Senate and the Chamber of Deputies shall elect their respective directive offices, formed by a president, a vice president and two secretaries. 1. The President of the Senate and of the Chamber of Deputies shall have, during the sessions, disciplinary powers and shall represent their respective chamber in all legal acts. 2. Each chamber shall designate its officials, administrative employees, and assistants in accordance with the Law of the Administrative Civil Servants of the National Congress. 3. Each chamber shall regulate that concerning its internal service and the

handling of issues particular to it, and may, in the use of its disciplinary abilities, establish the sanctions that follow.

Article 91: Rendition of accounts of the presidents• Leader of first chamber • Leader of second chamber

The presidents of both chambers shall convoke their respective plenaries the first week of the month of August of every year, in order to give them a report on the legislative, administrative, and financial activities realized during the preceding period.

Article 92: Rendition of accounts of the legislators

The legislators shall render each year a report on their administration before the electors that they represent.

Chapter III: On the Powers of the National Congress

Article 93: Powers

The National Congress legislates and supervises in representation of the people. Consequently, it corresponds to it: 1. General powers in legislative matters: a. To establish the taxes, tributes, or general contributions and to determine the means of their collection and investment; b. To be familiar with the observations that the Executive Power makes on the laws;

c. To provide for all that concerns the conservation of monuments and the historical, cultural, and artistic patrimony;

• Reference to art • Right to culture

d. To create, modify or eliminate regions, provinces, municipalities, municipal districts, sections and expanses and to determine all that concerns their borders and organization, by the procedure regulated in this Constitution and given study that demonstrates the political, social, and economic advantages that justify the modification; e. To authorize the President of the Republic to declare the states of exception that this Constitution describes;

• Emergency provisions

f. In the case that the national sovereignty finds itself exposed to a grave and imminent danger, the Congress may declare that a state of national defense exists, suspending the exercise of individual rights with the exception of the rights established in article 263. If the Congress is not meeting, the President of the Republic may dictate the same provision, which will bring with it an immediate convocation of the same so it may be informed of the events and of the provisions taken;

• Emergency provisions

g. To establish the norms relative to migration and the rules on foreigners; h. To increase or reduce the number of appellate courts and to create or eliminate courts and to provide for all that is related to their organization and competence, given consultation with the Supreme Court of Justice; i. To vote annually on the Law of the General Budget of the State, as well as to approve or reject the extraordinary expenses for which the Executive Power solicits credit;

• Budget bills

j. To legislate on that which concerns the public debt and to approve or disapprove the credit and loans signed by the Executive Power, in accordance with this Constitution and the law; k. To approve or disapprove contracts submitted to it by the President of the Republic, in accordance with that provided by Article 128, number 2, section d, as well as the later corrections or modifications that alter the conditions originally established in the specified contracts at the time of their legislative authorization; l. To approve or disapprove the international treaties and conventions that the Executive Power endorses;

• International law • Treaty ratification

m. To declare by law the necessity of Constitutional Reform; n. To grant honors to distinguished male and female citizens who have given recognized service to the nation or to humanity;

ñ. To grant authorization to the President of the Republic to travel abroad when it is for more than fifteen days; o. To decide on the movement of the seat of the legislative chamber because of force majeure or because of other duly motivated circumstances; p. To grant amnesty for political reasons; q. To legislate on all matters that are not the realm of another power of the State and that are not in opposition to the Constitution; r. To declare itself through resolutions about problems or situations on a national or international level that are of interest for the Republic. 2. Powers in matters of supervision and control: a. To approve or reject that state of collection and investment of the income that the Executive Power should present it during the first ordinary legislature of each year, taking as a base the report of the Chamber of Accounts; b. To safeguard the conservation and fruition of the national assets in benefit of society and to approve or reject the transfer of title of the assets of private domain of the Nation, except as provided for by Article 128, number 2, section d; c. To summon ministers, vice ministers, directors or administrators of autonomous and decentralized bodies of the State before the permanent commissions of Congress to edify them about the budgetary execution and the acts of their administration;

• Legislative committees

d. To annually examine all the acts of the Executive Power and to approve them if they match with the Constitution and the law;

• Legislative oversight of the executive

e. To appoint permanent and special commissions, at the request of its members, so they may investigate whatever matter is of the public interest and render a corresponding report;

• Legislative committees

f. To supervise all the public policies that the government and its autonomous and decentralized institutions implement, no matter their nature and reach.

Article 94: Invitations to the Chambers• Legislative committees • Legislative oversight of the executive

The legislative chambers, as well as the permanent and special commissions that they create, may invite ministers, vice ministers, directors, and other male and female officials of the Public Administration, as well as any physical or juridical person to offer pertinent information about the matters over which they have power.

Paragraph

The unwillingness of the summoned people to appear or to render the required declarations, shall be sanctioned by the criminal courts of the Republic, with the penalty provided for by the legal provisions in force for cases of contempt of public authority, at the request of the appropriate chamber.

Article 95: Questionings• Cabinet removal • Legislative oversight of the executive

To question ministers and vice ministers, the Governor of the Central Bank and the directors or administrators of autonomous and decentralized bodies of the State, as well as those from entities that administer public funds about matters of their competence, when agreed to by the majority of the present members, at the request of at least three legislators, as well as to gather information from other public functionaries that are competent in the subject and dependents of those previously specified.

Paragraph

If the male or female official summoned does not appear without a justifiable reason or his or her declarations are considered unsatisfactory, the chambers, with the vote of two thirds of their present members, may emit a vote of censure against him or her and recommend his or her dismissal from office to the President of the Republic or to the appropriate hierarchical superior for breach of responsibility.

Chapter IV: On the Formation and Effect of the Laws

Article 96: Initiative of law• Initiation of general legislation

They have the right to initiative in the formation of the laws: 1. Male or female senators and male and female deputies 2. The President of the Republic 3. The Supreme Court of Justice in judicial matters• Supreme court powers 4. The Central Electoral Board in electoral matters• Electoral commission

Paragraph

Male and female legislators who exercise the right to initiative in the formation of the laws, may sustain their motion in the other chamber. In the same manner, the others that have this right may make it in both chambers personally or through a representative.

Article 97: Popular legislative initiative• Legislative initiatives by citizens

The popular legislative initiative is established through which a number of male and female citizens no less than two percent (2%) of those registered in the registry of electors, may present projects of law before the National Congress. A special law shall establish the procedure and the restrictions for the exercise of this initiative.

Article 98: Legislative discussions• Division of labor between chambers

All projects of law admitted in one of the chambers shall be submitted to two different discussions with an interval of one day at least between one and the other discussion. In the case that it was already declared of urgency it must be discussed in two consecutive sessions.

Article 99: Procedure between the chambers• Division of labor between chambers

Once a project of law has been approved in one of the chambers, it shall pass to the other for its opportune discussion, observing the same constitutional formalities. If this chamber makes changes to it, it shall return said modified project to the chamber where it began, to be made known again in unique discussion and, if said modifications are accepted, this last chamber shall send the law to the Executive Power. If

they are rejected, the project shall be returned to the other chamber, and if it approves it, it shall send the law to the Executive Power. If the modifications are rejected, the project shall be considered thrown out.

Article 100: Effects of extraordinary convocations

Extraordinary convocations realized by the Executive Power to the legislative chambers, shall not have effects for the prevention of projects of law in progress.

Article 101: Promulgation and Publication• Approval of general legislation

All laws approved in both chambers shall be sent to the Executive Power for their promulgation or observations. If he does not make observations about them, he shall promulgate them within ten days of receiving them, if the matter was not declared urgent, in which case he shall promulgate them within five days of receiving them, and he shall make them published within ten days from the date of the promulgation. One the constitutional period for the promulgation and publication of the laws authorized by the National Congress has passed, they shall be considered promulgated and the President of the chamber that has given them to the Executive Power shall publish them.

Article 102: Observations to the law• Approval of general legislation • Veto override procedure

If the Executive Power makes observations to the law that was submitted to him, he shall return it to the chamber from which it came in the term of ten days, counting from the date on which it was received. If the matter was declared urgent, he shall make his observations in the term of five days from when it was received. The Executive Power shall submit his observations indicating the articles where they occur and the reasons that motivate the observation. The chamber that received the observations shall make them included in the agenda of the day of the next session and shall discuss the law again in one reading. If after this discussion, two thirds of the present members of said chamber approve it anew, it shall be submitted to the other chamber, and if that chamber approves it by an equal majority, it shall be definitively be considered law and it shall be promulgated and published in the periods established in Article 101.

Article 103: Period to become familiar with the observations of the Executive Power

All laws for which the Executive Power makes observations to the National Congress have a period of two ordinary legislatures to be decided, otherwise the observation will be considered accepted.

Article 104: Validity of a project of law

Projects of law that remain pending in one of the two chambers at the close of the ordinary legislature, without prejudice to that established in Article 100, follow the constitutional process in the following legislatures, until they are converted to law or rejected. When it does not occur this way, the project shall be considered as if it was not initiated.

Article 105: Inclusion in the agenda of the day

All projects of law received in a chamber, after being approved in the other, shall be included in the agenda of the day of the first session that is held.

Article 106: Extension of the legislatures

When a law is sent to the President of the Republic for its promulgation and the time that is left for the term of the legislature is less than that established in Article 102 for observations, the legislature shall

remain open to become familiar with the observations, or the process shall be continued in the following legislature without prejudice to that provided in Article 103.

Article 107: Rejected project of law

The rejected projects of law in one chamber may not be presented in either of the two chambers until the following legislature.

Article 108: Headers of the laws

The bicameral laws and resolutions shall be headed: The National Congress. In the name of the Republic.

Article 109: Entry into effect of the laws

The laws, after being promulgated, shall be published in the form that the law determines and shall be given the broadest diffusion possible. They shall be obligatory once the periods for them to be considered known in all the national territory have passed.

Article 110: Non-retroactivity of the law• Protection from ex post facto laws

The law only provides for and is applied to the future. It does not have retroactive effect unless it is favorable to one who is subject to justice or completing a sentence. In no case may the public powers or the law affect or alter the juridical security derived from established situations according to a previous legislation.

Article 111: Laws of public order

The laws relative to the public order, policy and security obligate all the inhabitants of the territory and may not be diminished by individual conventions.

Article 112: Organic laws• Supermajority required for legislation • Organic laws

The organic laws are those that by their nature rule the fundamental rights, the structure and organization of the public powers, the public function, the electoral rules, the rules of economic financing, the public budget, planning, and investment, the territorial organization, the constitutional proceedings, the security and defense, the matters expressly referred to by the Constitution and others of an equal nature. For their approval or modification the favorable vote of two thirds of those present in both chambers shall be required.

Article 113: Ordinary laws

The ordinary laws are those that by their nature require for their approval the absolute majority of the votes of those present in each chamber.

Chapter V: On the Rendition of Accounts to Congress

Article 114: Rendition of accounts of the President of the Republic

It is the responsibility of the President of the Republic to render his accounts annually, before the National Congress, of the budgetary, financial, and management administration that occurred in the previous year, according to that established in Article 128, number 2, section f of this Constitution, accompanied by a message that explains the macroeconomic and fiscal projections, the economic, financial, and social results expected and the principal priorities that the government proposed to execute within the Law of the General Budget of the State approved for the year in course.

Article 115: Regulation of procedures of control and supervision

• Legislative oversight of the executive

The law shall regulate the procedures required for the two legislative chambers for examination of the reports of the Chamber of Accounts, examination of the acts of the Executive Power, invitations, questionings, political trial and the other mechanisms of control established by this Constitution.

Article 116: Rendition of report of the Defender of the People

The Defender of the People shall render to the National Congress the annual report of his activities, no more than thirty days before the close of the first ordinary legislature.

Chapter VI: On the National Assembly and the Joint Meeting of Both Chambers

Article 117: Conformation of the National Assembly• Joint meetings of legislative chambers

The Senate and the Chamber of Deputies shall hold their sessions separately, except when the National Assembly meets.

Article 118: Quorum of the National Assembly• Quorum for legislative sessions

The chambers shall meet in National Assembly in the cases indicated in this Constitution, more than half of the members of each chamber must be present. Their decisions shall be made by absolute majority of votes, except when they are convoked to reform the Constitution.

Article 119: Directive Office of the National Assembly• Joint meetings of legislative chambers

The National Assembly or the Joint Meeting of both chambers is ruled by their rules of organization and functioning. In both cases, the President of the Senate shall assume the presidency, the President of the Chamber of Deputies shall assume the vice presidency, and the secretariat shall be assumed by the secretaries of each chamber. In the case of the temporary or definitive absence of the male or female President of the Senate and while his substitute has not been elected by said Legislative Chamber, the male or female President of the Chamber of Deputies shall preside over the National Assembly or the Joint Meeting. In the case of the temporary or definitive absence of the male or female President of both chambers, the male or female Vice President of the Senate, and in his absence, the male or female Vice President of the Chamber of Deputies shall preside over the National Assembly or Joint Meeting.

Article 120: Powers of the National Assembly• Joint meetings of legislative chambers

It is the responsibility of the National Assembly: 1. To be familiar with and to decide over constitutional reforms, acting in this case as National Review Assembly. 2. To examine the acts of election of the male or female President and of the male or female Vice President of the Republic. 3. To declare the male or female President and Vice President of the Republic, to receive their oath and to accept or reject their resignation. 4. To exercise the functions that the present Constitution and the organic rules give them.

Article 121: Joint meeting of the chambers• Joint meetings of legislative chambers

The chambers meet jointly in the following cases: 1. To receive the message and the rendition of accounts of the male or female President of the Republic and the reports of the ministries 2. To celebrate acts that are commemorative or a matter of protocol.

Title IV: On the Executive Power

Chapter I: On the President and Vice President of the Republic

Section I: General Provisions

Article 122: President of the Republic• Name/structure of executive(s)

The Executive Power is exercised in the name of the people by the male or female President of the Republic, in his or her condition as head of State and of government in accordance with that provided by this Constitution and the law.

Article 123: Requirements to be the President of the Republic

• Eligibility for head of state

In order to be President of the Republic, one is required: 1. To be Dominican by birth or origin 2. To have reached thirty years of age• Minimum age of head of state 3. To be in full exercise of civil and political rights 4. To not be in active military or police service for at least the three years prior to the presidential elections • Restrictions on the armed forces

Article 124: Presidential election• Deputy executive • Head of state selection • Head of state term length • Head of state term limits The Executive Power is exercised by the male or female President of the Republic, who shall be elected every four years by direct vote. The male or female President of the Republic may opt for a second consecutive constitutional term and may never again run for the same office or the Vice Presidency of the Republic.

Article 125: Vice President of the Republic• Deputy executive

There shall be a male or female Vice President of the Republic, elected jointly with the President in the same form and for an equal period. In order to be Vice President of the Republic the same conditions are required as to be President.

Article 126: Swearing in of the President and of the Vice President of the Republic

The President and Vice President of the Republic elected in general elections shall give an oath of office the 16th of August following their election, the date on which the term of the exiting authorities ends. Consequently: 1. When the President of the Republic cannot swear the oath due to finding himself outside of the country, sickness, or for any other cause for force majeure, the Vice President of the Republic shall be sworn in, who shall exercise for the interim the office of the President of the Republic, and in his absence, the President of the Supreme Court of Justice. Once the reason that has impeded the President or the Vice President from assuming their offices has ended, they shall be sworn in and shall enter their offices immediately. 2. If the elected President of the Republic is absent in a definitive form without being sworn into office, and this absence is recognized to be so by the National Assembly, the Vice President elect of the Republic shall serve as his substitute and in his absence, it shall proceed in the earlier indicated manner.

Article 127: Oath• God or other deities • Oaths to abide by constitution

The male or female President and the male or female Vice President elect of the Republic, before entering office, shall give before the National Assembly the following oath: “I swear before God and before the people, by the Country and by my honor, to fulfill and make fulfilled the Constitution and the laws of the Republic, to protect and defend its independence, to respect the rights and the liberties of the male and female citizens and to faithfully fulfill the duties of my office.

Section II: On the Powers

Article 128: Powers of the President of the Republic• Designation of commander in chief • Head of state powers

The male or female President of the Republic directs the internal and exterior policy, the civil and military administration, and is the supreme authority of the Armed Forced, the National Police, and the other bodies of security of the State. 1. In his condition as Chief of State it is his responsibility: a. To preside over the solemn acts of the Nation b. To Promulgate and make public the laws and resolutions of the National Congress and to watch for their faithful execution. To expedite decrees, rules, and instructions when it is necessary.

c. To appoint or dismiss the members of the military and police jurisdictions

• Selection of active-duty commanders

d. To make and sign international treaties and conventions and to submit them for the approval of the National Congress, without which they will neither be valid nor carry obligations for the Republic.

• International law • Treaty ratification • Legal status of treaties

e. Provide, in accordance with the law, for that which concerns the Armed Forces as well as the National Police, to order them himself or through an appropriate ministry, always maintaining his supreme command. To decide the contingent of the same and to provide them for public service ends. f. To take necessary measures to provide for and guarantee the legitimate defense of the Nation, in case of actual or imminent armed attack on the part of a foreign nation or external powers, with the duty of informing the National Congress of the adopted provisions and soliciting the declaration of a State of Defense if it proceeds

• Emergency provisions

g. To declare, it the National Congress does not find itself meeting, states of exception in accordance with the provisions given in Articles 262 to 266 of this Constitution.

• Emergency provisions

h. To adopt necessary provisional measures of police and security in the case of the violation of the provisions of Article 62, number 6, of this Constitution that disrupt or threaten the public order, the security of the State, the regular functioning of public services or public use, or impede the development of economic activities and do not constitute facts given in Articles 262 to 266 of this Constitution. i. To provide, in accordance with the law, all that is related to the aerial, marine, river, land, military, and police in matters of national security, with the studies previously realized by the ministries and their administrative departments. j. To grant pardons on the 27th of February, 16th of August, and 23rd of December of each year, in accordance with the law and international conventions.

• International law • Power to pardon

k. To arrest or expel, in accordance with the law, foreigners whose activities are or could be detrimental to the public order or the national security. l. To prohibit, when it is good for the public interest, the entry of foreigners into the national territory.

• Restrictions on entry or exit

2. In his condition as Chief of Government he has the ability:

a. To appoint ministers and vice ministers and other public officials that occupy offices of free appointment or whose appointment is not attributed to any other body of the State recognized by this Constitution or the law, as well as to accept their resignation and to remove them.

• Cabinet removal • Cabinet selection

b. To appoint the male and female heads of the autonomous and decentralized organs and bodies of State, as well as to accept their resignations and to remove them, in accordance with the law. c. To change the location of his official residence when he judges it necessary. d. To make contracts, submitting them for approval to the National Congress when they have provisions related to damage caused to national revenue, to the transfer of title of assets of the State, to the termination of loans or when they stipulate exemptions to taxes in general, in accordance with the Constitution. The maximum amount for said contracts and exemptions that may be endorsed by the President of the Republic without congressional approval shall be two hundred minimum salaries of the public sector. e. To safeguard the good collection and faithful investment of the national revenue f. To deposit before the National Congress, at the beginning of the first ordinary legislature on the 27th of February of each year, the reports of the ministries and to render the accounts of his administration of the prior year.

• Legislative oversight of the executive

g. To submit to the National Congress, no later than the first of October of every year, the Project of Law of the General Budget of the State for the following year.

• Budget bills

3. As Chief of Sate and of Government, it is his responsibility: a. To appoint, with the approval of the Senate of the Republic the accredited ambassadors abroad and the chiefs of permanent missions before international bodies, as well as to appoint the other members of the diplomatic corps, in accordance with the Law of Foreign Service, to accept their resignations and to remove them.

• Foreign affairs representative • International organizations

b. To direct diplomatic negotiations and to receive foreign Chiefs of State and their representatives.

• Foreign affairs representative

c. To grant or deny authorization to Dominican citizens that they may exercise public duty or office for international governments or organizations in the Dominican territory and that they may accept and use awards and titles granted by foreign governments.

• International organizations

d. To authorize or deny authorization to city councils to sell title to real estate and to approve or not the contracts that they make, when they are made in the guarantee of real estate or municipal revenues. e. The other powers provided for in the Constitution and the law.

Section III: On the Presidential Succession

Article 129: Presidential succession• Head of state replacement

The presidential succession shall be ruled by the following norms: 1. In case of the temporary absence of the President of the Republic, the Vice President of the Republic shall assume the Executive Power. 2. In

case of the definitive absence of the President of the Republic, the Vice President shall assume the Presidency of the Republic for the time that remains before the end of the presidential term. 3. In the definitive absence of both, the President of the Supreme Court of Justice shall assume the Executive Power for the interim, who, within the fifteen days that follow the date of having assumed that office, shall convoke the National Assembly so that they may meet within the fifteen following days and elect the new President and Vice President of the Republic, in a session that may not be ended or be declared in recess until the election has taken place. 4. In the case that, for any circumstance, such a convocation cannot be made, the National Assembly shall meet in full right, immediately, to achieve the election in the previously indicated manner. 5. The election shall be made through the favorable vote of more than half of the present assembly members. 6. The substitutes for the President and Vice President of the Republic shall be chosen from the shortlists that the superior body of the political party that elected them presents to the National Assembly, in accordance with their statutes, in the period given in number 3 of this article. Once the period has run without the party having presented the shortlists, the National Assembly shall realize the election.

Article 130: Vice Presidential succession

In case of the definitive absence of the Vice President of the Republic, before or after his swearing in, the President of the Republic, in a period of thirty days, shall present a shortlist to the National Assembly for his election. Once the period has passed without the President having presented a shortlist, the National Assembly shall realize the election.

Section IV: Special Provisions

Article 131: Authorization to travel abroad

The male or female President of the Republic may not travel abroad for more than fifteen days without the authorization of the National Congress.

Article 132: Resignation

The male or female President and Vice President of the Republic may only resign before the National Assembly.

Article 133: Immunity and deprivation of liberty• Head of state immunity

Without prejudice to that provided for in Article 80, number 1 of this Constitution, the male or female President and the Vice President of the Republic, elect or in office, may not be deprived of their liberty.

Chapter II: On the Ministries• Establishment of cabinet/ministers

Article 134: Ministries of State

For the handling of the matters of government there shall be ministries that are created by law. Each ministry shall be headed by one minister and shall have the vice ministers that are considered necessary for the handling of their affairs.

Article 135: Requirements to be a minister or vice minister• Eligibility for cabinet

In order to be a minister or vice minister, one is required to be a male or female Dominican in full exercise of civil and political rights and to have reached the age of twenty-five years. Naturalized people may only be ministers or vice ministers ten years after having acquired Dominican nationality. Ministers

and vice minister may not exercise any professional or commercial activity that could create conflicts of interest.

Article 136: Powers• Powers of cabinet

The law shall determine the powers of ministers and vice ministers.

Section I: On the Council of Ministers

Article 137: Council of Ministers

The Council of Ministers is the organ of coordination of the general affairs of the government and has as its end to organize and accelerate the handling of the aspects of the Public Administration in benefit of the general interests of the Nation and in service of the citizenry. It shall be formed by the President of the Republic, who shall preside over it, the Vice President, and the ministers.

Chapter III: On the Public Administration

Article 138: Principles of the Public Administration

The Public Administration is subject in its conduct to the principles of efficiency, hierarchy, objectivity, equality, transparency, economy, publicity, and coordination, with full submission to the juridical set of laws of the State. The law shall regulate: 1. the rules of the public officers, the access to public office in accordance to the merit and ability of the candidates, specialized education and training, the rule of conflicts of interest of the officials that ensure their impartiality in the exercise of the functions legally conferred.

• Civil service recruitment

2. The procedure through which resolutions and administrative acts must be produced, guaranteeing the audience of interested people, with the exceptions that the law establishes.

Article 139: Control of legality of the Public Administration

The courts shall control the legality of the conduct of the Public Administration. The citizenry can demand this control through the procedures established by law.

Article 140: Regulation for the increase of remunerations

No public institution or autonomous entity that manages public funds shall establish norms or provisions that tend to increase the remuneration or benefits of its administrators or executives, but rather for a period following that for which they were elected or appointed. The inobservance of this provision shall be sanctioned in accordance with the law.

Section I: On the Autonomous and Decentralized Bodies of the State

Article 141: Autonomous and decentralized bodies

The law shall create autonomous and decentralized bodies in the State, provided with juridical character, with administrative, financial, and technical autonomy. These bodies shall be assigned to the sector of the administration that is compatible with their activities, under the watch of the male or female head minister of the sector. The law and the Executive Power shall regulate the policies of non-concentration of the services of the public administration.

Section II: On the Statute of Public Office

Article 142: Public Office

The Statute of Public Office is a rule of public right based on the merit and professionalization for an efficient management and accomplishment of the essential functions of the State. This statute shall determine the form of entering, ascent, evaluation of work, permanence, and separation of the public servant from his role.

Article 143: Statutory rule

The law shall determine the statutory rule required for the professionalization of the different institutions of the Public Administration.

Article 144: Rule of compensation

No official or employee of the State may take on, in a simultaneous manner, more than one paid office, except for teaching. The law shall establish the methods of compensation of male and female officials and employees of the State, in accordance with criteria of merit and characteristic of their giving service.

Article 145: Protection of Public Office

The dismissal of public servants that belong to the Administrative Career in violation of the rule of Public Office shall be considered an act contrary to the Constitution and the law.

Article 146: Prohibition of corruption

All forms of corruption in the organs of the State are condemned. Consequently: 1. All persons who extract public funds or who, taking advantage of their positions within the organs and bodies of the State, its autonomous offices or institutions, obtains for himself or for third parties economic advantage, shall be penalized. 2. In equal manner, a person who gives advantages to his associations, family, allies, friends or relationships shall be penalized. 3. In accordance with that provided by law, sworn declarations of assets of male and female public officials, who always have the responsibility of proving the origin of their assets, before and after having terminated their office or at the request of the appropriate authority.

• Earnings disclosure requirement

4. To people who have been condemned for crimes of corruption the penalty of civic degradation shall be applied, and restitution for that they took in an illegal manner shall be required. 5. The law may provide for periods of statute of limitations of longer duration than that which is ordinary for cases of crimes of corruption and a restrictive regimen of procedural benefits.

Section III: On Public Services

Article 147: Objective of public services

Public services are meant to satisfy the necessities of collective interest. They shall be declared by law. Consequently: 1. The State guarantees access to public services of quality, directly or by delegation, through concession, authorization, association in participation, transfer of actionable property or other contractual modality, in accordance with this Constitution and the law. 2. Public services given by the State or by individuals, the legal or contractual modalities, must respond to the principles of universality, accessibility, efficiency, transparency, responsibility, continuity, quality, reasonability, and equity of price. 3. The regulation of public services is the exclusive role of the State. The law may establish that

the regulation of those services and other economic activities is found under the charge of bodies created for those ends.

Section IV: On the Civil Responsibility of Public Entities, their Officials or Agents

Article 148: Civil responsibility• Ultra-vires administrative actions

Juridical persons of public right and their officials or agents shall be responsible, jointly and mutually, in accordance with the law, for damages and prejudices occasioned on physical or juridical persons for an anti-juridical administrative action or omission.

Title V: On the Judicial Power

Article 149: Judicial power

Justice is administered for free, in the name of the Republic, by the Judicial Power. This power is exercised by the Supreme Court of Justice and the other courts created by this Constitution and the law.

• Structure of the courts

Paragraph I

The judicial function consists of administering justice in order to decide on conflicts between physical and moral people, in private or public right, in all types of processes, judging and making judgments executed. Its exercise is the responsibility of the courts and the judgments determined by law. The Judicial Power enjoys functional, administrative, and budgetary autonomy.

Paragraph II

The courts shall not exercise more functions than those granted to them by the Constitution and the law.

Paragraph III• Right to appeal judicial decisions

All decisions emanating from a court may be appealed before a superior court, subject to the conditions and exceptions established by law.

Article 150: Judicial career

The law shall regulate the juridical statute of the judicial career, the income, education, ascent, promotion, disassociation, and retirement of the judge, in accordance with the principles of merit, ability, and professionalism, as well as the regime of retirements and pensions of judges, officials, and employees of the judicial order.

Paragraph I

The law also shall regulate the National School of Judiciary, which shall have as its function the initial education of males and females who aspire to be judges, assuring their technical training.

Paragraph II• Eligibility for ordinary court judges

In order to be appointed judge of the Judicial Power, all those who aspire must submit themselves to a public competition on merits through the system of enrollment in the National School of Judiciary to the effect that the law establishes and have satisfactorily passed the program of education of said school. Only the members of the Supreme Court of Justice who are freely elected are exempt of these requirements.

Article 151: Independence of the Judicial Power

Male and Female judges who are members of the Judicial Power are independent, impartial, responsible, and fixed and are subject to the Constitution and the laws. They may not be removed, separated, suspended, transferred or retired, except for any of the established causes and with the guarantees given in the law.

• Supreme/ordinary court judge removal • Judicial independence

1. the law shall establish the regime of responsibility and rendition of accounts of judges and officials of the Judicial Power. Service in the Judicial Power is incompatible with any other public or private office, except that of teacher. Its members may not choose any elective public role nor may they participate in party political activities. 2. The age of obligatory requirement for judges of the Supreme Court of Justice is seventy-five years. For the other judges, officials, and employees of the Judicial Power, it shall be established in accordance with the law that rules the matter.

• Mandatory retirement age for judges

Chapter I: On the Supreme Court of Justice

Article 152: Integration• Structure of the courts

The Supreme Court of Justice is the superior jurisdictional organ of all the judicial bodies. It is integrated by no less than 16 judges and it may meet, deliberate, and be absent validly with the quorum determined by the law that establishes its organization. It shall be divided into chambers, in accordance with the law.

Article 153: Requirements• Attorney general • Eligibility for const court judges • Eligibility for supreme court judges In order to be a male or female judge of the Supreme Court of Justice, one is required: 1. To be a male or female Dominican by birth or origin and to have reached more than thirty-five years of age. • Min age of const court judges • Minimum age of supreme court judges 2. To find oneself in full exercise of the civil and political rights. 3. To be a bachelor or doctor in law. 4. To have practiced the profession of lawyer or university professor of law for at leave twelve years, or to have exercised for the same time period the office of judge within the Judicial Power or of representative of the Public Ministry. These periods may accumulate.

Article 154: Powers• Supreme court powers

It is the exclusive responsibility of the Supreme Court of Justice, without prejudice to the other powers that the law confers it: 1. To come to learn, in the only instance, the criminal cases against the President and the Vice President of the Republic, senators, deputies, judges of the Supreme Court of Justice, the Constitutional Tribunal, ministers and vice ministers, the Attorney General of the Republic, judges and attorney generals of the appellate or equivalent courts, judges of superior courts of the lands, of the superior administrative courts and of the Superior Electoral Tribunal, the Defender of the People, members of the Diplomatic Corps and chiefs of accredited missions abroad, members of the Central Electoral Board, of the Chamber of Accounts, and of the Monetary Board.

• Cabinet removal • Constitutional court removal • Electoral court removal • Head of state removal • Supreme/ordinary court judge removal • Removal of individual legislators

2. To come to learn the legal appeals in accordance with the law. 3. To come to learn, as last resort, the cases whose first instance of knowledge are the responsibility of the appellate courts and their equivalents. 4. To appoint, in accordance with the Law of the Judicial Career, the judges of the appellate

courts or their equivalents, of the courts of first instance or their equivalents, the judges of instruction, judges of peace and their substitutes, judges of any other courts of the Judicial Power created by the Constitution and the laws.

• Ordinary court selection

Chapter II: On the Council of the Judicial Power• Establishment of judicial council

Article 155: Integration

The Council of the Judicial Power shall be integrated in the following form: 1. The President of the Supreme Court of Justice, who shall preside over it.• Ordinary court selection 2. A Judge of the Supreme Court of Justice, elected by the full membership of the same. 3. A Judge of the Appellate Court or its equivalent, elected by his peers. 4. A Judge of First Instance or its equivalent, elected by his peers. 5. A Judge of Peace or its equivalent, elected by his peers.

Paragraph I

The members of this council, with the exception of the Supreme Court of Justice, shall remain in these offices for five years, shall cease in the exercise of their jurisdictional functions while they are members of said council and may not opt for a new period on the council.

Paragraph II

The law shall define the functioning and organization of this council.

Article 156: Functions

The Council of the Judicial Power is the permanent organ of administration and discipline of the Judicial Power. It shall have the following functions: 1. To present to the full Supreme Court of Justice the male or female candidate for appointment, determination of hierarchy and ascent of the judges of the different courts of the Judicial Power, in accordance with the law. 2. The financial and budgetary administration of the Judicial Power. 3. Disciplinary control over judges, officials, and employees of the Judicial Power with the exception of the members of the Supreme Court of Justice. 4. The application and execution of the instruments of evaluation of the work of the judges and administrative personnel who depend on the Judicial Power. 5. The other functions that the law confers upon it. 6. The creation of the administrative offices of the Judicial Power;

7. The appointment of all the functionaries and employees that depend on the Judicial Power; 8. The other functions conferred by law.

Chapter III: On the Judicial Organization

Section I: On the Appellate Courts

Article 157: Appellate Courts• Structure of the courts

There will be appellate courts and their equivalents that the law determines, as well as the number of judges that should compose it and its territorial responsibilities.

Article 158: Requirements• Eligibility for administrative judges • Eligibility for ordinary court judges

In order to be a judge of a Court of Appeals, one is required: 1. To be a male or female Dominican. 2. To find oneself in full exercise of the civil and political rights. 3. To be a bachelor or doctor of Law. 4.

To belong to the judicial career and to have acted as a judge of First Instance during the time period determined by law.

Article 159: Powers

The powers of the appellate courts are: 1. To come to learn the appeals and sentences, in accordance with the law. 2. To come to learn in the first instance of criminal cases against judges of first instance or their equivalents, district attorneys, heads of autonomous and decentralized organs and bodies of the State, provincial governors, mayors of the National District and of the municipalities. 3. To come to know the other matters that the laws determine.

Section II: On the Courts of First Instance

Article 160: Courts of first instance• Structure of the courts

There shall be court of first instance or their equivalents, with the number of judges and the territorial responsibilities that the law determines.

Article 161: Requirements• Eligibility for administrative judges • Eligibility for ordinary court judges

In order to be a judge of first instance, one is required: 1. To be a male or female Dominican. 2. To find oneself in full exercise of the civil and political rights. 3. To be a bachelor or doctor of Law. 4. To belong to the judicial career and to have worked as a Judge of Peace during the time period determined by law.

Section III: On Courts of Peace

Article 162: Courts of Peace• Structure of the courts

The law shall determine the number of courts of peace or their equivalents, their powers, territorial responsibilities and the form in which they shall be organized.

Article 163: Requirements• Eligibility for ordinary court judges

In order to be a judge of peace, one is required: 1. To be a male or female Dominican. 2. To find oneself in full exercise of the civil and political rights. 3. To be a bachelor or doctor of Law.

Chapter IV: On Specialized Jurisdictions

Section I: On Contentious Administrative Jurisdiction• Establishment of administrative courts

Article 164: Integration

The Contentious Administrative Jurisdiction shall be integrated by superior administrative courts and contentious administrative courts of first instance. Their powers, integration, location, territorial responsibilities, and proceedings shall be determined by the law. The superior courts may divide themselves into chambers and their decisions are susceptible to appeal.

Paragraph I• Eligibility for administrative judges

The male and female judges of the superior administrative courts shall meet the same requirements demanded of the judges of appellate courts.

Paragraph II• Eligibility for administrative judges

The male and female judges of the contentious administrative courts shall meet the same requirements demanded of the judges of first instance.

Article 165: Powers

The following are powers of the superior administrative courts, without prejudice to the others provided by law: 1. To come to learn the recourses against the decisions in administrative, tax, financial, and municipal matters of any contentious administrative court of first instance, or that essentially has this character. 2. To come to learn the contentious recourses against the acts, conduct, and provisions of administrative authorities contrary to Law as a consequence of the relationships between the Administration of the State and individuals, if they are not known by the contentious administrative court of first instance. 3. To come to learn and to resolve in first instance or in appeal in accordance with law, the contentious administrative actions that are born of conflicts emerging between the Public Administration and its officials and civil employees. 4. The other powers conferred by law.

Article 166: General Administrative Attorney

The Public Administration shall be permanently represented before the Contentious Administrative Jurisdiction by the General Administrative Attorney and, if it proceeds, by the lawyers that he appoints. The General Administrative Attorney shall be appointed by the Executive Power. The law shall regulate that representation of the other organs and bodies of the State.

Article 167: Requirements

The General Administrative Attorney must meet the same conditions required to be the Attorney General of the Appellate Court.

Section II: Specialized Jurisdictions

Article 168: Specialized jurisdictions

The law shall provide for the creation of specialized jurisdictions when they are required for reasons of public interest or of efficiency of service for the treatment of other matters.

Chapter V: On the Public Ministry

Article 169: Definition and functions

The Public Ministry is the organ of the system of justice that is responsible for the formulation and implementation of the policy of the State against criminality, directs criminal investigation and exercises public action in representation of society.

Paragraph I• Protection of victim's rights

In the exercise of its functions, the Public Ministry shall guarantee the fundamental rights that belong to male and female citizens, shall promote the alternative resolution of disputes, shall provide for the protection of victims and witnesses and shall defend the public interest guarded by the law.

Paragraph II

The law shall regulate the functioning of the penitentiary system under the direction of the Public Ministry or another body constituted in this effect.

Article 170: Autonomy and principles of action

The Public Ministry enjoys functional, administrative, and budgetary autonomy. It exercises its function in accordance to the principles of legality, objectivity, unity of action, hierarchy, indivisibility, and responsibility.

Section I: On Integration

Article 171: Appointment and requirements• Attorney general

The President of the Republic shall appoint the Attorney General of the Republic and half of the adjunct attorneys. In order to be Attorney General of the Republic or adjunct, one must have the same requirements as to be judge of the Supreme Court of Justice. The law shall provide the form of appointment of the other members of the Public Ministry.

Article 172: Integration and conflicts of interest

The Public Ministry is formed by the Attorney General of the Republic, who directs it, and by the other male and female representatives established by law.

Paragraph I

The Public Ministry shall be represented before the Supreme Court of Justice by the Attorney General of the Republic and by the male and female adjunct attorneys, in accordance with the law. Its representation before the other judicial instances shall be provided for by law.

Paragraph II

The office of representative of the Public Ministry is incompatible with any other public or private office, except that of teacher, and while remaining in the exercise of his office, one may not opt for any public elective role or participate in party political activities.

Section II: On the Career of Public Ministry

Article 173: Career system

The Public Ministry is organized in accordance with the law, which regulates its non-removability, disciplinary regime and the other precepts that rule its actions, its educational school and its organs of government, guaranteeing the permanence of its career members until seventy-five years.

Section III: On the Superior Council of the Public Ministry

Article 174: Integration

The organ of internal government of the Public Ministry is the Superior Council of the Public Ministry, which shall be integrated in the following manner: 1. The Attorney General of the Republic, who shall preside over it. 2. An Adjunct Attorney of the Attorney General of the Republic, elected by his peers. 3. A General Attorney of the Appellate Court elected by his peers 4. A Fiscal Attorney or his equivalent elected by his peers 5. A Supervisor elected by his peers.

Paragraph

The law shall define the functioning and organization of this council.

Article 175: Functions

The functions of the Superior Council of the Public Ministry are the following: 1. To direct and administer the system of the career of the Public Ministry 2. The financial and budgetary administration of the Public Ministry 3. To exercise disciplinary control over representatives, officials, and employees of the Public Ministry, with the exception of the Attorney General of the Republic.

4. To formulate and apply the instruments of evaluation of the representatives of the Public Ministry and of the administrative personnel who form it. 5. To transfer representatives of the Public Ministry, provisionally or definitively, from one jurisdiction to another when it is necessary and useful to the service, with the conditions and guarantees given in the law, with the exception of the male and female adjunct attorneys and the Attorney General of the Republic 6. To create administrative roles when they are necessary so that the Public Ministry may fulfill the powers that this Constitution and the laws confer unto it. 7. The other functions that the law confers unto it.

Chapter VI: On the Public Defense and Free Legal Assistance

Article 176: Public defense• Right to counsel

The service of Public Defense is an organ of the system of justice equipped with administrative and functional autonomy, which has as its ends guaranteeing the effective guardianship of the fundamental right to defense in the different areas of its power. The service of Public Defense shall be offered in all the national territory attending to the criteria of lack of payment, easy access, equality, efficiency, and quality, for people charged that for whatever reason are not represented by a lawyer. The Law of Public Defense shall rule the functioning of this institution.

Article 177: Free legal assistance• Right to counsel • Protection of victim's rights

The State shall be responsible for organizing programs and services of free legal assistance in favor of people who lack economic resources to obtain judicial representation of their interests, particularly for the protection of the right of victims, without prejudice to the powers that correspond to the Public Ministry in the realm of the criminal process.

Title VI: On the National Council of the Magistrature

• Establishment of judicial council

Article 178: Integration

The National Council of the Magistrature shall be integrated by: 1. The President of the Republic, who shall preside over it and, in his absence, by the Vice President of the Republic

2. The President of the Senate 3. A male or female senator chosen by the Senate who belongs to the party of block of parties different from that of the President of the Senate and who holds representation of the second majority. 4. The President of the Chamber of Deputies 5. A male or female deputy chosen by the Chamber of Deputies who belongs to the party or block of parties different from that of the President of the Chamber of Deputies and who holds the representation of the second majority 6. The President of the Supreme Court of Justice 7. A male or female magistrate of the Supreme Court of Justice chosen by the same, who shall serve as secretary. 8. The Attorney General of the Republic.

Article 179: Functions

The National Council of the Magistrature shall have the following functions: 1. To appoint the judges of the Supreme Court of Justice• Supreme court selection 2. To appoint the judges of the Constitutional Court• Constitutional court selection 3. To appoint the judges of the Superior Electoral Court and their substitutes• Electoral court selection 4. To evaluate the work of the judges of the Supreme Court of Justice

Article 180: Criteria for choosing

The National Council of the Magistrature at forming the Supreme Court of Justice must select three fourths of its members from judges that belong to the system of judicial career and the remaining quarter shall be chosen from professionals of law, academics or members of the Public Ministry.

Paragraph I

The National Council of Magistrature, at appointing the male and female judges of the Supreme Court of Justice, shall provide which of them shall occupy the presidency and shall appoint first and second substitutes to replace the President in case of absence or impediment. The President and his substitutes shall exercise these functions for a period of seven years, at the end of which, and given evaluation of their work realized by the National Council of Magistrature, may be elected for a new period.

Paragraph II

In case of a lack of judge invested with the qualities expressed above, the National Council of Magistrature shall appoint a new judge with equal quality or assign it to another of the judges of the Supreme Court of Justice.

Article 181: Evaluation of work• Supreme/ordinary court judge removal

The judges of the Supreme Court of Justice shall be subject to evaluation of their work at the end of seven years from their election, by the National Council of the Magistrature. In cases in which the National Council of the Magistrature decides it pertinent to separate a judge from his office, it must support its decision in the motives contained in the law that rules the subject.

Article 182: Selection of judges of the Constitutional Court• Constitutional court selection

The National Council of the Magistrature, at the forming the Constitutional Court, shall provide which one of them shall occupy the presidency and shall appoint first and second substitutes to replace the President in case of absence or impediment.

Article 183: Selection of the judges of the Superior Electoral Court

• Electoral court selection

The National Council of Magistrature, at appointing the judges and their substitutes of the Superior Electoral Court, shall appoint which of them shall occupy the presidency.

Title VII: On Constitutional Control

• Establishment of constitutional court

Article 184: Constitutional Court

There shall be a Constitutional Court to guarantee the supremacy of the Constitution, the defense of the constitutional order and the protection of fundamental rights. Its decisions are definitive and irrevocable and constitute binding precedents for the public powers and all the organs of the State. It shall enjoy administrative and budgetary autonomy.

Article 185: Powers• Constitutional court powers • Constitutional interpretation

The Constitutional Court shall be responsible for knowing in sole instance: 1. Direct actions of unconstitutionality against the laws, decrees, rules, resolutions and ordinances at the instance of the President of the Republic, of one third of the members of the Senate or of the Chamber of Deputies and any person with legitimate and juridically protected interest.

• Constitutionality of legislation

2. The preventative control of international treaties before their ratification by the legislative organ.

• International law • Legal status of treaties

3. Conflicts of responsibility between the public powers at the instance of one of their heads. 4. Any other matter that the law provides.

Article 186: Integration and decisions• Constitutional court opinions

The Constitutional Court shall be integrated by thirteen members and its decisions shall be adopted with a majority qualified by nine or more of its members. The judges that have cast a dissident vote may make their motivations known in the adopted decision.

Article 187: Requirements and renewal• Min age of const court judges • Constitutional court removal • Eligibility for const court judges In order to be a judge of the Constitutional Court, the same conditions demanded for judges of the Supreme Court are required. Its members shall not be removable during the time of their mandate. The condition of judge may only be lost by death, resignation, or dismissal for grave errors in the exercise of one's functions, in which case a person may be appointed to complete the period.

Paragraph• Constitutional court term limits • Constitutional court term length

The judges of this court shall be appointed for a sole period of nine years. They may not be reelected, except those who have occupied the office for a period less than five years as replacements. The composition of the Court shall be renewed in a gradual manner every three years.

Article 188: Diffuse control

The courts of the Republic shall know the pleadings of constitutionality in the matters submitted for their review.

Article 189: Regulation of the Court

The law shall regulate the constitutional proceedings and that relative to the organization and the functioning of the Constitutional Court.

Title VIII: On the Defender of the People

• Ombudsman

Article 190: Autonomy of the Defender of the People

The Defender of the People is an independent authority in his functions and with administrative and budgetary autonomy. He is obligated exclusively to the mandate of this Constitution and the laws.

Article 191: Essential functions

The essential function of the Defender of the People is to contribute to safeguard the fundamental rights of people and the collective and diffuse interests established in this Constitution and the law, in case of their being violated by officials or organs of the State, by lenders of public or individual services that affect collective and diffuse interests. The law shall regulate that which is related to its organization and functioning.

Article 192: Election

The Defender of the People and his adjuncts shall be appointed by the Senate for a period of six years, from shortlists proposed by the Chamber of Deputies and shall remain in the role until they are substituted. The Chamber of Deputies shall choose the shortlists in an ordinary legislature prior to the completion of the term of the mandate of the appointed and shall submit them before the Senate in a period that shall not exceed the fifteen days following its approval. The Senate of the Republic shall effectuate the election before the thirty following days.

Paragraph

Once the periods have ended without the Chamber of Deputies having chosen and presented the shortlists, the same shall be chosen and presented to the Senate by the Full Supreme Court of Justice. If it is the Senate that does not effectuate the election in the given period, the Supreme Court of Justice shall elects from the shortlists presented by the Chamber of Deputies.

Title IX: On the Ordering of the Territory and the Local Administration

Chapter I: On the Organization of the Territory

Article 193: Principles of territorial organization• Protection of environment

The Dominican Republic is a unitary State whose territorial organization has as its ends favoring its integral and equilibrated development and that of its inhabitants, compatible with its needs and with the preservation of its natural resources, of its national identity, and its cultural values. The territorial organization shall be made in accordance with the principles of unity, identity, political, administrative, social and economic rationality.

Article 194: Plan of territorial ordering• Protection of environment

The formulation and execution, through law, of a plan of territorial ordering that ensures the efficient and sustainable use of the natural resources of the Nation, in accordance with the necessity of adaptation to climate change, is a priority of the State,

Article 195: Territorial delimitation

Through the organic law the name and limits of the regions shall be determined, as well as the provinces and municipalities in which it is divided.

Chapter II: On Local Administration

Section I: On the Regions and Provinces• Subsidiary unit government

Article 196: The region

The region is the basic unit for the articulation and formulation of the public policies in the national territory. The law shall define all that is related to their responsibilities, composition, organization and functioning and shall determine the number of these.

Paragraph• Reference to fraternity/solidarity

Without prejudice to the principle of solidarity, the State shall procure the reasonable equilibrium of the public investment in the different geographical demarcations in a manner that is proportional to the support of these to the national economy.

Article 197: The province

The province is the intermediary political demarcation in the territory. It is divided in municipalities, municipal districts, sections and regions. The law shall define all that related to its composition, organization and functioning and shall determine the number of them.

Article 198: Civil Governor

The Executive Power shall appoint in each province a civil governor, who shall be his representative in this demarcation. In order to be civil governor one must be a male or female Dominican, older than twenty-five years of age, and be in full exercise of the civil and political rights. His powers and duties shall be determined by the law.

Section II: On the Regime of the Municipalities• Municipal government

Article 199: Local administration

The National District, the municipalities and municipal districts constitute the base of the local political administrative system. They are juridical persons of Public Right, responsible for their actions, enjoy their own patrimony, budgetary autonomy, with normative and administrative power and the power of the use of their land, fixed in express manner by the law and subject to the power of supervision of the State and to the social control of the citizenry, in the terms established by this Constitution and the laws.

Article 200: Municipal taxes

The town councils may establish taxes in the area of their demarcation that in an express manner the law establishes, provided that the same never interfere with the national taxes, with the inter-municipal commerce or exportation or with the Constitution or the laws. It is the responsibility of the appropriate courts to come to know the disputes that arise on this topic.

Article 201: Local governments

The government of the National District and that of the municipalities shall each be in charge of the town council, constituted by two organs complementary to each other, the Council of Aldermen and the Mayor’s Office. The Council of Aldermen is an exclusively normative, regulatory, and supervisory organ integrated by male and female aldermen. They shall have substitutes. The Mayor’s Office is the executive organ headed by a male or female mayor, whose substitute shall be called the male or female vice mayor.

Paragraph I

The government of the municipal districts shall be in charge of a District Board, integrated by a male or female director who shall act as executive organ and a Board of Chairpersons with normative, regulatory, and supervisory functions. The male or female director shall have a substitute.

Paragraph II

The political regional, provincial or municipal parties or groups shall make the presentation of candidates to the municipal and municipal district elections for male or female mayor, male or female aldermen, male or female directors and their substitutes, as well as the chairpersons, in accordance with the Constitution and the laws that rule the subject. The number of aldermen and their substitutes shall be determined by the law, in proportion to the number or inhabitants, in no case may they be less than five for the National District and the municipalities and never less than three for the municipal districts. They shall be elected every four years by the people of their jurisdiction in the form established by law.

Paragraph III

Naturalized persons with more than five years of residency in a jurisdiction may occupy said offices, in the conditions prescribed by law.

Article 202: Local representatives

The male or female mayors of the National District, of the municipalities, as well as the male and female directors of the municipal districts are the legal representatives of the town councils and the municipal boards. Their powers and abilities shall be determined by law.

Section III: Direct Mechanisms of Local Participation

Article 203: Referendum, plebiscites and normative municipal initiative

The Organic Law of Local Administration shall establish the spheres, requirements and conditions for the exercise of the referendum, plebiscite, and normative municipal initiative with the purpose of strengthening the development of democracy and local administration.

Chapter III: On Decentralized Administration

Article 204: Transfer of responsibilities to the municipalities

• Municipal government • Subsidiary unit government

The State shall promote the transfer of responsibilities and resources towards the local governments, in accordance with this Constitution and the law. The implementation of these transfers shall bring with it policies of institutional development, training and professionalization of human resources.

Article 205: Municipal budgetary execution

The town councils of the National District, of the municipalities and the boards of municipal districts shall be obligated, as much in the formulation as in the execution of the budgets to formulate, approve, and maintain the appropriations and the expenditures destined for each class of attention and service, in accordance with the law.

Article 206: Participative budgets

The investment of municipal resources shall be made through the progressive development of participative budgets that promote integration and citizen co-responsibility in the definition, execution, and control of the policies of local development.

Article 207: Economic obligation of the municipalities

The economic obligations contracted by the municipalities, including those that have the guarantee of the State are their responsibility, in accordance with the limits and conditions that the law establishes.

Title X: On the Electoral System

Chapter I: On the Electoral Assemblies

Article 208: Exercise of suffrage• Referenda

The exercise of suffrage to elect the authorities of government and to participate in referendums is a right and a duty of the male and female citizens. The vote is personal, free, direct, and secret. No one may be obligated or coerced under any pretext in the exercise of his right to suffrage or to reveal his vote.

• Secret ballot

Paragraph• Restrictions on the armed forces • Restrictions on voting

Members of the Armed Forces and of the National Police, nor those who have lost the rights of citizenship or those who find themselves suspended in those rights do not have the right of suffrage.

Article 209: Electoral assemblies• Deputy executive • Head of state selection • International organizations • First chamber selection • Second chamber selection Electoral assemblies shall function in electoral colleges that shall be organized in accordance with the law. The electoral colleges shall open every four years to elect the President and Vice President of the Republic, the legislative representatives, the municipal authorities, and the other officials or elective representatives. These elections shall happen in a separate and independent manner. Those for president, vice president, legislative and parliamentary representatives and of international bodies, on the third Sunday of the month of May and those of the municipal authorities on the third Sunday of the month of February. • Scheduling of elections 1. When in the elections celebrated to elect the President of the Republic and the Vice President none of the candidate lists obtains at least more than half of the valid votes cast, a second election shall be affected the last Sunday of the month of June of the same year. In this last election only the two candidate lists that have achieved the highest number of votes shall participate, and the candidate list that obtains the greater number of valid votes cast shall be considered the winner. 2. The elections shall take place in accordance with the law and with representation of the minorities when two or more candidates must be elected. 3. In cases of extraordinary convocation and referendum, the electoral assemblies shall meet at the latest seventy days after the publication of the law of convocation. The election of authorities cannot coincide with the celebration of a referendum.

Article 210: Referendums• Referenda

Popular consultations through referendum shall be regulated by a law that determines all that is related to their celebration, in accordance with the following conditions. 1. They may not be about the approval or the revocation of the mandate of any elected or appointed authority. 2. They shall require prior congressional approval with the vote of two thirds of those present in each chamber.

Chapter II: On the Electoral Organs

Article 211: Organization of the elections• Electoral commission

The elections shall be organized, directed, and supervised by a Central Electoral Board and the electoral boards below its office, which have the responsibility of guaranteeing liberty, transparency, equity, and objectivity in the elections.

Section I: On the Central Electoral Board• Electoral commission

Article 212: Central Electoral Board

The Central Electoral Board is an autonomous organ with juridical personality and technical, administrative, budgetary and financial independence, whose principal purpose shall be to organize and direct the electoral assemblies for the celebration of elections and or mechanisms of popular participation established by the present Constitution and the laws. It shall have regulatory ability in the matters that are its responsibility.

Paragraph I

The Central Electoral Board shall be integrated by a president and four members and their substitutes, elected for a period of four years by the Senate of the Republic, by the vote of two thirds of the senators present.

Paragraph II

The Civil Registry and the Identity and Electoral Card shall be dependents of the Central Electoral Board.

Paragraph III

During the elections the Central Electoral Board shall assume the direction and command of the public force in accordance with the law.

Paragraph IV• Campaign financing

The Central Electoral Board shall safeguard that the electoral processes are realized subject to the principles of liberty and equity in the development of the campaigns and transparency in the utilization of financing. Consequently, it shall have the ability to regulate the time periods and limits in the spending of the campaign, as well as the equitable access to the means of communications.

Article 213: Electoral boards

In the National District and in each municipality there shall be an Electoral Board with administrative and contentious functions. In administrative matters they shall be subordinated to the Central Electoral Board. In contentious matters their decisions are appealable before the Superior Electoral Court, in accordance with the law.

Section II: On the Superior Electoral Court

Article 214: Superior Electoral Court• Electoral court powers

The Superior Electoral Court is the appropriate organ to judge and decide with definitive character on the contentious electoral matters and to ordain over the disagreements that arise internally from the parties, groups, and political movements or between them. It shall regulate, in accordance with the law, the

proceedings of its responsibility and all that is related to its administrative and financial organization and functioning.

Article 215: Integration• Electoral court selection • Electoral court term length

The Court shall be integrated by no less than three and no more than four electoral judges and their substitutes, appointed for a period of four years by the National Council of the Magistrature, who shall indicate which of them shall occupy the presidency.

Chapter III: On the Political Parties

Article 216: Political Parties• Restrictions on political parties • Right to form political parties

The organization of parties, groups and political movements is free and subject to the principles established in this Constitution. Their conformation and functioning should support themselves in respect for internal democracy and transparency, in accordance with the law. Its essential purposes are: 1. To guarantee the participation of male and female citizens in the political processes that contribute to the strengthening of democracy. 2. To contribute in equality of conditions, to the formation and manifestation of the citizen will, respecting political pluralism through the proposal of candidate lists to offices of popular election. 3. To serve the national interest, the collective well-being and the complete development of Dominican society.

Title XI: One the Economic and Financial Regime of the Chamber of Accounts

Chapter I: On the Economic Regime

Section I: Guiding Principles

Article 217: Orientation and foundation• Protection of environment • Right to competitive marketplace • Mentions of social class • Reference to fraternity/solidarity The economic regime is oriented towards the search for human development. It is based on economic growth, redistribution of wealth, social justice, equity, social and territorial cohesion and environmental sustainability in a framework of free competition, equality of opportunities, social responsibility, participation and solidarity.

Article 218: Sustainable growth• Reference to science

Private initiative is free. The State shall ensure, together with the private sector, an equilibrated and sustained growth of the economy, with stability of prices, tending toward full employment and the increase of social well-being, through rational utilization of the available resources, the permanent education of human resources and scientific and technological development.

Article 219: Private initiative

The State foments private economic initiative, creating policies necessary to promote the development of the country. Under the principle of subsidiarity of the State, by its own account or in association with the private and supportive sector, may exercise business activity with the end of ensuring access of the population to basic assets and services and promoting the national economy.

Paragraph

When the state sells off its participation in a business, it may take the methods conducive to democratizing the ownership of its actions and offer to its workers, the solidarity organizations of workers, special conditions to gain said active property. The law shall regulate the subject.

Article 220: Subjectivity to the juridical laws• International law

All contracts of the State and persons of Public Right with physical or juridical foreign persons housed in the country, should count on submission to the laws and jurisdictional organs of the Republic. Nevertheless, the State and the other persons of Public Right may submit the disputes derived from contractual relations to jurisdictions constituted in virtue of international treaties in effect. They may also submit them to national and international arbitrage in accordance with the law.

Article 221: Equality of treatment

Business activity, public or private, receives the same legal treatment. Equality of conditions of national and foreign investment is guaranteed, with the limitations established in this Constitution and the laws. The law shall concede special treatment to investments that are located in zones with a lower degree of development or in activities of national interest, in particular located in border provinces.

Article 222: Promotion of popular economic initiatives

The State recognizes the contribution of popular economic initiatives to the development of the country, foments the conditions of integration of the informal sector in the national economy, incentivizes and protects micro, small, and medium development of businesses, cooperatives, family businesses, and other forms of community association for work, production, savings, and consumption, that generate conditions that permit access to convenient financing, technical assistance, and training.

Section II: On the Monetary and Financial Regime

Article 223: Regulation of the monetary and financial system

• Central bank

The regulation of the monetary and financial system of the Nation is the responsibility of the Monetary Board as the superior organ of the Central Bank.

Article 224: Integration of the Monetary Board• Central bank

The Monetary Board is integrated by no more than nine members including the Governor of the Central Bank, who presides over it, and ex officio members whose number shall not be more than three.

Article 225: Central Bank

The Central Bank of the Republic is an entity of Public Right with juridical personality, its own patrimony, and functional, budgetary, and administrative autonomy.

Article 226: Appointment of monetary authorities• Central bank

The Monetary Board, represented by the Governor of the Central Bank, shall be in charge of the direction and adequate application of the monetary, exchange, and financial policies of the Nation and the coordination of the regulatory entities of the system and of the financial market.

Article 227: Direction of the monetary policies• Central bank

The Monetary Board, represented by the Governor of the Central Bank, will have at its responsibility the direction and adequate application of the monetary, exchange and financial policies of the Nation and the coordination of the regulatory entities of the financial system and of the financial market.

Article 228: Issue of bills and coins• Central bank

The Central Bank, whose capital is property of the State, is the sole issuer of bills and coins of national circulation and has as its objective to watch for the stability of prices.

Article 229: National monetary unit

The national monetary unit is the Dominican Peso.

Article 230: Legal force and tender of the monetary unit

Only bills issues and coins minted by the Central Bank shall have legal circulation and tender, under the unlimited guarantee of the State and in the proportions and conditions indicated by law.

Article 231: Prohibition of the issuance of monetary signs

The issuance of paper, coins, or other monetary signs not authorized by this Constitution is prohibited.

Article 232: Modification of the regime of coin or of the bank

By exception of that provided in Article 122 of this Constitution, the modification of the legal regime of coin or of the bank shall require the support of two thirds of the totality of the members of one and the other legislative chamber, provided that it has been initiated by the Executive Power, at the proposal of the Monetary Board or with the favorable vote of the same, in which case it shall be ruled by the related provisions of the organic laws.

Chapter II: On the Public Finances

Section I: On the General Budget of the State

Article 233: Elaboration of the budget

The elaboration of the project of Law of General Budget of the State, which considers the probable income, proposed expenses, and the required financing, realized in a framework of fiscal sustainability, ensuring that public indebtedness is compatible with the capacity of payment of the State, is the responsibility of the Executive Power.

• Budget bills

Paragraph

In this project the assignments that are the responsibilities of the different institutions of the State shall be allocated in an individualized manner.

Article 234: Modification of the budget• Budget bills

Congress may include new line items and modify those that figure into the project of Law of General Budget of the State or in the project of law that distribute funds submitted by the Executive Power, with the vote of two thirds of those present of each legislative chamber.

Paragraph

Once the Law of General Budget of the State is voted, budgetary resources from on institution or another may not be transferred, unless in virtue of a law that, when it is not initiated by the Executive Power, shall have the vote of two thirds of those present in each legislative chamber.

Article 235: Majority of exception• Budget bills

The National Congress may modify the project of Law of General Budget of the State when it is submitted later than the date referred to by Article 128, number 2, part g, with the absolute majority of the membership of each chamber.

Article 236: Validity of distribution

No distribution of public funds shall be valid if it was not authorized by the law and ordered by an appropriate official.

Article 237: Obligation to identify resources

Laws that order, authorize a payment, or engender a pecuniary obligation to the charge of the State shall not have effect nor validity unless this same law identifies or establishes the resources necessary for its execution.

Article 238: Criteria for assignment of public spending

It is the responsibility of the State to realize an equitable assignment of the public spending in the territory. Its planning, programming, execution and evaluation shall respond to the principles of subsidiarity and transparency, as well as the criteria of efficiency, priority, and economy.

Article 239: Effectiveness of the Law of Budget• Budget bills

When the Congress has not approved the project of Law of General Budget of the State later than the 31st of December, the Law of General Budget of the State of the previous year shall rule, with the adjustments given in the Organic Law of Budget, until its approval is produced.

Article 240: Publication of general account

Annually, in the month of April, the general account of the incomes and expenditures of the Republic made in the year shall be published.

Section II: On the Planning• Economic plans

Article 241: Strategy of development

The Executive Power, after consulting the Economic and Social Council and the political parties, shall elaborate and submit to the National Congress a strategy of development that shall define the vision of the Nation for the long term. The process of planning and public investment shall be rules by the corresponding law.

Article 242: Multi-Year National Plan

The Multi-Year National Plan of the Public Sector and its corresponding updates shall be sent to the National Congress by the Executive Power, during the second legislature of the year in which the period of government begins, ager consulting the Council of Ministers for knowledge of the programs and projected that will be executed during its effectiveness. The results and impacts of its execution shall be realized in a framework of fiscal sustainability.

Section III: On Taxation

Article 243: Principles of the tax regime

The tax regime is based in the principles of legality, justice, equality and equity so that each male and female citizen may fulfill the maintenance of the public burdens.

Article 244: Exemptions from taxes and transferences of rights

Individuals may only acquire, through concessions that the law or authorizes or contracts that the National Congress approves, the right to benefit, for all the time that the concession or contract stipulates and fulfilling the obligations that one and another impose on them, of exemptions, exonerations, reductions or limitations of taxes, contributions, or fiscal or municipal rights that occur in certain works or businesses towards which it has been agreed to attract investment of new capitals for the growth of the national economy or for any other goal of social interest. The transference of rights authorized through contracts shall be subject to ratification on the part of the National Congress.

Chapter III: On Control of Public Funds

Article 245: Accounting system

The Dominican State and all its institutions, be they autonomous, decentralized or not, shall be ruled by a sole, uniform, integrated, and harmonized system of accounting, whose criteria shall be fixed by the law.

Article 246: Control and supervision of public funds

The control and supervision over the patrimony, income, expenses, and use of public funds shall be achieved by the National Congress, the Chamber of Accounts, the General Controller of the Republic in the frameworks of their respective responsibilities, and by the society through the mechanisms established in the laws.

Section I: On the Controller General of the Republic

Article 247: Internal control

The Controller General of the Republic is the organ of the Executive Power governing the internal control, exercise of internal supervision and the evaluation of the due collection, management, use and investment of the public resources and authorizes the orders of payment, after proof of fulfillment of the legal and administrative processes of the institutions under its sphere, in accordance with the law.

Section II: On the Chamber of Accounts

Article 248: External Control

The Chamber of Accounts is the superior external organ of fiscal control of the public resources, of the administrative processes and of the patrimony of the State. It has juridical personality, technical character and enjoys administrative, operative, and budgetary autonomy. It shall be composed of five members, elected by the Senate of the Republic from the shortlists presented to it by the Chamber of Deputies, for a period of four years and shall remain in their functions until their substitutes are appointed.

Article 249: Requirements

In order to be a member of the Chamber of Accounts one must be a male or female Dominican in full exercise of the civil and political rights, be of recognized ethical and moral solvency, have reached the

age of thirty years, have a university degree and be prepared for the professional exercise, preferably in the areas of accounting, finance, economics, law or something related, and the other conditions that the law determines.

Article 250: Powers

Its powers shall be, other than those conferred to it by law: 1. To examine the general and individual accounts of the Republic. 2. To present to the National Congress reports about the supervision of the patrimony of the State. 3. To audit and analyze the execution of the General Budget of the State at the National Congress approves each year, taking as base the state of collection and investment of the taxes presented by the Executive Power, in accordance with the Constitution and the laws, and to submit the corresponding report of this on the 30th of April at the latest of the following year, for its knowledge and decision. 4. To issue norms with obligatory character for the inter-institutional coordination of the organs and bodies responsible for the control and auditing of the public resources.

5. To make special investigations at the request of one or both legislative chambers.

Chapter IV: On the Social Agreement

Article 251: Economic and Social Council

The social agreement is an essential instrument to ensure the organized participation of employers, workers, and other organizations of society in the construction and permanent strengthening of the social peace. In order to promote it, there shall be an Economic and Social Council, consultative organ of the Executive Power in economic, social and labor subjects, whose conformation and functioning shall be established by the law.

Title XII: On the Armed Forces, the National Police, and the Security and Defense

Chapter I: On the Armed Forces

Article 252: Mission and character

The defense of the Nation is the charge of the Armed Forces. Accordingly: 1. Their mission is to defend the independence and sovereignty of the Nation, the integrity of its geographic spaces, the Constitution and the institutions of the Republic. 2. They may also intervene when the President of the Republic orders it in programs destined to promote the social and economic development of the country, mitigate situations of disaster and public calamity, and join in assistance of the National Police to maintain or reestablish the public order in exceptional cases. 3. They are essentially obedient to the civil power, without political party and do not have the ability, in any case, to deliberate.

Paragraph

The custody, supervision and control of all arms, munitions and other military supplies, material and equipment of war that enter the country or are produced by the national industry is the responsibility of the Armed Forces, with the restrictions established in the law.

Article 253: Military career

The entering, appointing, ascent, retirement, and other aspect of the regime of military career of the members of the Armed Forces shall be affected without any discrimination, in accordance with its organic

law and complementary laws. The reinstatement of its members is prohibited, with the exception of the cases in which the separation or retirement was realized in violation of the Organic Law of the Armed Forces, after investigation and recommendation by the corresponding ministry, in accordance with the law.

Article 254: Competence of the military jurisdiction and disciplinary regime

The military jurisdiction only has the competence to come to know the military infractions given in the laws about the subject. The Armed Forces shall have a disciplinary military regime applicable to those faults that do not constitute infractions of the criminal military regime.

Chapter II: On the National Police

Article 255: Mission

The National Police is an armed, technical, profession body of a police nature, under the authority of the President of the Republic, obedient to civil power, without party ties and without the ability, in any case, to deliberate. The National Police has as its mission: 1. To safeguard the citizen security. 2. To prevent and control crimes. 3. To pursue and investigate criminal infractions, under the legal direction of the appropriate authority. 4. To maintain the public order in order to protect the free exercise of the rights of people and the peaceful coexistence in accordance with the Constitution and the laws.

Article 256: Police career

The entering, appointment, ascent, retirement, and other aspects of the regime of the police career of the members of the National Police shall be affected without any discrimination, in accordance with its organic law and the complementary laws. The reinstatement of its members, with the exception of the cases in which the retirement or separation was realized in violation of the organic law of the National Police, after investigation and recommendation of the corresponding ministry, in accordance with the law.

Article 257: Competence and disciplinary regime

The police jurisdiction only has the competence to come to know the police infractions given in the laws on the subject. The National Police shall have a police disciplinary regime applicable to those faults that do not constitute infractions of the criminal police regime.

Chapter III: On Security and Defense

Article 258: Council on Security and National Defense• Advisory bodies to the head of state

The Council of Security and National Defense is a consultative organ that assists the President of the Republic in the formulation of the policies and strategies on this subject and in any matter that the Executive Power submits for its consideration. The Executive Power shall regulate its composition and functioning.

Article 259: Defensive character

The Armed Forces of the Republic, in the development of its mission, shall have an essentially defensive character, without prejudice to that provided in Article 260.

Article 260: High priority objectives

High priority national objectives are: 1. To combat transnational criminal activities that put the interests of the Republic and its inhabitants in danger. 2. To organize and sustain effective systems that prevent or mitigate damages caused by natural and technological disasters.

Article 261: Public security or defense corps

The National Congress, at the request of the President of the Republic, may provide for, when the national interest requires, the formation of permanent public security of defense corps with members from the Armed Forces and the National Police that shall be subordinates of the ministry or institution of the realm of their respective competencies in virtue of the law. The system of intelligence of the State shall be regulated through the law.

Title XIII: On the States of Exception

• Emergency provisions

Article 262: Definition

Those extraordinary situations that gravely affect the security of the Nation, of the institutions and of the people before which the ordinary abilities are insufficient are considered states of exception. The President of the Republic, with the authorization of the National Congress, may declare the states of exception in three modalities: State of Defense, State of Interior Commotion and State of

Article 263: State of Defense

In the case of the national sovereignty or the territorial integrity being seen as in grave and imminent danger by external armed aggressions, the Executive Power, without prejudice to the inherent abilities of his office, may request from the National Congress the declaration of State of Defense. In this state the following may not be suspended: 1. The right to life, following the provisions of Article 37. 2. The right to personal integrity, following the provisions of Article 42. 3. Liberty of conscience and religions, following the provisions of Article 45. 4. The protection of the family, following the provisions of Article 55. 5. The right to one's name, following the provisions of Article 55, number 7. 6. The rights of the child, following the provisions of Article 56. 7. The right to nationality, following the provisions of Article 18. 8. The rights of citizenship, following the provisions of Article 22. 9. The prohibition of slavery and servitude, following the provisions of Article 41. 10. The principle of legality and of non-retroactivity, following that established in Article 40, numbers 13 and 15. 11. The right to the recognition of juridical personality, following the provisions of Articles 43 and 55, number 7. 12. The judicial, process, and institutional guarantees indispensable for the protection of those rights, following the provisions of Article 69, 71, and 72.

Article 264: State of Interior Commotion

The State of Interior Commotion may be declared in all or in part of the national territory, in the case of grave disturbance of the public order that makes an attempt against institutional stability, the security of the State or citizen coexistence in an imminent manner or that may not be avoided through the use of the ordinary powers of the authorities.

Article 265: State of Emergency

The State of Emergency may be declared when facts different from those discussed in Articles 263 and 264 occur that disturb or threaten to disturb in a grave an imminent manner the economic, social environmental order of the country or that constitute a public calamity.

Article 266: Regulatory provisions

The states of exception shall be subject to the following provisions: 1. The President shall obtain the authorization of Congress to declare the appropriate state of exception. If the Congress is not meeting, the President may declare it, which will bring with it immediate convocation of the same so that it may decide in that regard. 2. While the state of exception remains, the Congress shall meet with the fullness of its powers and the President of the Republic shall inform it in a continuous manner about the provisions that he has taken and the evolutions of events. 3. All the authorities of elective character maintain their powers during the effect of the states of exception. 4. The states of exception do not exempt the authorities and other servants of the state from the fulfillment of the law and their responsibilities. 5. The declaration of the states of exception and the acts adopted during the same shall be submitted to constitutional control. 6. In the States of Interior Commotion and of Emergency, only the following rights recognized by this Constitution may be suspended: a. Remission to prison, following the provisions of Article 40, number 1 b. Deprivation of liberty without cause or without the legal formalities, following that provided in Article 40, number 6. c. Times of submission to the judicial authority or for being set free, established in Article 40, number 5. d. The transfer from prison establishments or other locations, provided in Article 40, number 12. e. The presentation of detained persons, established in Article 40, number 11. f. That related to habeas corpus, regulated in Article 71. g. The inviolability of the home and private premises, provided in Article 44, number 1 h. The freedom of transit, provided in Article 46. i. Freedom of expression, in the terms provided by Article 49.

j. The freedoms of association and meeting, establishes in Articles 47 and 48. k. The inviolability of correspondence, established in Article 44, number 3. 7. As soon as the reasons that gave rise to the state of exception have ceased, the Executive Power shall declare its raising. The National Congress, the reasons that gave rise to the state of exception having ceased, shall provide its raising if the Executive Power refuses to do so.

Title XIV: On Constitutional Reforms

• Constitution amendment procedure

Chapter I: On the General Norms

Article 267: Constitutional Reform

The reform of the Constitution may only be made in the form that it itself indicates, and may never be suspended nor annulled for any reason or by any authority nor by popular acclamations.

Article 268: Form of government• Unamendable provisions

No modification to the Constitution may deal with the form of government which must always be civil, republican, democratic, and representative.

Article 269: Constitutional Reform Initiative

This Constitution may be reformed if the reform proposition is presented in the National Congress with the support of one third of the members of one or the other chamber, or if it is submitted by the Executive Power.

Chapter II: On the National Revisory Assembly

Article 270: Convocation of the National Revisory Assembly

The necessity of constitutional reform shall be declared by a law of convocation. This law, to which the Executive Power may not make observations, shall order the meeting of the National Revisory Assembly, shall contain the object of the reform and shall indicate the article or articles of the Constitution about which they shall deal.

Article 271: Quorum of the National Revisory Assembly

In order to decide on the proposed reform, the National Revisory Assembly shall meet within the fifteen days following the publication of the law that declares the necessity of the reform, with the presence of more than half of the members of each one of its chambers. Its decisions shall be made by the majority of two thirds of the votes. Constitutional reform may not be made in the case of the effect of one of the states of exception given in Article 262. Once the reform is voted on and proclaimed by the National Revisory Assembly, the Constitution shall be published in full with the reformed texts.

Article 272: Approval referendum• Referenda

When the reform deals with rights, fundamental guarantees and duties, the territorial and municipal ordering, the regime of nationality, citizenship, and foreigners, the regime of coin, and over the procedures of reform instituted in this Constitution, it shall require the ratification of the majority of the male and female citizens with electoral rights, in an approval referendum convoked for that effect by the Central Electoral Board, once voted and approved by the National Revisory Assembly.

• Electoral commission

Paragraph I

The Central Electoral Board shall submit the reforms for referendum within the sixty days following its formal reception.

Paragraph II

The approval of the reforms to the Constitution by way of referendum requires more than half of the votes of those who may vote and that the number of those exceeds thirty percent of the total of male and female citizens that form the Electoral Register, adding the voters that express themselves with “YES” or with “NO.”

Paragraph III

If the result of the referendum is affirmative, the reform shall be proclaimed and published in full with the reformed texts by the National Revisory Assembly.

Title XV: General and Transitory Provisions

Chapter I: General Provisions

Article 273: Grammatical genders

The grammatical genders that are adopted in the wording of the text of this Constitution do not signify, in any way, restriction to the principle of equality of rights of women and men.

Article 274: Constitutional term of elected officials

The elected exercise of the President and Vice President of the Republic, as well as the legislative representatives and parliamentary members of international organs, shall end uniformly on the 16th of August of every four years, the date on which the corresponding constitutional term begins, with the exceptions given in this Constitution.

Paragraph I

The municipal authorities elected on the third Sunday of February of each four years shall take possession on the 24th of April of the same year.

Paragraph II

When an elected official stops in the exercise of the office due to death, resignation, disqualification or another reason, he who substitutes him shall remain in the exercise of the office until the term is complete.

Article 275: Term of officials of constitutional organs

The members of constitutional organs, once the period of the mandate for which they were appointed ends, shall remain in their offices until those who substitute them take possession.

Article 276: Oath of appointed officials• Oaths to abide by constitution

Thee person appointed to exercise a public office shall take an oath to respect the Constitution and the laws, and to faithfully carry out the duties of his office. This path shall be taken before an appropriate public functionary or official.

Article 277: Decisions with authority of an irrevocably judged matter

All judicial decisions that have acquired the authority of an irrevocably judged matter, especially those dictated in an exercise of direct control of the constitutionality by the Supreme Court of Justice, until the moment of the proclamation of the present Constitution, may not be examined by the Constitutional Court and those after shall be subject to the process that the law that rules the subject determines.

Chapter II: On the Transitory Provisions

First

The Council of Judicial Power shall be created within the six months after the entrance into effect of the present Constitution.

Second

The Constitutional Court, established in the present Constitution, shall be formed within the twelve months following the entrance into effect of the same.

Third

The Supreme Court of Justice shall maintain the functions attributed by this Constitution to the Constitutional Court and to the Council of Judicial Power until these instances have been integrated.

Fourth

The current judges of the Supreme Court of Justice that are not left in retirement by having reached seventy-five years of age shall be submitted to an evaluation of work by the National Council of Magistrature, which shall determine their confirmation.

Fifth

The Superior Council of the Public Ministry shall carry out the functions established in the present Constitution within the six months following the entry into effect of the same.

Sixth

The existing Contentious Administrative and Tax Court shall become the Superior Administrative Court created by this Constitution. The Supreme Court of Justice shall provide the administrative methods necessary for its adaptation, until the Council of Judicial Power is integrated.

Seventh

The current members of the Central Electoral Board shall remain in their offices until the conformation of the new organs created by the present Constitution and the appointment of their incumbents.

Eighth

The provisions related to the Central Electoral Board and to the Superior Electoral Court established in this Constitution shall enter into effect starting from the new integration that is produced in the period that begins on the 16th of August of 2010. Exceptionally, the members of those electoral organs shall exercise their mandate until the 16th of August of 2016.

Ninth

The process of appointment that is established in the present Constitution for the members of the Chamber of Accounts shall rule beginning on the 16th of August of the year 2010. Exceptionally, the members of this organ shall remain in their offices until 2016.

Tenth

The dispositions contained in article 272 related to the approval referendum, by exception, are not applicable to the present constitutional reform.

Eleventh

The laws to which observations are made by the Executive Power that have not been decided by the National Congress at the moment of the entrance into effect of this Constitution, shall be approved in the two ordinary legislatures following the proclamation of the present Constitution. Once this period has ended, the same shall be considered as not initiated.

Twelfth

All the authorities elected through direct vote in the congressional and municipal elections of the year 2010, exceptionally, shall last in their offices until the 16th of August 2016.

Thirteenth

The male and female deputies, to be elected in representation of the Dominican communities in the exterior shall be elected, exceptionally the third Sunday of May of the year 2012 for a period of four years.

Fourteenth

By exception, the electoral assemblies to elect the municipal authorities shall be celebrated in the year 2010 and 2016 the third Sunday of May.

Fifteenth

The contracts pending decision left with the National Congress at the time of the approval of the provisions contained in article 128, number 2, part d, of this Constitution shall exhaust the legislations steps provided in the Constitution of the year 2002.

Sixteenth

The law that shall regulate the general organization and administration of the State shall provide that related to the ministries to which Article 134 of this Constitution refers. This law shall enter into effect at the latest in October of 2011, with the objective that the new provisions are incorporated in the General Budges of the State for the following year.

Seventeenth

That provided in this Constitution for the elaboration and approval of the Law of General Budget of the State shall enter into full effect beginning on the first of January of 2010, in such a manner that for the year 2011 the country will have a budget in accordance with that established in this Constitution.

Eighteenth

The budgetary provisions for the implementation of the organs that are created in the present Constitution shall be contained in the budget of 2010, in a manner that ensures its full entry into effect in the year 2011.

Nineteenth

In order to guarantee the gradual renovation of the membership of the Constitutional Court, by exception of that provided in Article 187, its first thirteen member shall be substituted in three groups, two of four and one of five, at six, nine, and twelve years of exercise, respectively, through a random process. The first four judges to leave, by exception, may be considered for a single new period.

Twentieth

In the case that the President of the Republic corresponding to the constitutional term 2012-2016 is a candidate for the same office for the constitutional period 2016-2020, he may not present himself for the following term nor any other term nor for the Vice Presidency of the Republic.

Final Provision

Final Provision

This Constitution shall enter into effect starting from its proclamation by the National Assembly and its full and immediate publication ordered.

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Appendix B

Constitutional Tribunal Sentence 168-13

Dominican Republic
CONSTITUTIONAL COURT

Ruling TC/0168/13. Reference: Record No. TC-05-2012-0077, concerning an appeal of a writ of amparo filed by Mrs. Juliana Dequis (or Deguis) Pierre, challenging Ruling No. 473/2012 rendered by the Civil, Commercial and Labor Branch of the Court of First Instance in the Judicial District of Monte Plata on July ten (10), two thousand twelve (2012). Page 1 of 147 © Haitian American Lawyers Association of New York, Inc. 2014

IN THE NAME OF THE REPUBLIC

RULING TC/0168/13

Reference: Record No. TC-052012-0077, concerning an appeal of a writ of amparo filed by Mrs. Juliana Dequis (or Deguis) Pierre, challenging Ruling No. 473/2012 rendered by the Civil, Commercial and Labor Branch of the Court of First Instance in the Judicial District of Monte Plata, on July ten (10), two thousand twelve (2012).

In the municipality of Santo Domingo Oeste, Santo Domingo Province, Dominican Republic, on the twenty-third (23rd) day of the month of September of two thousand thirteen (2013).

The Constitutional Court, consisting ordinarily of justices Milton Ray Guevara, Chief Justice; Leyda Margarita Piña Medrano, First Associate Justice; Lino Vásquez Sámuel, Second Associate Justice; justices: Hermógenes Acosta de los Santos; Ana Isabel Bonilla Hernández, Justo Pedro Castellanos Khoury, Victor Joaquín Castellanos Pizano, Jottin Cury David, Rafael Díaz Filpo, Víctor Gómez Bergés, Wilson S. Gómez Ramírez, Katia Miguelina Jiménez Martínez and Idelfonso Reyes, exercising their Constitutional and legal authority, and specifically those provided in Articles 185.4 of the Constitution and 9 and 64 of No. 137-11, Organic Law of the Constitutional Court and of the Constitutional

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Ruling TC/0168/13. Reference: Record No. TC-05-2012-0077, concerning an appeal of a writ of amparo filed by Mrs. Juliana Dequis (or Deguis) Pierre, challenging Ruling No. 473/2012 rendered by the Civil, Commercial and Labor Branch of the Court of First Instance in the Judicial District of Monte Plata on July ten (10), two thousand twelve (2012). Page 2 of 147 © Haitian American Lawyers Association of New York, Inc. 2014

Procedures dated June thirteen (13), two thousand eleven (2011), renders the following judgment:

I. BACKGROUND

1. Description of the ruling under appeal

1.1. On July ten (10), two thousand twelve (2012), the Civil, Commercial and Labor Branch of the Court of First Instance in the Judicial District of Monte Plata rendered Ruling No. 473/2012, in exercise of its amparo authority. A default Ruling was rendered against the defendant, Central Electoral Board, for failing to appear at the June eighteen (18), two thousand twelve (2012) hearing, and the application for writ of amparo brought by the plaintiff, Mrs. Juliana Dequis (or Deguis) Pierre,1 was rejected.

1.2. Under subparagraph number four of the aforementioned Ruling, government employee, Dionis Fermín Tejeda Pimentel (Bailiff of the National District Trial Court) was commissioned to serve notice of the court's decision. However, there is nothing in the record proving that such notice was ever provided to the defendant, Central Electoral Board.

1 In the writ of amparo and the appeal, the petitioner is identified as Juliana Deguis Pierre and also as Juliana Diguis Pierre; in the birth certificate affidavit issued by the Officer of the Civil Registry Office of Yamasá, on October 4, 1993, for purposes of obtaining her identity and voter card (as shown below), petitioner is identified as Juliana Deguis Pierre, while in the birth certificate issued for judicial purposes by the Director of the Main Civil Registry Office on May 17, 2013 (also shown below), she is identified as the daughter of Mr. Blanco Dequis and Mrs. Marie Pierra, and according to this last document the name and surnames of the petitioner are Juliana Dequis Pierra. Moreover, with respect to her parents, it should be noted that, probably due to a material error on page 2 of the writ of amparo, it states that the petitioner is "the daughter of Messrs. NELO DIESSEL AND LUCIA JEAN." To avoid confusion and maintain uniformity amongst the writ of amparo, the appeal and the documents cited herein, petitioner will hereon be identified as Juliana Dequis (or Deguis) Pierre.

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2. Grounds of the ruling under appeal

2.1. The Civil, Commercial and Labor Branch of the Court of First Instance of Monte Plata, in exercise of its amparo authority, rejected the action brought by Juliana Dequis (or Deguis) Pierre, based essentially upon the following reasons transcribed verbatim below:

WHEREAS, the plaintiff, JULIANA DEGUIS PIERRE, alleges that she was born in the Municipality of Yamasá, Monte Plata Province, on April 1, 1984, the daughter of Messrs. NELO DIESSEL AND LUCIA JEAN, both laborers of Haitian nationality pursuant to birth certificate No. 246, Registry 496, Page 108 of 1984, issued by the Civil Registry Office of Yamasá; that, in 2008, for the first time, Mrs. JULIANA DEGUIS PIERRE, appeared at the Identification and Documentation Center in the Municipality of Yamasá to apply for an identity and voter card, whereby her birth certificate was confiscated and she was informed that an identity card would not be issued to her because her surnames are Haitian.

WHEREAS, no arguments were provided by the Central Electoral Board in support of its own defense.

WHEREAS, (…), it is contingent upon the plaintiff to prove to the court the validity of her claims.

WHEREAS, the plaintiff, Mr. {sic} JULIANA DEGUIS PIERRE, provided the following documents in support of her defense: 1- Photocopy of Act No. 250/2012, dated May 18, 2012, of Ramón Eduberto de la Cruz de la Rosa, Bailiff assigned to the Criminal Branch of the National District Court of Appeals; 2- Photocopy of

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Birth Certificate No. 496, Registry 246, Page 108 of 1984, issued by the Civil Registry Office of Yamasá.

WHEREAS, no documents were provided by the defendant, CENTRAL ELECTORAL BOARD, in support of its own defense.

WHEREAS, the Court notes that the documents presented by the plaintiff are photocopies, and in this regard, we have pointed out that uncontroverted photocopies may be of evidentiary value in cases where the party against whom they are presented is present, and in cases where the party against whom the photocopies are presented is absent, we have pointed out that we share, keep, and as a consequence, apply our own criteria and legal approach expressed in the Ruling issued by the Civil Branch of our Supreme Court of Justice on January 14, 1998; B.J. 1046, Page 118-120 (…); on the basis of which, we believe the plaintiff has failed to comply with the "actor incumbit probatio" rule, which is the reason why we believe it prudent, appropriate and just to REJECT this writ of amparo.

3. Filing of the appeal

3.1. The appeal for review of Ruling No. 473/2012 was filed by Mrs. Juliana Dequis (or Deguis) Pierre, pursuant to a complaint filed in the Office of the Clerk of the Civil, Commercial {and Labor} Branch of the Court of First Instance of the Judicial District of Monte Plata, on July thirty (30), two thousand twelve (2012). In this action, the petitioner alleges a violation of her fundamental rights, because Ruling No. 473/2012 has left her "in a state of uncertainty," given that the merits of the case were not decided.

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3.2. The respondent, Central Electoral Board, was notified of the aforementioned appeal by the Office of the Clerk of the Constitutional Court by means of Notice SGCT-0547-2013, dated April eight (8), two thousand thirteen (2013).

4. Facts and legal arguments of the petitioner

4.1. The petitioner seeks to overturn Ruling No. 473/2012, which is the basis of the appeal, and, to justify such claims, in summary alleges:

a. THAT, by virtue of the principle of effectiveness contained in Article 7.4 of Law No. 137-11, the Judge has not rendered an effective decision […],” because “the plaintiff has been left in a state of uncertainty, not only by the actions of the Central Electoral Board, but also by the decision of the court that was supposed to defend her violated rights.

b. THAT, the decision by the Civil, Commercial {and Labor} Branch of the Court of First Instance of the Judicial District of Monte Plata to dismiss the complaint by rejecting the evidence presented by the plaintiff and refusing to accept the request made by the complainants {sic} that the documentation (birth certificate) presented as evidence, constituted proof, because the Central Electoral Board itself had not delivered the birth certificate, which is the basis of this amparo action, in principle, was the return of the birth certificate and delivery of the identity and voter card, documents which had been requested repeatedly of the defendant but had not been provided by that party.

c. THAT, the lack of protection of the fundamental rights pledged in the Constitution, international treaties, the Civil Code, Law No. 659 regarding Civil Registry Records and Law No. 6125 regarding Personal

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Identity Cards, as amended by Law No. 8/92 regarding Identity and Voter Cards persists and continues to compound these expressed violations.

d. THAT, the rights of which the {petitioner} is deprived are inherent to her person; and, therefore, it is incumbent upon the competent jurisdiction “to take all measures – even ex-officio – to verify the existence of violations;” and,

e. THAT, in the decision, which is the object of this appeal, the plaintiff remains unprotected against the powers of the Central Electoral Board, and [that] violations of her fundamental rights have been extended and compounded due to the allegations of the judge that the documentation presented (birth certificate) on file are copies, and, therefore, deemed by the judge to be of no evidentiary value.

5. Facts and legal arguments of the respondent

5.1. The respondent seeks the dismissal of the constitutional appeal and, in turn, seeks that Ruling No. 473/2012, which is the object of this appeal, be upheld, alleging in summary the following:

a. THAT, the petitioner, Juliana Deguis Pierre, was illegally registered in the Civil Registry Office of Yamasá “[…] where she appears as the daughter of HAITIAN NATIONALS.”

b. THAT, the parents of the petitioner are foreigners “who unlawfully and illegally registered their children in the Registration books of the Civil Registry Office, in clear violation of the Constitution in

effect at the time of the affidavit of birth."

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c. THAT, nationality is an aspect of national sovereignty, a discretionary authority of the State, conceived as an attribute granted to its nationals; therefore, its scope cannot be defined solely by the will of an ordinary judge.

d. THAT, Dominican law is clear and precise, establishing "THAT NOT ALL CHILDREN BORN IN THE TERRITORY OF THE DOMINICAN REPUBLIC ARE DOMINICANS," because "[i]n such cases, if they are not permanent residents, they must first register with the diplomatic delegation of their country of origin."

e. THAT, since 1844, the Constitutional assembly has established who are considered Dominicans, a principle that has remained in effect since the amendment of nineteen ninety-nine {sic} (1929) without any modification to date.

f. THAT, "the determination of nationality is a matter of domestic law that corresponds to each State, as an expression of its national sovereignty […]."

g. THAT, in the judgment of the Court, which has been confirmed, the {petitioner} has sought, in filing a writ of amparo against the respondent, to acquire a carte blanche ruling to validate the violation of the law and consequently claim so-called acquired rights […], grounded in a nonexistent attribution that violation of the law is an absolute and unquestionable right."

h. THAT, in this case, the judge a quo acted on the basis of the terms established in Article 6 of the Constitution, and that the {petitioner's} birth certificate establishes clearly and accurately the nationality of the parents, which is detailed without any derogatory, discriminatory or humiliating

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language, except to say that if a person is not a national of the Dominican Republic, it is not grammatically and legally correct {sic} to call him a foreigner […].

i. THAT, the law empowers the Central Electoral Board to take all actions aimed at controlling and purging applications for identification documents, in order to strengthen the process of purging the Electoral Register and, if we reason according to the maxim {'}the accessory follows its principal,' since the birth certificate is the main document giving rise to the identity and voter card, and the law allows

the Central Electoral Board to investigate and take any action it deems pertinent to purge the Electoral Register, one would have to ask how else would purging occur if not by tossing {and} removing any element that is alien to all that is being purged, which, in no case, amounts to discrimination.

j. THAT, with respect to the children of illegal foreign nationals, the Central Electoral Board has applied the legal criteria established by the Constitution of nineteen ninety-nine {sic} (1929), upheld by the Supreme Court of Justice in its ruling dated December fourteen (14), two thousand five (2005), concerning the constitutional challenge brought against General Migration Law No. 285-04, namely that (…) A CHILD IS NOT BORN DOMINICAN; {AND} EVEN MORE SO IF HE/SHE WAS BORN TO A FOREIGN MOTHER, WHO, AT THE TIME OF GIVING BIRTH, IS UNDER AN IRREGULAR STATUS, AND, THEREFORE, CANNOT PROVE HER ENTRY AND RESIDENCY in the Dominican Republic […].

k. THAT, the case law has established that, while accepting, in principle, that the certificates issued by the Civil Registry Office should be considered reliable sources, unless the registration can be proven to be false, such principle does not extend to the statements transcribed by civil

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registry offices at the time of exercising their ministerial duties, to which they cannot attest unless there is evidence to the contrary, because these officers cannot authenticate the intrinsic accuracy of such certificates (Cas. Civ. No. 23, 22 of October 2003, B.J. 1115, pages 340-347).

l. THAT, the {Central Electoral Board} reiterates its commitment to comply with and enforce the mandate of the Constitution and laws while offering assurances that national identity will be zealously protected and preserved by this institution, and that we are implementing a bailout and clean-up program of the Civil Registry Office to shield it from the fraudulent and deceitful actions, forgeries and impersonations, that have long affected the Dominican Civil Records Registry system, so that we can provide efficient and reliable service with regard to the vital records that are the source and basis of our national identity.

m. THAT, to provide legal documentation as a Dominican citizen to a person, in violation of Articles 31, 39 and 40 of Law No. 659, Articles 11 and 47 of the Constitution in effect on the date of the affidavit of birth, as well as Articles 6 and 18 of the current Constitution of two thousand ten (2010), would be disruptive to the legal system, under which, the promoter or beneficiary of the violation should not be allowed to legally benefit from these unlawful acts.

n. THAT, based on the foregoing reasons, the Central Electoral Board “has challenged the rights asserted by the amparo petitioner, regarding the decision by the competent court to invalidate the birth certificate, pursuant to the law on Civil Registry Records, whose issuance the amparo action pursues.

o. THAT, the delivery of the requested documents by the respondent violates the Constitution and the laws governing the matter; and that the

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Central Electoral Board is not stripping anyone of his or her nationality or leaving anyone stateless, because, as clearly and bluntly established by the Constitution of the Republic of Haiti: ARTICLE 11. Any individual born of a Haitian father or a Haitian mother who, in turn, were born as Haitians and have not waived their nationality at the time of birth possesses Haitian citizenship […].

p. THAT, obtaining a registration illegally and in contravention of the Constitution does not grant nationality rights or any other rights to amparo petitioners or any other person, since doing so would amount to no more than an improper, illegal and inappropriate use of such registration, whose non-conformance, annulment and challenge can be pursued using all legal channels […].

q. THAT, through Resolution No. 12-2007, the Central Electoral Board establishes the procedure to provisionally suspend the issuance of fraudulent or flawed registrations, entered and registered illegally and in violation of the Constitution of the Republic, thus instructing the Officers of the Civil Registry Office to thoroughly examine the birth certificates or other documents relating to a person's civil legal status.

r. THAT, the Central Electoral Board instructed the Officers of the Civil Registry Office to examine, in particular, the birth certificates received in violation of Article 11 of the Constitution of the Republic, because certificates of children born to foreigners who were in transit in the Dominican Republic had been received (as in the case in question), which made it necessary for the persons benefitting from such inconsistencies to prove their legal residency in the Dominican Republic, and that failure to provide evidence of legal residency or legal status in the country required that their cases be submitted to the Central Electoral Board to be examined and a determination made in accordance with the

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Law; thus, officials must refrain from issuing copies that are inconsistent with birth records.

s. THAT, the {American} Convention on Human Rights of November twenty-two (22), nineteen sixty-nine (1969) states in Article 20, that everyone has a right to a nationality, which could be the nationality of the State in whose territory they were born, "if not entitled to another;" and that international law establishes and recognizes that it is not mandatory for the State to grant nationality to anyone born in its territory if they have the right to acquire another one; a criterion historically emphasized in our Constitution.

t. THAT, the system used to acquire nationality in the Dominican Republic is not based on jus soli or jus sanguinis, but, rather, it is based on a joint system that combines and complements each other […], which creates an easier path for people to take advantage of weaknesses in the system at any given time and obtain fraudulent registrations, rather than following the steps established by law for foreigners to obtain nationality, pursuant to Article 3, paragraphs 1 and 2 of Law No. 1683 of April twentyone (21), nineteen forty-eight (1948).

u. THAT, the "mere fact that the registration - received by Officers of the Civil Registry Office of Yamasá, – illegally by all accounts – did not take into consideration that the Political Constitution of the Dominican Republic of nineteen sixty-six (1966), in effect at the time of the affidavit of birth, established in Article 11," that all persons born in the territory of the Dominican Republic, except for those in transit, violate the Constitution and the laws by providing a fraudulent Affidavit of Birth, and as such, the petitioner cannot take advantage of her own violation and receive Dominican nationality by such unlawful action." This provision was upheld by the 2002 and 2010 constitutional amendments.

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v. THAT, nationality is a matter of public policy whose preservation, amendment and safeguarding is a function of the registrar's office of each country, and that the legislature of the Dominican Republic granted such functions to the respondent; the importance of these functions later acquired constitutional status with the inclusion of Article 212 into the Political Constitution of the Dominican Republic, published on January twenty-six (26), two thousand ten (2010) […].

w. THAT, the regulatory powers granted to the {respondent} validate the actions taken with respect to the retention of birth certificates whose inconsistencies are obvious, and to demand from beneficiaries, thereof, the proof required by our legislature before they can appear before officers of the Civil Registry Office.

x. THAT, the respondent issued Resolution No. 02-2007, regarding "Enactment of the Registry of Births of Children to NON-RESIDENT Foreign Mothers in the Dominican Republic" or "Registry of Foreigners," and that Article 1 of Law No. 8-92 stipulates that the Civil Registry Offices are dependent upon and under the directives of the Chairman of the Central Electoral Board."

y. That, the respondent is the public institution responsible for overseeing and managing all Civil Registry Offices and, therefore, is responsible for ensuring the proper management and transparency of the record books, so that they are consistent with established legal principles.

z. THAT, the case law of the Administrative High Court, affirmed by the Supreme Court of Justice, maintains that all official records issued by Civil Registry officers are subject to the scrutiny of superior or judicial agencies, and that ordering them to abstain from issuing these records in their care does not violate any legal or constitutional provisions.

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aa. Also, that birth certificates not registered under the correct procedure can be challenged by all legal channels, so that "regardless of any value the photocopies may have, the amparo action is inadmissible because of the unconstitutional nature of the registration of a child born to foreign nationals under illegal immigration status […].

6. Exhibits filed

6.1. In the case of this appeal for review, the following documents, among others, are on file:

1. Photocopy of the affidavit of birth (Form O.C. No. 8) for Juliana Dequis {or Deguis} Pierre, Registration of Births-Book No. 246, page 109, marked with the number 496 of nineteen eighty-four (1984), issued by the Civil Registry Office of Yamasá, dated October four (4), nineteen ninetythree (1993).

2. Photocopy of the writ of amparo filed by Mrs. Juliana Dequis (or Deguis) Pierre before the Civil{, Commercial and Labor} Branch of the Court of First Instance in the Judicial District of Monte Plata against the Central Electoral Board, which was received on July six (6), two thousand twelve (2012).

3. Certificate No. 250/2012, dated May eighteen (18), two thousand twelve (2012), executed by government employee Ramón Eduberto de la Cruz de la Rosa (Bailiff of the Criminal Branch of the National District Court of Appeals), which contains the summons and notification of delayed processing for voluntary surrender of the birth certificate and the identity and voter card.

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4. Photocopy of the certified and registered original of Ruling No. 473/2012 issued by the Civil, Commercial and Labor Branch of the Court of First Instance of the Judicial District of Monte Plata, on July ten (10), two thousand twelve (2012).

5. Photocopy of the constitutional appeal for review of the Ruling in the amparo action filed by Mrs. Juliana Dequis (or Deguis) Pierre before the Constitutional Court, on July twenty-two (22), two thousand twelve (2012).

6. Original defense brief of the Central Electoral Board, concerning the appeal, dated May twenty-seven (27), two thousand thirteen (2013).

7. Two (2) originals of the birth certificate issued for judicial purposes of Juliana Dequis (or Deguis) whose birth was registered before the Civil Registry Office in the First District of Yamasá, in Book No. 00246 of the Registry of Births, timely declaration, on page No. 0109, registration No. 00496, in nineteen eighty-four (1984), issued by the Director of the Main Civil Registry Office, on May seventeen (17), two thousand thirteen (2013).

7. Fact-finding measures requested by the Constitutional Court

7.1. In Notice SGCT-0548-2013, dated April eight (8), two thousand thirteen (2013), the Office of the Clerk of the Constitutional Court asked the respondent, Central Electoral Board, to provide two (2) certified copies of the birth certificate for the petitioner, Juliana Dequis (or Deguis) Pierre. In response to this request, the Central Electoral Board for the National District issued the two (2) originals of the birth certificate "for judicial purposes" as indicated above, which were received by the Office of the Clerk of the Constitutional Court on that same day.

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II. DELIBERATIONS AND RATIONALE OF THE CONSTITUTIONAL COURT

8. Summary of the conflict

8.1. This case commenced because Mrs. Juliana Dequis (or Deguis) Pierre submitted the original of her birth certificate to the Identification and Documentation Center in the Municipality of Yamasá, Monte Plata province, and requested the issuance of her identity and voter card. The Central Electoral Board rejected the request on grounds that the applicant was registered illegally in the Civil Registry Office of Yamasá, being that she is the daughter of Haitian nationals.

8.2. Surmising that such refusal violated her fundamental rights, Mrs. Juliana Deguis (or Deguis) Pierre sought relief from the Civil, Commercial and Labor Branch of the Court of First Instance in the Judicial District of Monte Plata, in an action brought against the Central Electoral Board, demanding the issuance of said document. The Court of First Instance dismissed her claim, alleging that she had only submitted a photocopy of her birth certificate in support of the motion, as evidenced in Ruling No. 473-2012, which is now under review before the Constitutional Court.

9. Jurisdiction

9.1. The Constitutional Court has jurisdiction to review this appeal of the Ruling in the amparo action, pursuant to Articles 185.4 of the Dominican Constitution, and 9 and 94 of No. 137-11, Organic Law of the Constitutional Court and of the Constitutional Procedures.

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10. Admissibility of this appeal

10.1. The Constitutional Court believes that this appeal of the Ruling in the amparo action is admissible for the following legal reasons:

10.1.1. Article 100 of Law 137-11 states that:

Admissibility of the appeal is subject to the special constitutional significance or relevance of the issue, and will be determined according to its importance to the interpretation, application and overall effectiveness of the Constitution, or for determining the content, scope and specific protection of fundamental rights.

10.1.2. The concept of special constitutional significance or relevance was clarified by this Constitutional Court in Ruling TC/0007/12, issued on March twenty-two (22), twenty twelve (2012), which states that:

[…] this condition is only present, among other conditions, in cases where: 1) conflicts regarding fundamental rights are contemplated for which the Constitutional Court has not established any criteria for its clarification; 2) it is conducive to social or regulatory changes to certain previously established principles that affect the content of a fundamental right; 3) it allows the Constitutional Court to redirect or redefine judicial interpretations of the law or other laws that violate fundamental rights; 4) it introduces significant legal situations of social, political or economic importance, whose solution favors the preservation of the constitutional integrity.

10.1.3. This Court finds the matter in question of special constitutional significance or relevance, and, therefore, considers it admissible, because it

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raises a conflict with respect to the fundamental right to nationality and citizenship, the right to employment, the right to free movement and the right to vote, that the Court must clarify by establishing standards in view of the social and political importance of the issue.

11. Merits of the appeal of the ruling in the amparo action

11.1. The Constitutional Court will review, consecutively, the merits of the appeal taking into consideration the four fundamental aspects raised by the record, namely: {petitioner's} submission to the amparo court and the Ruling rendered thereof (11.1.1.); determining the authority to regulate the foreign nationality regime (11.1.2); petitioner's failure to comply with the legal requirements for obtaining the identity and voter card (11.1.3.); and the legal unpredictability of the Dominican migration policy and the institutional and bureaucratic deficiencies of the Civil Registry Office (11.1.4.).

11.1.1. Jurisdiction and ruling of the amparo court

11.1.1.1. On May twenty-two (22), two thousand twelve (2012), Mrs. Juliana Dequis (or Deguis) Pierre brought an amparo action before the Court of First Instance in the Judicial District of Monte Plata, which was rejected in Ruling No. 473-2012, dated July ten (10), two thousand twelve (2012).

11.1.1.2. In connection with the two items referenced in the preceding heading, the Constitutional Court considers that, in view of the elements making up this case, the Contentious Administrative Court had lawful jurisdiction to hear this case, and, therefore, it would be appropriate to repeal the Ruling in the action for amparo and refer the case to the latter court (§1); but, instead of opting for this solution, the Constitutional Court

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decides to examine the merits of the amparo action to guarantee the principle of procedural economy (§2).

§1. Legal jurisdiction of the Contentious Administrative Court to hear the amparo action

§1.1 With respect to jurisdiction over the amparo action of the petitioner, the Constitutional Court holds as follows:

§1.1.1. In this case, the petitioner attributes the alleged violation or arbitrariness to an omission by the Central Electoral Board, a government institution. With respect to such cases, Article 75 of Law No. 137-11 provides that: “the amparo action against facts or omissions by government entities, where admissible, will be under the contentious administrative jurisdiction.”

§1.1.2. As outlined in the preceding paragraph, the Contentious Administrative Court is the authority with jurisdiction over the current amparo action. Therefore, the Ruling should be repealed and the records returned to the office of the clerk of the corresponding court. However, in this case, the Constitutional Court has decided not to return the records to the jurisdiction indicated, and will instead decide the case in order to guarantee the principle of procedural economy.

§2. Decision of the Constitutional Court to hear the merits of the case

§2.1 The Constitutional Court chooses to hear the merits of the amparo action filed by Mrs. Juliana Dequis (or Deguis) Pierre, because it differs with the grounds of the aforementioned Ruling No. 473/2012, issued by the

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Civil, Commercial and Labor Branch of the Court of First Instance in the Judicial District of Monte Plata, based upon the following arguments:

§2.1.1. Law No. 137-11 explicitly provides in Articles 7.2, 7.4 and 7.11, the principles of speed, effectiveness and diligence, among other governing rules of the constitutional justice system, described as follows:

7.2. Speed. The constitutional legal proceedings, in particular the protection of fundamental rights (as is the amparo action), should be resolved within constitutional limits and legal grounds and without unnecessary delay.

7.4. Effectiveness. A judge or court must guarantee the effective application of the constitutional rules and fundamental rights against obligors or debtors thereof, upholding the minimum guarantees of due process, and is required to use means which are most suitable and appropriate to the specific needs for protection against each issue raised, granting a distinct remedy due to its uniqueness, when the case warrants it.

7.11. Diligence. A judge or court, as the guarantor of effective judicial protection, should officially adopt the measures required to ensure constitutional supremacy and the full implementation of fundamental rights, even if they have not been invoked by the parties or they have been used erroneously.

§2.1.2. Pursuant to the above-mentioned principles, the amparo action seeks to fulfill its essential purpose, offering a "preferential, indexed, oral, public and free method, not subject to any formalities," as provided by Article 72 of the Constitution, since such action is a mechanism to protect

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against any fact or omission which could, actually or potentially, and arbitrarily or illegally, harm, restrict, alter or threaten the fundamental rights pledged in the Constitution.

§2.1.3. In this case, the requirements for preference, summary procedures and speed that distinguish amparo actions, in the apparent restriction on the fundamental rights asserted by the petitioner, who alleges having been deprived of any personal identification documents to prove her national or foreign residency in the country, are verified with particular evidence.

§2.1.4. In connection with the merits of the case, amparo Ruling No. 4732012, rendered by the Civil, Commercial {and Labor} Branch of the Court of First Instance in the Judicial District of Monte Plata, rejected the request by Mrs. Juliana Dequis (or Deguis) Pierre for the issuance of her identity and voting card, determining that the photocopy of the birth certificate she submitted as essential proof to her claim was of no probative value, but the {petitioner} alleges that she was only able to submit a mere

photocopy because the original birth certificate had been withheld by the Identification and Documentation Office in the Municipality of Yamasá, Monte Plata province, where she submitted it in two thousand eight (2008) "to apply for the first time for her identity and voting card," as indicated in the writ of amparo.

§2.1.5. It should be noted that photocopies of documents presented without the supporting originals may not be a plausible reason to reject an amparo action, because the very nature of this action allows the facts or omissions which injure, restrict or threaten a fundamental right to be proven by any means, as provided in Article 80 of Law No. 137-11, Organic Law of the Constitutional Court and of the Constitutional Procedures:

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Article 80. – Freedom of Proof. Facts or omissions that injure, restrict or threaten a fundamental right, can be proven by any means permitted by the national legislation, provided that such admission does not violate the right of the alleged offender to defend himself.

§2.1.5.{sic} In addition, under Article 87 of Law No. 137-11, the judge handling the writ of amparo possesses ample authority to take the necessary measures to motu proprio instruct and collect evidence of the facts or alleged omissions:

Article 87. Authority of the Judge. The judge handling the writ of amparo has wide-ranging powers to implement fact-finding measures and to collect data, information and documents for himself that serve as proof of the alleged facts and omissions, and ensure that the evidence obtained is shared with the litigants to guarantee rebuttal.2

§2.1.6. Accordingly, the court handling the amparo action should have officially requested from the {respondent}, Central Electoral Board, the issuance of an original birth certificate for Mrs. Juliana Dequis (or Deguis) Pierre, for judicial purposes, in order to determine the merits of this case.

§2.1.7. In connection with the Constitutional Court's decision-making authority in proceedings under its jurisdiction, the Court bases its criteria with respect to the meaning and scope of amparo appeals on ruling TC/0071/13, dated May seven (7), two thousand thirteen (2013), insofar as that ruling applies to the protection of fundamental rights. In that decision, the Court indicated that it could determine the merits of the amparo action 2 Emphasis added by the Constitutional Court.

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by applying the principles of procedural autonomy and the necessary operational synergies that must occur between the amparo action pursuant to Article 72 of the Constitution, the principles governing constitutional courts under Article 7 of Law 137-11, and regulations relevant to the amparo action and to the appeal of the writ of amparo prescribed in the above-mentioned law in Articles 65 through 75 and 76 through 114, respectively.

§2.1.8. Thus, by virtue of the arguments presented, the Constitutional Court, in view of the fact that it disagrees with the basis of the aforementioned Ruling No. 473-2012, which is the subject of the current appeal, decides to proceed to hear the merits of the amparo action by which Mrs. Juliana Dequis (or Deguis) Pierre requests that the Central Electoral Board issue her an identity and voter card.

11.1.2. Authority to regulate nationality

11.1.2.1. With regards to this aspect, which has sparked intense debate, the Constitutional Court wishes to consider the problem in the realm of domestic law (§1), before considering the solution provided by international public law (§2).

§1. Authority to regulate nationality under Domestic Law

§1.1. In terms of Dominican law, the Constitutional Court reasons as follows:

§1.1.1. There are large numbers of foreigners in the Dominican Republic who would like to obtain Dominican nationality; most of them are undocumented Haitian nationals. Indeed, in two thousand twelve (2012), the European Union, the United Nations Population Fund (UNFPA) and the

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National Statistics Office (ONE) conducted the First National Survey on Immigrants in the Dominican Republic (ENI-2012), for the purpose of collecting data about immigrants and the children of immigrants born in the national territory.

§1.1.2. According to the results of this research, the total number of immigrants was five hundred twenty-four thousand six hundred and thirtytwo (524,632) people, or 5.4% of the total national population, which in two thousand twelve (2012), was estimated at nine million seven hundred sixteen thousand nine hundred forty (9,716,940). Of these five hundred twenty-four thousand six hundred thirty-two (524,632) foreigners, four hundred fifty-eight thousand two hundred thirty-three (458,233) are Haitians and represent 87.3% of the total population of immigrants, while sixty-six thousand three hundred ninety-nine (66,399) people are from other countries, i.e., 12.7% of the total. These figures show an overwhelming prevalence of Haitian immigrants in relation to the totality of immigrants living in the Dominican Republic.

§1.1.3. The number of immigrants and their descendants make up the population of foreigners, and according to the survey, the magnitude extends to seven hundred sixty-eight thousand seven hundred

eighty-three (768,783) persons, which represents 7.9% of the country's total population. Foreigners originating from other countries amounted to one hundred thousand six hundred thirty-eight (100,638) people, while those of Haitian origin equaled six hundred sixty-eight thousand one hundred forty-five (668,145).3 The petitioner, Mrs. Juliana Dequis (or Deguis) Pierre, is just one of those six hundred sixty-eight thousand one hundred forty-five (668,145) people; so the problem that exists does not only concern her, but also a large number of Haitian immigrants and their descendants, who

3 For the preceding data, see the summarized version ENI-2012, p. 17.

constitute 6.87% of the population living in the national territory. According to reports published in the Dominican press, only eleven thousand (11,000) Haitian immigrants are legally registered in the Dominican Republic National Migration Office, which represents a negligible 0.16% of the total.4

§1.1.4. Generally, nationality is considered a legal and political bond that binds an individual to a State, but in a more technical and accurate way, it is not only a legal bond, but also a sociological and political bond, whose conditions are defined by the State itself, because multiple rights and obligations of a social nature emerge from this legal bond; it is sociological, because, among other things, it involves the existence of a set of historical, linguistic, racial and geopolitical traits, that shape and sustain particular idiosyncrasies and collective aspirations; and political, because it essentially grants access to powers inherent to citizenship, that is, the ability to elect and be elected to hold public office in the State's government.

§1.1.5. The National Congress, in exercise of its legislative authority, is responsible for everything pertaining to the determination and regulation of migratory issues in the Dominican Republic. Article 37, paragraph 9, of the Dominican Constitution of November twenty-eight (28), nineteen sixtysix (1966), in effect on the date of birth of the petitioner, Mrs. Juliana Dequis (or Deguis) Pierre – who was born on April one (1), nineteen eighty-four (1984), states the following: "The powers of Congress: […] (9) Regulate all matters relating to migration." This authority was upheld in the constitutional amendments of nineteen ninety-four (1994) and two

4

http://www.elcaribe.com.do/site/index.php?option=com_content&view=article&id=224748:migracion-haitiana-unconflicto-sin-final&catid=104:nacionales&itemid=115.

thousand two (2002), as well as in the amendment of two thousand ten (2010).5

§1.1.6. In addition, Article 2 of the now-repealed Immigration Law No. 95 dated April fourteen (14), nineteen thirty-nine (1939), in effect on the date of birth of the petitioner, granted control of migratory flow and implementation of migration laws to the National Migration Office as follows:

Art. 2. Laws relating to the entry, residence and deportation of foreigners will be executed in the Republic by the National Migration Office, a department of the Ministry of the Interior and Police. The execution of these laws will be supervised and managed by the Ministry of the Interior and Police, and the head of the National Migration Office will be the National Migration Director.6

§2. Authority to regulate nationality under International Public Law

§2.1. In terms of the solution provided in this general area by international public law, the Constitutional Court states the following arguments:

a. For almost a century, under international public law, the configuration of the conditions for granting citizenship has been recognized internationally as part of the reserved domain or exclusive national jurisdiction of the State. Accordingly, the Permanent Court of International

5 Article 93, item ("g") of the above-mentioned law, concerning authority of the National Congress, states that "Congress has the authority to establish migration rules and regulations governing foreign nationals' rights." 6 Currently, under Migration Law No. 285-04, dated August 15, 2014, the National Migration Office continues to monitor foreigners' migration status in the country (Article 6.3).

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Justice, in its Advisory Opinion on Nationality Decrees in Tunisia and Morocco, stated the following:

The determination of whether a matter falls solely within the jurisdiction of a State or not is relative; this depends on the conduct of international relations. Therefore, under the current state of international law, questions on nationality, according to the opinion of this Court, are, in principle, within the reserved domain.7

b. Similarly, the International Court of Justice (successor to the Permanent Court of International Justice), in its Ruling on the Nottebohm case, not only stated that "nationality is a legal bond which is based on social attachment, effective solidarity of existence, of interests, of feelings, together with a reciprocity of rights and duties;" but, also, decided that nationality has "[…] its closest, most immediate range and, for a majority, its effect only within the legal system of the States conferring it.8 Therefore, that high court considered it necessary to specify in their review of that case that:

It is up to Liechtenstein, like all other sovereign States, to resolve through its own legislation the rules relating to acquiring citizenship and to grant nationality through naturalization authorized by its

legislative bodies in accordance with such legislation. It is not necessary to determine whether international law imposes any limitation on their freedom of choice in this domain […] Nationality serves mainly to determine that the person to whom these rights are awarded is bound by the obligations that the 7 Advisory Opinion on Nationality Decrees in Tunisia and Morocco. CPJI, Ser. B, No. 4, 1923, paragraph 24. 8 Liechtenstein vs. Guatemala, Reports CIJ, 1955, paragraphs 20-21.

legislature of the State in question grants or imposes upon its nationals. This is implicit in the more comprehensive concept that nationality remains within the domestic jurisdiction of the State […].9

c. Likewise, the Inter-American Court of Human Rights has held that the requirements and procedures for obtaining nationality are predominantly a matter of domestic law of each State. In Castillo Petruzzi et al. vs. Perú,10 that Court upheld the position previously outlined in its January 19, 1984,11 Advisory Opinion regarding the Proposed Amendments to Costa Rica's Political Constitution, as it relates to obtaining nationality through naturalization, ruling that:

99. This Court defines nationality as "the political and legal bond that ties a person to a particular State, through which the bonds of loyalty and allegiance are undertaken, and entitlement to diplomatic protection is granted." A foreigner who attains this bond assumes that he has fulfilled the requirements established by the State for the purpose of ensuring that the applicant is effectively tied to the values and interests of the society it seeks to become a part of; the abovementioned assumes that the requirements and procedures for attaining citizenship [are] predominantly in the domestic law domain.12

9 Emphasis added by the Constitutional Court. 10 Castillo Petruzzi et al. vs. Perú, Ser. C, No. 52, 1999. 11 Advisory Opinion Related to the Proposed Amendment to the Political Constitution of Costa Rica, OC-4/84, Ser. A, No. 4, paragraphs 35-36. 12 Emphasis added by the Constitutional Court.

d. For its part, the Court of Justice of the European Communities, in several cases,13 has reaffirmed this criterion recognizing the States' total sovereignty, within their respective territories, to determine the rules for the acquisition or loss of nationality. In these rulings, that higher court has established that

"[a]ccording to international law, taking into account the Community Law, each Member State has the right to establish the requirements for the acquisition and loss of nationality […]."

e. Similarly, international agreements adopted by the Dominican Republic view this as an authority belonging exclusively to the State. On the one hand, the International Private Law Code (Bustamante Code) approved in Havana, on February twenty (20), nineteen twenty-eight (1928), and affirmed by the Dominican Congress on December three (3), nineteen twenty-nine (1929), in Article 9 specifies the following:

Article 9. Each contracting State shall apply its own law to determine the national origin of any individual or legal entity and their acquisition, loss and subsequent reintegration, which may have been undertaken within or outside its territory, when any of the nationalities subject to controversy is that of the State. In other cases, the provisions provided in the remaining articles in this chapter shall govern.14

13 See Mario Vicente Micheletti et al. vs. Government Delegation in Cantabria (C-369/90, on July 7,1992, paragraph 10); Belgian State vs. Fatna Mesbah (C-179/98, of November 11, 1999, paragraph 29); The Queen vs. Secretary of State for the Home Department, ex parte: Manjit Kaar, intervene: Justice (C-192/99 on February 20, 2001, paragraph 19); Kunqian Catherine Zhu and Man Lavette Chen vs. Secretary of State for the Home Department (C-200/02, on October 19, 2004, paragraph 37); and, Janko vs. Rothmann vs. Freistaat Bayern (C-135/08 on March 2, 2010, paragraph 39). 14 Emphasis added by the Constitutional Court.

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f. This agreement was also signed and ratified by the Republic of Haiti; therefore, its provisions require compliance by both the Dominican State and the Haitian State.

g. Similarly, both countries agreed to the "Dominican Republic Modus Operandi with the Republic of Haiti" international treaty, signed in Port-auPrince on November twenty-one (21), nineteen thirty-nine (1939), which regulates the migrant relations between the two States, and was in effect on the date of birth of the petitioner. Article 4 of this bilateral treaty states the following: "The meaning of the term immigrant will be determined solely by each State and in accordance with its laws, decrees and regulations.15

h. Having established that the granting of citizenship is a right reserved to the State, it is now up to the Constitutional Court to determine whether, in this case, a violation of the petitioner's fundamental rights occurred, in the event that she meets the legal requirements for the issuance of the identity and voter card, as she claims; and, therefore, where appropriate, to grant her petition to this Court and order the Central Electoral Board, as respondent, to issue the aforesaid document.

11.1.3. Failure of the petitioner to meet the legal requirements to obtain an identity and voting card

11.1.3.1. The Constitutional Court believes that Mrs. Juliana Dequis (or Deguis) Pierre does not meet the requirements for the issuance of an identity and voter card, because her birth certificate is under investigation (§1); and also because the petitioner does not satisfy the requirements to
15 It is worth mentioning that our Supreme Court of Justice also has established that, based on the Constitution, matters relating to immigration and the regulation and control of movement of people entering and leaving the country, is reserved to the legal system, and that such prerogative is an unalienable and sovereign right of the Dominican State (Ruling No. 9 of December 14, 2005).

obtain Dominican nationality that apply to children born in the country to parents of foreigners in transit as set forth, as an exception, in the Constitution (§2); an exception that also appears in other Latin American Constitutions (§3).

§1. The petitioner's birth certificate is under investigation

§1.1. In connection with the investigation of the petitioner's birth certificate, this Court states the following:

a. In the defense brief on appeal, the Central Electoral Board bases its refusal to issue the identity and voter card on the fact that, being the daughter of Haitian nationals, Mrs. Juliana Dequis (or Deguis) Pierre was registered illegally in the Civil Registry Office of Yamasá.16 It further alleges that the petitioner's parents are foreigners who "unlawfully and illegally registered their children in the Registration books of the Civil Registry Office, in clear violation of the Constitution in effect at the time of the affidavit of birth."17

b. Currently, the issuance of identity and voter cards is a process regulated by Law No. 6125 regarding Personal Identity Cards, dated December seven (7), nineteen sixty-two (1962), and Law No. 8-92 regarding Identity and Voter Cards dated March eighteen (18), nineteen ninety-two (1992). The latter replaced the previous law, to the extent it empowered the Central Electoral Board to merge the Personal Identity and Voter Registration, or Voter Inscription, identity cards, into one document called the "Identity and Voter Card." The objective of doing this is to comply with identification and voter registration objectives as required by 16 Page 2, in fine. 17 Page 4, ab initio.

amended Law No. 6125, and Article 4 of Law No. 55 regarding Voter Registration, dated November seventeen (17), nineteen seventy (1970).

c. The issuance of identity and voter cards is also impacted materially by Law No. 659 regarding Civil Registry Records, dated July seventeen (17), nineteen forty-four (1944). This law establishes the procedures and legal requirements for the documentation of the records of births of persons occurring throughout the country, as well as the preparation of their birth certificates and the issuance of statements, which serve as the basis and condition for issuing identity and voter cards. This law also regulates marriages, deaths, name and surname changes, corrections to the civil registry records, as well as registration and issuance of extracts, all of which affects identity and voter cards as well.

d. In this case, taking into consideration the above-mentioned issues, in terms of the alleged violation of fundamental rights by the Central Electoral Board's refusal to issue the identity and voter card to the petitioner, it is of particular importance to verify the legality of the birth certificate and the affidavit of birth supporting the request. In this regard, it is worth noting that Article 24 of Law No. 659 establishes the legal requirements concerning vital records and they include, inter alia, personal identity cards of the declarants and witnesses:

The records of the Civil Registry Office must indicate the year, month, day and time of their execution, the names and surnames, home addresses and a mention of the number and seals of the Personal Identity Card of the witnesses and of the affiants.18

18 Emphasis added by the Constitutional Court.

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m) {sic} With respect to the birth certificates, Article 46 of Law No. 659 specifically establishes the mandatory inclusion of the following information in the personal identity cards:

Art. 46. On the birth certificate should appear the date, time and place of birth, the gender of the child, the names given to the child; the names, surnames, age, profession, address, number and seal of the Personal Identity Cards of the father and mother, if it's a legitimate child, and if a biological child, those of the mother; and of the father if he appeared in person to recognize the child; the names, surnames, age, profession and address of the affiant, if any.19

e. Complementing the requirements of Law No. 659, Article 7 of Law No. 8-92 provides that to obtain the identity and voter card, it is necessary for the individual citizen to appear in person with the required documents as established by Law No. 6125 of nineteen sixty-two (1962):

Art. 7. To obtain the identity and voter card, it is an essential requirement for the citizen to appear in person. No one can have more than one existing registration. The documents required for the registration, the application form, the size of the picture, the data to be recorded on the card, the

format and any other requirement it deems appropriate, will be established by the Central Electoral Board, in accordance with the provisions cited on the subject in Law Nos. 6125 and 55.

19 Emphasis added by the Constitutional Court.

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f. Likewise, the above-cited Law No. 6125 in Articles 1 and 2 and 8, stipulates the following obligations upon every person, national or foreigner, living in the country:

Article 1. It is mandatory for all persons of either sex, whether a national or foreign resident in the Republic, to obtain and carry a certificate of identification known as a "Personal Identity Card," from the age of 16 onwards.

Paragraph I. – Nonresident foreigners will only have to obtain the certificate of identification referred to in this Article after they have remained in the country for more than 60 days.

Paragraph II. – To obtain the Personal Identity Card, foreigners must show their passports with valid visas properly stamped by consular officers or Dominican diplomats, their original or renewed residence permit or the corresponding exemption certificate."

Article 2. The design, text and format of the Personal Identity Card will be determined by the Executive Branch, and it must include a picture of the applicant taken from the front, as well as the necessary information required by this law.

Article 8. The offices issuing Personal Identity Cards will complete these in accordance with the contents of the sworn statements made on the application form provided free of charge by that office.

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Paragraph. {sic} However, when appropriate, these offices may demand the filing of birth certificates or taxpayers' records.20

g. Note that, with respect to nonresident foreigners, paragraphs I and II of Article 1 of the aforementioned Law No. 6125 stipulate that they should obtain a personal identity card21 after they have remained in the country for more than 60 days, and that this identification card would be obtained upon the presentation of "passports with valid visas properly stamped by consular officers or Dominican

diplomats, their original or renewed residence permit, or the corresponding exemption certificate," in addition to other documents.

h. Similarly, Article 21 of Law No. 6125 of nineteen sixty-two (1962) also stipulates mandatory submission of the personal identity card for certain civilian life acts, particularly, for the granting of public documents, implementation of affidavits and requests to authorities and public offices, as well as to legally prove identity, actions which pertain to statements of birth.

Art. 21. The submission of a Personal Identity Card is mandatory when annotated and cited in documents: 2. To obtain public documents (…).

4. To process any type of claims, requests, applications, complaints or statements before authorities, officials and public offices (…).

20 Emphasis added by the Constitutional Court. 21 Known currently as "non-voting identity card."

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5. To prove identity where necessary in any public or private activity.22

i. However, emphasizing the need for compliance with this formality, specifically with respect to the Haitian foreign workers coming into the country and for the purpose of guaranteeing a regulated immigration, Article 40 of the aforementioned law No. 6125 establishes the following:

Art. 40. The migrant laborers and workers imported by industrial, or agricultural companies must apply for and obtain their Personal Identity Cards in the community of entry or landing in the country, and migration authorities may not allow them permanent residence in the Republic, until they have been provided Personal Identity Cards.23

j. Now, according to the birth certificate of Mrs. Juliana Dequis (or Deguis) Pierre, her parents, Blanco Dequis (or Deguis) and Marie Pierre, are Haitian nationals; he is identified by "record" or "document" No. 24253, and she is identified by "record" or "document" No. 14828. Therefore, presumably, the father of the petitioner and declarant of her birth, was a foreign worker of Haitian nationality, who was in the country to work as an industrial or agricultural laborer, and he had not obtained a personal identity card at the time he provided the affidavit of his daughter's birth to the Civil Registry Office in the Municipality of Yamasá.

22 Emphasis added by the Constitutional Court. 23 Emphasis added by the Constitutional Court.

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k. The regulatory and factual account above shows that the birth record of Mrs. Juliana Dequis (or Deguis) Pierre, the petitioner in the constitutional appeal, was documented without the declarant father providing hard evidence as to his or the mother's identity to the officer of the Civil Registry Office; i.e., the persons who claimed to be her parents had not been supplied with personal identity cards required to prove their respective qualifications to register the affidavit of birth referred to in the aforementioned Articles 2, 24, 40 and 46 of Law No. 659 of nineteen fortyfour (1944) and Articles 1, 2, 8 and 21 of Law No. 6125 of nineteen sixtytwo (1962), both of which were in force at the time of the petitioner's birth, and still remain in force (with amendments).

l. The frequent irregularities involving birth records registered in the Civil Registry Offices around the country prompted the Central Electoral Board, beginning in the year two thousand six (2006), to implement a process enacted in Circular No. 17-2007, issued by the Administrative Branch of the Central Electoral Board of the Dominican Republic on March twenty (29) two thousand seven (2007), to recover the reliability of the Civil Registry Office by instructing the Civil Registry Offices to examine the records carefully when issuing copies of birth certificates or any other document related to a person's civil status.

m. Then Resolution No. 12-2007, dated December ten (10), two thousand seven (2007) was issued regarding the Procedure for temporary suspension of the issuance of tainted or illegal civil records, which was approved unanimously by the Plenary of the Central Electoral Board. This Resolution, which is based foremost on various provisions of Law No. 659 regarding Civil Registry Records, essentially stipulates the following:

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WHEREAS: the CENTRAL ELECTORAL BOARD is responsible for overseeing the services provided by the Civil Registry Office, therefore, through its National Office, it continuously reviews the statuses of the certificates issued by the Civil Registry Office, which are filed in the archives of the Civil Registry Offices and of the Main Civil Registry Office.

WHEREAS: these reviews are usually done at the request of interested parties, accredited Consulates in the country, the Civil Registry Office and other departments of the Central Electoral Board.

WHEREAS: during the investigation process, often times it is determined that the records under review were not registered in accordance with the corresponding law, and that, in many cases, serious irregularities were found that made them vulnerable to cancellation or legal proceeding.

WHEREAS: the most common cases of irregularities include the following: inserted records, records written in different inks, records registered after the closing of books, records illegally modified with forged information such as registered names, dates, name of parents or of the declarant, etc., duplicate affidavits of birth, omission of formalities, among others.

WHEREAS: the legal provisions previously mentioned do not render void the records of the Civil Registry Office, although a competent court could issue such a ruling.

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WHEREAS: whenever the abovementioned cases arise, it is customary to request that these records be canceled by the appropriate court.

RESOLVES:

ONE: To temporarily suspend the issuance of Civil Registry Records that contain irregularities or fraudulent information that preclude their issuance, and that these may only be issued for judiciary purposes. The Civil Registry Offices Commission will notify the Plenary of the Central Electoral Board of registrations containing serious fraudulent information or irregularities discovered by the appropriate administrative authority during their investigations.

TWO: For these purposes, the National Director of the Civil Records Office will be instructed in a letter signed by the Chairman of the Central Electoral Board, to obtain from the appropriate Civil Registry Office and the Main Civil Registry Office, the original books containing such records, if there were duplicates, in order to take appropriate actions (…).

FOUR: After this procedure, the National Director of the Civil Records Office will return the books to the Civil Registry Office, or to the Main Office, as appropriate, and both the officer of the Civil Registry Office and the Director of the Main Civil Registry Office will be barred from issuing copies or extracts of the affected records, unless prior authorization is granted by the Central Electoral Board or strictly for judicial purposes, and expressly

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indicating that the issuance of such records is temporarily suspended.

TEN: Upon recommendation of the Civil Registry Offices Commission and determination by the Plenary of the Central Electoral Board that the irregularities found in the records of the Civil Registry Office

justify a definite cancellation, it will immediately order the Office of Legal Counsel to request that the courts of the Republic judicially annul those Civil Registry records which have been temporarily suspended by the Central Electoral Board.

n. The frequency of irregularities found prior to the issuance of Resolution No. 12-2007, and the results of the implementation of the measures proposed by the latter, appear in the statistical tables of the Civil Registry Office provided by the Central Electoral Board listed below:

Civil Records Office - Statistical Data Records processed by Resolution No. 12-2007

Records 2008 2009 2010 2011 2012 2013 Total

Forwarded to the Office of the Inspector General for investigation

3,278 3,934 1,968 3,829 3,140 796 16,945

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Investigated and returned, per Resolution No. 122007

2,303 366 350 456 1,106 255 4,83628.54 %

567 142 23 52 261 43

Records temporarily suspended pursuant to Resolution 122007

1,088 6.42%

* The Central Electoral Board has submitted 1,822 claims for cancellation of birth certificates because of duplication, forgery and other irregularities.

Number of applications cancelled in proportion to number of persons applying for Dominican citizenship

Year Number of applications cancelled

Cancelled for attempting to become Dominican

Percentage

2007 11,335 131 1.16% 2008 9,401 138 1.47% 2009 8,157 11 0.13% 2010 7,584 22 0.29% 2011 2,749 26 .95% 2013 {sic} 2,128 71 3.34% 2013 661 11 1.66% Total 42,015 410 0.98%

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o. With respect to the petitioner's birth record, the respondent, Central Electoral Board, in its defense brief states the following:

22. In this regard, the Central Electoral Board instructed the Civil Registry Officers to examine closely the birth records submitted in violation of Article 11 of the Constitution of the Republic, since there were affidavits submitted (as in the case in question) of children of foreigners who were in transit in the Dominican Republic, making it necessary for the persons benefitting from such inconsistencies to prove their legal residency in the Dominican Republic, and that failure to provide evidence of legal residency or legal status in the country required that their cases be submitted to the Central Electoral Board to be examined and a determination made in accordance with the Law; thus, refraining civil service officers from issuing copies that are inconsistent with birth records.24

p. Accordingly, based upon the aforementioned Resolution No. 122007, the Central Electoral Board decided to temporarily suspend the petitioner's birth certificate, considering that her birth certificate, like many others, is affected by irregularities which make it susceptible to cancellation or legal proceedings,25 such as in the cases of records inserted into files, records written in different inks, records registered after the closing of books, records illegally modified with forged information such as registered names, dates, name of parents or of the declarant, etc., duplicate affidavit of birth, and omission of essential formalities, among others.26 24 Page 12 of the respondent's defense brief. 25 Resolution No. 12-2007, page 3, third recital clause. 26 Ibid., fourth recital clause.

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q. With regard to the issue at hand, the National Civil Registry Office of the Central Electoral Board also issued Circular No. 32 on October nineteen (19), two thousand eleven (2011), with respect to the decision "regarding the issuance of birth certificates under investigation, relating to children of foreign citizens." This Circular instructed officers of the Civil Registry of the Republic to deliver the birth certificates27 of all persons whose cases were being investigated or reviewed, until the Plenary of the Central Electoral Board ruled whether the birth certificates were valid or not, pursuant to Resolution No. 12-2007, with respect to the suspension of records registered irregularly:

Pursuant to the decision by the Commission of Offices of the Central Electoral Board, dated October 05, 2013, they were instructed, politely, to issue, without reservations, the birth certificates of foreign children whose records are under investigation, until the Plenary of the Central Electoral Board determines, pursuant to the results of the investigation, whether or not they are valid and temporarily suspends them, requests that the Court cancels them, or admits their irregularities.28

r. It should be noted that in spite of the mandate contained in the aforementioned Resolution 32-2011, no evidence exists in the records establishing the return of the original affidavit of birth to Mrs. Juliana Dequis (or Deguis) Pierre. It should be noted, however, that, with regards to the retention of the birth certificate by the Identification and Documentation Office in Yamasá, when an applicant provides the birth certificate to any Identification and Documentation Office, at that time, the
27 This text refers only to birth certificates, not identity cards. 28 This Circular consists of that single paragraph.

applicant is given a receipt as confirmation that the applicant has petitioned for registration at that office. Thus, if the applicant needed to use the affidavit of birth to show proof of birth, the receipt issued by the Identification and Documentation Office could be used for that purpose.

s. Once the legal aspect of the petitioner's birth certificate, which is currently under investigation and which was retained by the Central Electoral Board, has been determined, it should be clarified pursuant to that document, whether or not she meets the requirements to acquire Dominican nationality by virtue of her being the daughter of foreigners in transit born in the country.

§2. The petitioner does not acquire Dominican nationality, as she is the daughter of foreigners in transit, unless she becomes stateless

§2.1 Regarding this aspect, the Constitutional Court will provide a brief summary of the facts of the case, as well as its legal basis (1) before addressing the principles and precedents of Dominican citizenship, (2) the exception provided by the Constitution of 1966 with respect to children born in the country to foreign parents in transit (3), and it will then consider the possibility of the petitioner being stateless (4).

1. Brief summary of facts and legal basis of the case

1.1. For the purposes of clarification, we offer a factual account of the case, as well as the constitutional and legal basis supporting the Constitutional Court arguments.

1.1.1. As indicated, on May twenty-two (22), two thousand twelve (2012), the petitioner under review brought an amparo action before the Civil, Commercial {and Labor} Branch of the Court of First Instance in the

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Judicial District of Monte Plata, because "according to the petitioner," the Central Electoral Board refused to issue her an identity and voter card, based upon "her origin, birth and surname." She further alleges that the government's behavior infringed several of her fundamental rights (to possess an identity and voter card, have honorable employment, register her two children, move freely, and exercise her right to vote), for which she demanded that the Board issue the aforementioned document "immediately and without delay." To this end, the petitioner sent two prior notifications to the aforementioned entity identified by Bailiff Notices No. 705/2009 and No. 250/2012 dated September sixteen (16), two thousand nine (2009) and May eighteen (18), two thousand twelve (2012), requesting that the identity document be delivered within five (5) and three (3) days, respectively.

1.1.2. With respect to the request made by the petitioner to the Central Electoral Board, it should be noted that the identity and voter card is an essential document in the national legal system, since, within the framework of the civil status, it shows, inter alia, the bearer's identity, (names and surnames), gender, marital status (married or single), nationality (the State to which the bearer is legally bound), adulthood (established at the age of 18) and citizenship (the rights and duties of a Dominican citizen), which includes, specifically, the right to elect and be elected into public service with the national government.

1.1.3. As expressed in Ruling No. 473/2012, of July ten (10), two thousand twelve (2012), the amparo Court rejected the action for the reasons listed in the above-mentioned transcripts. Consequently, on July thirty (30), two thousand twelve (2012), Mrs. Juliana Dequis (or Deguis) appealed to this Constitutional Court for a review of the Ruling, requesting reversal of the Ruling and acceptance of the conclusions she presented to the aforementioned amparo court. To that effect, the petitioner contends that the violation of her fundamental rights continues to worsen due to the

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failure to protect the fundamental rights pledged in the Constitution and international treaties, the Civil Code, Law No. 659 regarding Civil Registry Records and Identity Law No. 6125, amended by Law No. 8/92 regarding Identity and Voter Cards, dated April thirteen (13), nineteen ninety-two (1992).

1.1.4. As indicated, Mrs. Juliana Dequis (or Deguis) Pierre was born on April one (1), nineteen eighty-four (1984), pursuant to the original birth certificate issued for judicial purposes by the Director of the Main Civil Registry Office, on May seventeen (17), two thousand thirteen (2013).29 Reflecting the absolute respect for the principle of non-retroactivity of the law granted under Article 47 of the Dominican Constitution of nineteen sixty-six (1966) (in effect on the date of petitioner's birth),30 this court will essentially consider her request for issuance of an identity and voter card, in accordance with the constitutional and legal regulations stated below:

a. Constitutions of the Dominican Republic for the years 1844, 1854 (February 25 and December 16), 1858, 1865, 1866, 1868, 1872, 1874, 1875, 1877, 1878, 1879, 1880, 1881, 1887, 1896, 1907, 1908, 1924, 1927, 1929 (January 9 and June 20), 1934, 1942, 1947, 1959, 1960 (June 28 and December 2), 1962 (September 16 and April 29) and 1966.

29 Pursuant to her statement in the writ of amparo, the {petitioner} requested her identity and voter card for the first time in the year two thousand eight (2008), i.e., when she was twenty-four years old. 30 Article 47. "The law stipulates and applies to the future. It has no retroactive effect unless it favors sub judice individuals or persons serving criminal sentences. Under no circumstances shall the law or public authorities encumber or alter the legal certainty derived from situations established under previous legislation." This article was not amended in the Constitutional revisions of 1994 and 2010. This provision also appears in the current revision of 2010, in the following terms: "Article 110.- Non-retroactivity of the law. The law stipulates and applies only to the future. It has no retroactive effect unless it favors sub judice individuals or persons serving criminal sentences. Under no circumstances shall public authorities or the law encumber or alter the legal certainty derived from situations established under previous legislation."

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b. Constitutions of the Republic of Haiti for the years 1801, 1805, 1806, 1807, 1811, 1816, 1816, {sic} 1843, 1846, 1849, 1852, 1867, 1874, 1879, 1888, 1889, 1918, 1932, 1935, 1939, 1944, 1946, 1950, 1957, 1964, 1971, 1983.

c. Dominican Immigration Law No. 95, dated April fourteen (14), nineteen thirty-nine (1939).31

d. Regulation No. 279 regarding the Application of Immigration Law No. 95, dated May twelve (12), nineteen thirty-nine (1939).32

e. Modus Operandi Agreement signed by the Dominican Republic and the Republic of Haiti, dated November twenty-one (21), nineteen thirtynine (1939).33

f. Dominican Law No. 659 regarding Civil Registry Records, dated July seventeen (17), nineteen forty-four (1944), and amendments.34

g. Dominican Law No. 1683 regarding Naturalization, dated April sixteen (16), nineteen forty-eight (1948).35

h. Haitian Law dated September 14, 1958, regarding Législation sur les Attributions du Consul.36

31 Official Gazette No. 5299. 32 Official Gazette No. 5313. 33 Official Gazette No. 5395. 34 Official Gazette No. 6114. 35 Official Gazette No. 6782. 36 Published in "Le Moniteur" No. 78-141, on December 29, 1958. This law amended the September 23, 1953 Act.

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i. Dominican Law No. 6125 regarding Personal Identity Cards, dated December sixteen (16), nineteen sixty-two (1962).37

j. Agreement on Hiring Temporary Laborers in Haiti and Entry into the Dominican Republic (last revision: Resolution No. 83, dated December twenty-two (22), nineteen sixty-six (1966)).38

k. Dominican Law No. 55 regarding the Electoral Registry, dated November seventeen (17), nineteen seventy (1970).39

l. Haitian Law of August twenty (20), nineteen seventy-four (1974) regarding Civil Status, which created an agency known as the "Civil Registry Inspection and Review Service."40

m. Decree of the President of the Republic of Haiti regarding Haitian nationality, dated November six (6), nineteen eighty-four (1984).41

1.1.5. We will also take into consideration other Constitutions, as well as other statutes, laws and regulations, which, even though they are subsequent to the date of birth of the petitioner (April l, 1984), have an impact or are useful to the conflict at hand, but without affecting the principle of non-retroactivity of the law, among others, namely:

a. Constitutions of the Dominican Republic for the years 1994, 2002 and 2010.
37 Official Gazette No. 8726.16. 38 Official Gazette No. 9018. 39 Official Gazette No. 9206. 40 Published in "Le Moniteur" No. 78B dated September 30, 1974. 41 Published in "Le Moniteur" No. 78 dated November 8, 1984.

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b. Constitutions of the Republic of Haiti for the years 1987 and 2011.

c. Dominican Electoral Law No. 275-97, dated December twenty-one (21), nineteen ninety-seven (1997).42

d. Circular No. 17-2007, issued by the Administrative Branch of the Central Electoral Board of the Dominican Republic on March twenty-nine (29), two thousand seven (2007).

e. Resolution No. 12, issued by the Central Electoral Board of the Dominican Republic, establishing the procedures for temporary suspension of the issuance of flawed or illegally registered civil status certificates, dated December ten (10), two thousand seven (2007).

f. Circular No. 32 issued by the National Civil Registry Office of the Central Electoral Board of the Dominican Republic, on October nineteen (19), two thousand eleven (2011).

2. General principles and precedents on acquiring Dominican nationality

2.1 Considering it useful to better understand the legal arguments on this aspect of the case, this court will describe briefly the general principles and constitutional precedents of acquiring Dominican nationality:

2.1.1. In the Dominican Republic, a person can acquire nationality through that of his or her parents, i.e., through consanguinity or "right of blood" (jus

42 Official Gazette No. 9970.

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sanguinis);43 and, also by the place of birth, i.e., by "right of soil" (jus soli).44 Apart from these two forms there is a third, called "naturalization," whereby the sovereign State grants citizenship to foreigners who apply and meet the requirements and formalities applicable to each country.

2.1.2. The degree of impact of the admission of Dominican nationality by descent or by birth has fluctuated throughout our constitutional history. The origin of the system began, exclusively, with the acquisition of nationality by jus sanguinis, pursuant to Article 7.2 of the Constitution of November six (6), eighteen forty-four (1844). This provision effectively provided that Dominicans would be all those who are "born in the territory of the Dominican Republic to Dominican parents,45 and having emigrated, returned to take up residence in it again."46 The subsequent constitutional amendments from eighteen fifty-four (1854) to eighteen fiftyeight (1858) upheld the exclusive system of acquiring nationality by jus sanguinis.47

43 The term jus sanguinis means: "allocation of citizenship under the right of blood, i.e., the legal requirement that a person acquires from a nation by virtue of their descent. Thus, the children of the inhabitants of a country can acquire status as a national of that country, even though they were born in a different territory." Hispanic-American Law Dictionary, Volume 1 (a/k), Latin Group Editors, Bogotá, 2008, p. 1209 ("jus sanguinis" law). 44 The term jus soli means: "Right of the soil. System of allocating nationality in which the criterion for granting it is based on the place where he or she was born, regardless of whether the parents are or are not from that territory; it is the opposite of jus sanguinis." Hispanic-American Law Dictionary, Volume I (a/k), cited above, p. 1210 ("jus soli" law). 45 Emphasis added by the Constitutional Court. 46 As well as those who, at the moment of the publication of the Constitution shall enjoy this benefit (7.1), and all Dominican Spaniards and their descendants who, having emigrated in 1844 have not taken up arms against the nation and returned to take up residence in it (7.3). Emphasis added by the Constitutional Court. 47 To illustrate, Article 5 of the constitutional amendment of 1854 preserved the provision of Article 7.2 and included, in addition,

that “all those born in the territory of the Republic of Dominican parents, and their children, are Dominicans.” The second constitutional amendment of that same year included, in Article 5, that those born in the Dominican Republic of Dominican parents, as well as the Hispanic-Dominicans and their descendants who, having emigrated for political reasons, have taken up residence in it again. The Constitution of 1858 also adopted these provisions of the first constitutional amendment of 1854.

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2.1.3. However, the Constitutional Amendment of eighteen fifty-eight (1858) replaced the exclusive system of jus sanguinis with a blended system, which also allowed the acquisition of nationality by jus soli, providing that not only the children of Dominican parents would be considered Dominicans, but also 1) those who were born in the Dominican territory, “irrespective of their parents’ nationality;” 2) those who were born in foreign countries to absent Dominican parents for or on behalf of the Republic, or those who have expressed their desire to settle in the Republic as Dominicans; 3) foreigners of friendly nations who wish to settle in the Dominican Republic and after one year of residence express their desire to become Dominican citizens; and 4) those who, during the battle for the independence, had taken up the Dominican nationality.

2.1.4. Other unusual methods of obtaining nationality, which could not be integrated within the hybrid system of jus sanguinis and jus soli, were introduced in the 1866 Amendment; and the Amendment of 1872 considered Dominicans the children of Dominican parents, as well as “all persons born in the territory of foreign parents.” The exclusive system for acquiring nationality by jus soli was preserved with an even broader interpretation in the Constitutional Amendment of 1874, as well as in the 1875, 1877, 1878 and 187948 Amendments. In the Amendment of 1880, these aforementioned provisions were preserved from the previous Constitutions, but it also recognized as Dominicans “all the children of the Hispanic-American Republics and the neighboring Spanish Antilles who wished to reside in the Republic and embrace this status.” This same provision was included in the Amendments of 1881, 1887 and 1896, except that natives of the Spanish-American and neighboring Spanish Antilles Republics had to reside one year in the national territory before acquiring 48 The Constitutions of 1875 (Article 5.4), 1877 (Article 7.4), 1878 (Article 7.4), and 1879 (Article 7.4), included the exception that the legitimate children of foreigners representing their homeland would not be considered born in the territory.

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nationality (1881) and take the oath to defend the interests of the Republic (1887, 1896).

2.1.5. The Constitutional Amendment of 1907 returned to the hybrid system of jus soli and jus sanguinis without the exceptional methods of acquisition provided under the three previous Constitutions. Similar provisions were included in the 1908 Amendment.49 However, the 1924 Amendment established that children of Dominican parents or of foreign parents born in the territory, as well as those born of foreign parents would be considered Dominicans, provided that at the time of attaining adulthood they were living in the Republic. Similar provisions are contained in the Constitutional Amendment of 1924, in the 1927 Amendment and in the first Amendment of 1929.

2.1.6. However, the most significant amendment to the regime for acquiring Dominican nationality by jus soli was introduced in the Constitution of June twenty (20), nineteen twenty-nine (1929), which is particularly important in the case at hand, given that it was the first to remove the children born in the country of foreign parents in transit from the general principle of acquiring nationality by birth. Indeed, Article 8.2 of the constitutional text states the following: Dominicans are: (…) 2. All persons born in the territory of the Republic, with the exception of the legitimate children of foreigners residing in the Republic in a diplomatic capacity or who are in transit.50 The reasons for this change are clearly explained by the reviewing assembly in its explanatory memorandum:

49 The 1908 Constitution (Article 7) included an exception to nationality for children of diplomats born in Dominican territory. 50 Emphasis added by the Constitutional Court.

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This Commission estimates it to be more convenient for this country to implement the jus soli system into its Constitution, considering that our Republic is small and of sparse population and, therefore, it is a country of immigration, not emigration. The number of Dominicans residing or born abroad is low compared to that of foreigners residing in this country, and the implementation of this system has resulted in an increase of the number of Dominicans under the jus soli system over the number of Dominicans under the jus sanguinis system. The proposed rule implements the jus sanguinis system as a general rule, with the exception of the legitimate children of foreigners residing in the Republic in a diplomatic capacity or in transit.

2.1.7. This category of foreigners in transit appear as an exception to the generic rule to the application of jus soli in all subsequent Dominican constitutions beginning with the Constitution of June 20, 1929 (i.e., nearly a century ago), namely, in Article 8.2 of the Constitutional Amendments of 1934, 1942 and 1947; in Article 12.2 of the Constitutions of 1955, 1959, 1960 (June and December), 1961 and 1962; in Article 89.2 of the Constitution of 1963; in Article 11.1 of the Constitutions of 1966, 1994 and 2001; and, finally, in Article 18.3 of the Constitutional Amendment of January 26, 2010.51

2.1.8. Finally, regarding naturalization, it should be noted that, since its inception, the Dominican State has adopted and has preserved

51 The last Constitutional amendment of January 26, 2010, includes a more comprehensive and explanatory version of the in-transit exception, providing that persons born in Dominican territory that "are in transit or residing illegally in Dominican territory will not be considered Dominicans. Dominican laws consider any foreigner it has defined as such as a person in transit."

naturalization up until the Magna Carta of 2010.52 It is currently governed by Law No. 1683, dated April sixteen (16), nineteen forty-eight (1948).

3. Exception of the nineteen sixty-six (1966) Constitution concerning children born in the country to foreign parents in transit

3.1 With respect to this issue, the Constitutional Court will address in general terms (1) the principles concerning this subject from a Dominican legal standpoint prior to (2) addressing the position of the Inter-American Court of Human Rights on this issue.

1. The general principles pursuant to Dominican Law

1.1 Regarding the Dominican law criteria with respect to the issue at hand, this court makes the following arguments:

1.1.1. As noted, the Constitution of nineteen sixty-six (1966) was in effect on the date of birth of the petitioner, i.e., April one (1), nineteen eighty-four (1984). Pursuant to Article 11.1 of the Constitution, Dominican citizenship could be acquired by "(…) 1. All persons born in the Republic, except the legitimate children of foreigners residing in the country in a diplomatic capacity, or persons in transit in the country."

1.1.2. This court finds that the case of the petitioner accurately conforms to the assumption established by the constitutional exception mentioned above, because not only was she born in Dominican territory, but, also, she is the daughter of foreign citizens (Haitians), who, at the time of birth, were in transit in the country. Note that, as previously demonstrated, Mr. Blanco

52 Adopted for the first time in 1844, and then in the two Constitutions of 1854, 1058 {sic}, 1865, 1866, 1868, 1872, 1874, 1877, 1878, 1879, 1881, 1887, 1896, 1924, 1927, 1929 (in both Constitutions), 1934, 1942, 1947, 1955, 1959, 1969, 1961, 1962, 1963, 1966 and 2010.

Dequis (or Deguis), her father, who registered the birth, provided to the Officer of the Civil Registry in Yamasá "record" or "document" No. 24253, as identification; and the petitioner's mother, Mrs. Marie Pierre, was the bearer of "record" or "document" No. 14828.

1.1.3. Evidence of these circumstances is indicated immediately below:

1.1.3.1. In the case of the father of the petitioner, evidence consisted of the affidavit of birth issued by the Civil Registry Office of Yamasá, on October four (4), nineteen ninety-three (1993), which the petitioner presented to the Identification and Documentation Office in Yamasá to apply for her identity and voter card in two thousand eight (2008); and also by the birth certificate for judicial purposes issued by the Director of the Main Civil Registry Office, on May seventeen (17), two thousand thirteen (2013), provided by the Central {Electoral} Board to the Constitutional Court; and

1.1.3.2. In the case of the mother of the petitioner, evidence consisted of the petitioner's birth certificate for judicial purposes issued by the Director of the Main Civil Registry Office, on May seventeen (17), two thousand thirteen (2013), which was provided by the Central Electoral Board to the Constitutional Court on that same day.

1.1.4. Neither "records" or "documents" are part of the Dominican Republic identification processes, thus, suggesting that the father and the mother of the petitioner did not possess identity cards at the time the affidavit of birth was made, since no such evidence was provided during the registration of the petitioner's birth. Moreover, the type of identification document presented by the registering father shows that he was a Haitian laborer who lacked a personal identity card, as well as the mother, since the records also show no evidence that they had obtained legal residence in the country by obtaining identification cards.

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1.1.5. Therefore, based on the foregoing, it is inferred that the parents of the petitioner should be considered as part of the "seasonal workers and their families" that make up the fourth group of nonimmigrant foreign workers, who, along with foreign migrant workers, fall under Immigration Law No. 95, dated April fourteen (14), nineteen thirty-nine (1939); Immigration Regulation No. 279, dated April twelve (12), nineteen thirtynine (1939), and the Modus Operandi Agreement with the Republic of Haiti, dated December sixteen (16), nineteen thirty-nine (1939); statutes that were all in effect on the date of petitioner's birth.

1.1.6. Indeed, on one hand, with respect to foreign workers, Immigration Law No. 95 provides the following:

Art. 3. Foreigners wishing to be admitted into Dominican territory will be considered as immigrants or non-immigrants.53

Foreigners wishing to be admitted will be considered immigrants, unless they are within one of the following non-immigrant classes:

1. Visitors traveling on business, study, pleasure or curiosity;

2. Persons traveling abroad who are in transit through the Republic;

3. Persons working as maritime workers on ships or aircrafts;

53 Emphasis added by the Constitutional Court.

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4. Seasonal laborers and their families.

Foreigners admitted as immigrants can reside indefinitely in the Republic. Non-immigrants will be granted temporary admission which will be governed by the requirements prescribed in Migration Regulation No. 279 of May 12, 1939, unless a foreigner admitted as a nonimmigrant fulfills the requirements for immigrants and can later be considered as an immigrant.

The seasonal workers will be admitted to Dominican territory only when they are requested by agricultural companies based on the quantity and under the conditions prescribed by the Ministry of Interior and Police, to meet the needs of these companies and to monitor their admission, length of temporary stay, and return to the country from which they came."54

1.1.7. Similarly, Immigration Regulation No. 279, following the terms of Law No. 95, stipulates in sections 2 and 10:

Section 2. Classification of foreigners.

a) The following classes of aliens seeking admission into the Republic are classified as non-immigrants.55

54 Emphasis added by the Constitutional Court. It should be noted also that according to Article 3 of Immigration Law No. 95, foreign immigrants "may reside indefinitely in the Republic," and, that under Article 5, "they will be issued a residence permit in accordance with existing regulations;" Whereas, on the contrary, with regard to the non-immigrant foreigners, as defined in Article 3, "they will be granted only temporary admission and it will be governed by the requirements of Migration Regulation No. 279, dated May 12, 1939." 55 Emphasis added by the Constitutional Court.

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1. Visitors on business, study, pleasure or curiosity;

2. People who are traveling abroad who are in transit through the Republic;

3. Persons working as maritime workers on ships or aircrafts;

4. Seasonal laborers and their families.

b) All other foreigners will be considered immigrants,56 except for those who have diplomatic or consular status, as determined by Article 16 of the Immigration Law."

Section {10}. Foreigners without legal residence as of June 1, 1939. Residence permits.

a) Any foreigner whose last entry into the Republic was prior to June 1, 1939, and who was not in possession of any immigration permit on that date, shall apply for a residence permit prior to September 1, 1939. The application must be made in person at any Immigration Office, on Form C-1, under oath.

b) Photographs for the application must be taken in accordance with the requirements provided by immigrants, as indicated in Section seven (e) of this Regulation.

(…) 56 Emphasis added by the Constitutional Court.

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e) Failure to request a residence permit within the time frame specified by law or the lack of annual renewal may result in deportation."57

1.1.8. On the other hand, it is useful to mention that the necessity to normalize the stay of Haitian laborers in the Dominican Republic, so they not become illegal foreigners, has been in effect in the national legal system since the Modus Operandi with the Republic of Haiti Agreement was signed on November twenty-one (21), nineteen thirty-nine (1939) and published in the Official Gazette No. 5395 dated December twenty (20) of the same year; that is, eight (8) months before the enactment of Immigration Law No. 95 (of April 14, 1939) and seven (7) months prior to the enactment of the aforementioned Immigration Regulation No. 279 (of May 12, 1939).

1.1.9. In fact, the Modus Operandi with the Republic of Haiti acknowledges the application of Dominican law towards Haitian laborers who came to the country under the protection of this Agreement. To that end, Articles 10 and 11 provide, specifically, that the nationals of either of the two States that are in the territory of the other at the moment of the signature of the agreement may continue to stay in these States, provided that they adhere to the relevant immigration laws. However, exception is made for

those who are in violation of the respective laws, who will have a period of three months from the signing of the Agreement, to rectify their situation.

Art. 10. The nationals of any of the two States, who on the date of signing this Agreement are in the territory of the other, may remain

57 Emphasis added by the Constitutional Court.

there, provided they adhere to the provisions of the immigration laws or any other provisions of the respective States, and agree to the payment of taxes, providing proper identification, etc., for the duration of the stay, as stipulated by the laws of each State.

As for those who, at the date of the signing of this Agreement remain illegally in either State, they will have a period of three months from the date of the signing of the agreement to legalize their status in accordance with the applicable laws of each State. Therefore, the Embassies and Consulates of each country will make the necessary announcements, so that the nationals of their respective States may proceed to legalize their status within the stipulated time frame.

Pursuant to the provisions of Article 7, once this time frame has expired, the nationals of either of the two States, who remain illegally in each other's territory, may be considered by the latter State to be guilty of illegal entry and in breach of its laws and treaties.58

Art. 11. The entry of seasonal laborers into either of the two countries will be done in accordance with the provisions established by the laws of each country with regard to seasonal laborers.59

1.1.10. It should be noted that foreigners in transit, as defined in all Dominican constitutions, beginning with the Constitution of June twenty 58 Emphasis added by the Constitutional Court. 59 Emphasis added by the Constitutional Court.

(20), nineteen twenty-nine (1929), applies to the four groups60 that were later generally categorized as non-immigrant foreign workers in Article 3 of Immigration Law No. 95 of 1939,61 and in the aforementioned Section 2 of Immigration Regulation No. 279 of the same year.62 In this regard, foreigners in transit should not be confused with transient foreigners63 also provided in the two statutes cited, and that in light of the latter, they are only the second of the aforementioned four groups

of persons in the non-immigrant foreign laborers category, i.e., foreigners in transit. In fact, the term transient refers to a person "[t]hat is transiting or passing through to some place";64 or who "is in a place where he does not normally reside."65 Therefore, generically, it is a "visitor, passenger, commuter or tourist."66 That is the sense in which the aforementioned is defined in Article 3, subparagraph 2 of Immigration Law No. 95 (when it categorizes "persons transiting through the Republic en route abroad" as one of the four groups of non-immigrant foreigners), just as in the cited Immigration Regulation No. 279 according to Section 5 of that statute:

60 Of these four groups, the latter pertains to the "seasonal laborers and their families" (See aforementioned paragraph 1.1.5). 61 See aforementioned paragraph 1.1.6. 62 See aforementioned paragraph 1.1.7. 63 Contrary to what was stated by the Inter-American Court of Human Rights, which misinterpreted the two concepts in its September eight (8), two thousand five (2005) decision of the Yean and Bosico Children vs. Dominican Republic (Ser. C., No. 130, paragraph 157), as will be demonstrated later. 64 Dictionary of the Spanish Language, Spanish Royal Academy, Volume II Volume II [sic] (h/z), twenty-second edition, 2001, Madrid, 2001, p. 2210. 65 New Essential Dictionary of the Spanish Language, Santillana, 2004, Madrid, page 1288. 66 Ibidem.

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Section 5. – Transient:

a) Foreigners seeking to enter the Republic with the main purpose of continuing through the country to a foreign destination67 are granted transient privileges. These privileges shall be granted even though the foreigner is inadmissible as an immigrant, so long as such entry does not pose a threat to public health or to the foreigner's safety. The foreigner will be required to provide the destination, the choice of transportation and the date and place of departure from the Republic. A period of 10 days shall be considered ordinarily sufficient to pass through the Republic.68

1.1.11. Obviously, the transient foreigner referred to in the two immigration statutes cited, is a passenger heading to another country and is briefly passing through our country,69 has no legal domicile or residence in the Republic, just as the transient foreigner mentioned in Article 16 of the Civil Code,70 which provides for a guarantee known as judicatum solvi bond, required, by law, of foreigners without domicile or legal residence in the country involved in legal proceedings71 to appear as plaintiffs or

67 Emphasis added by the Constitutional Court. 68 Emphasis added by the Constitutional Court. 69 Note that the cited provision of Immigration Regulation No. 279 allows for a maximum stay of ten days in the country, even in the case where the foreigner "is inadmissible as an immigrant." 70 Article 16.- In all matters and all jurisdictions, transient foreigners who appear as a plaintiff or an intermediary defendant will be required to provide a bond to cover the costs, damages and losses resulting from litigation, unless they have properties in the Republic of sufficient value to

secure payment." This bond is also provided for in Article 166 of the Dominican Civil Procedure Code. "The transient foreigner, who acts as principal applicant or an intermediary defendant before any court or tribunal other than a magistrate, must guarantee payment of the costs, damages and losses for which he otherwise may be sentenced, prior to the defendant proposing a different exception."

71 Except in labor cases, where it was dismissed.

intermediaries, but differing itself from the aforementioned,72 the latter73 transient foreigner implies the idea of a temporary admission into the country; i.e., a "person who is in a place or location that is not home or residence, and does not settle there permanently, only temporarily."74 Therefore, in this sense, the term implies an intention to remain more or less for an extended period, which, although transitory (i.e., not permanent),75 is not subject in any way to that brief period of ten days established by Regulation No. 279 for transient foreigners who are simply passing through the country en route to other destinations.

1.1.12. Likewise, it should be noted that, for over thirty years, our Supreme Court of Justice has also defined and reiterated the concept of foreigner in transit, referred to above, as more or less an extended temporary admission,76 in the context of disputes related to the aforementioned judicatum solvi bond, both in terms of legal persons, as well as natural persons; and, in all these rulings the transience of the stay of the foreigner has always been linked to the non-existence of legal residency in the country or the lack of ownership of a residence permit issued by Dominican authorities; i.e., that the traditional Dominican law recognizes as foreigners in transit those without legal residence in the Republic (legal persons) or those without a legal residence permit (natural persons):

72 I.e., the "transient" referred to in Article 3 of Immigration Law No. 95 and Regulation No. 279. 73 I.e., the "transient" referred to in Articles 16 of the Civil Code and 166 of the Dominican Civil Procedure Code. 74 Spanish-American Legal Dictionary, Volume II (l/z), Latino Group Publishers, Bogota, 2008, p. 2340 (term: "transient"). 75 According to the aforementioned Dictionary of the Spanish Language (Vol. II, p. 2212), the adjective "transient," in its first definition, means "temporary passenger." Similarly, according to the Current Spanish Dictionary (Manuel SECO et al., Volume II, Aguilar, Madrid, 1999, p. 4381), it means: "Temporary (lasting only a determined time)." As an illustration, this latter dictionary provides the following example: "This inhumane situation, which could and should be transient, becomes permanent." 76 I.e., not the momentary or short stay of the foreigner passing through the country, subject to the maximum period of ten days, under Immigration Regulation No. 279.

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(…) THAT, having requested that the petitioner, as a foreigner, both in the first instance as well as on appeal, post bond as established by law, and Lanman and Kemp. Barclay Co., not having presented evidence to determine whether the petitioner was authorized to establish residence or whether she possessed any property in the Republic of sufficient value to secure payment of costs, damages and losses for which she may be sentenced in the event she loses the case; and that the Court {a quo}, by rejecting the motion by the petitioner and having ruled as it did, highlights the violation of the aforesaid law, and for that reason the Ruling is repealed (…);77

(…) THAT, contrary to the decision of the Court {a quo}, the Trade Companies organized under foreign laws, […] are presumed to be domiciled in the country of their incorporation, unless there is evidence that they have been authorized by the Executive Branch to establish their domicile in the Dominican Republic, under the terms of Article 1378 of the Civil Code;79

(…) THAT, therefore, being of a foreign nationality, domiciled abroad, with no permanent residence in the Dominican Republic, and not having justified ownership of any real property in the country other than litigation, the petitioner and original applicant in this litigation, is subject to the aforementioned legal requirements;80

77 Ruling of December 1, 1982, BJ 865, 2379 (Emphasis added by the Constitutional Court). 78 "Article 13.– A foreigner to whom the Government has granted domicile in the Republic shall be afforded all civil rights while residing in the country." 79 Ruling of March 16, 1983 BJ 867, 704 (Emphasis added by the Constitutional Court). 80 Ruling of April 11, 1983, BJ 868, 882 (Emphasis added by the Constitutional Court).

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(…) WHEREAS, pursuant to Article 16 of the Civil Code (…): In all matters and all jurisdictions, the transient foreigner81 or intermediary defendant will be required to pay the costs, damages and losses resulting from the lawsuit (…); WHEREAS, the minutes of service into process, (…) states that the petitioner, Maria Antonia Blanco Vilomar, a widow, is an American citizen domiciled in Santurce, Puerto Rico […], and, therefore, being a foreigner residing abroad, with no permanent residence in the Dominican Republic […], the petitioner, as the plaintiff in this litigation, is subject to the aforementioned legal requirements;82

(…) THAT, the respondent, Bernard Malin, mentioned in the appeal presented by the petitioner, although a foreigner, does not fall within the scope of the quoted legal norm [Article 16 of the Civil Code, amended by Law 845 of July 15, 1978], and, therefore, he shall not be required to pay the bond referred to, since the law only requires this payment from transient foreigners, which is not the case here, given that the petitioner has a residence permit to be in the country (…).83

81 In Civil Law, the notion of a transient foreigner is equivalent to that of a foreigner in transit in immigration law. 82 Ruling No. 3, dated March 16, 1983, pages 888-889 (Emphasis added by the Constitutional Court). 83 Ruling of February 4, 1998 (No. 4), BJ 1047, 267-275 (Emphasis added by the Constitutional Court).

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1.1.13. Maintaining the same legal concept, recently, the highest authority of the Dominican Judicial Branch clearly specified in Ruling No. 9, dated December fourteen (14), two thousand five (2005), the meaning of foreigners in transit and the legal consequences it engenders for the children born in the country pursuant to Article 11.1 of the Dominican Constitution of nineteen sixty-six (1966):84

(…) when the Constitution, in paragraph 1 of Article 11, excludes the legitimate children of foreigners residing in the country as diplomats or in transit from acquiring Dominican nationality by jus soli, it assumes that these people, the ones in transit, have somehow been allowed to enter and remain in the country for a certain period of time; {and} that if under this evidently legitimate circumstance a foreign mother gives birth to a child in the territory, under Constitutional law, her child is not considered Dominican.85

1.1.14. Therefore, in accordance with the aforementioned regulations and legal decisions, as well as the deliberations performed, the Constitutional Court contemplates the following:

1.1.14.1. The foreigners in transit referred to in Article 11.1 of the Constitution of 1966,86 correspond to the above-mentioned category of nonimmigrant foreigners defined in Article 3 of the aforementioned Law 95 of nineteen thirty-nine (1939) and Regulation No. 279 of the same year, i.e., the following four groups of people: visitors ("business, study, pleasure or 84 "Article 11 - Dominicans are: 1) All persons born in the Republic, except the legitimate children of foreigners residing in the country as diplomats or in transit." 85 Emphasis added by the Constitutional Court. 86 That, as indicated, appear in all the Dominican Constitutions from the June 20, 1929, up until the current Constitution of 2010.

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curiosity"), transients, aerial and maritime workers, and seasonal workers and their families. Therefore, children born in the country of parents belonging to these four groups of people are excluded, as an

exception, from the aforementioned constitutional standard of acquiring Dominican nationality under the application of jus soli.

1.1.14.2. Foreigners in transit who amend their immigration status and obtain a permanent legal residence in the country, become part of the foreign immigrants' category pursuant to applicable rules; thus, their children born in the territory shall acquire Dominican nationality under the jus soli principle.

1.1.14.3. In cases other than the above, foreigners remaining in the country without a legal residence permit or who have entered illegally are considered to be illegal immigrants, and, therefore, violators of national laws and international treaties signed by the Dominican State and ratified by the National Congress in this matter. Therefore, these people cannot rely on the birth of their children in the country to claim rights to Dominican nationality under Article 11.1 of the Constitution of 1966, since it would be legally inadmissible to establish a birthright based on an unlawful action.87

1.1.14.4. Incumbent upon the Dominican State is the inescapable obligation to ensure the granting of citizenship to persons born in the country, provided they meet the requirements established by the

87 As indicated in the ruling rendered by the Supreme Court of Justice on December 14, 2005 (See supra paragraph 1.1.12): "[…] when the Constitution, in paragraph 1 of Article 11 excluded the legitimate children of foreigners residing in the country as diplomats or in transit from acquiring Dominican nationality by jus soli, it is assumed that these people, the ones in transit, have somehow been allowed to enter and remain in the country for a certain period of time; that, if under this evidently legitimate circumstance a foreign mother gives birth to a child in the national territory, under Constitutional law, her child is not considered Dominican; moreover, the child cannot be considered Dominican if, at the time of giving birth the mother is in an illegal situation, and, therefore, unable to justify her entry and continued stay in the Dominican Republic […];"

Constitution and national laws, to which both nationals and foreigners are subject, not only enforcing the rights afforded by those laws, but also the duties they impose.

1.1.14.5. Reaffirming the principle of mandatory compliance with the Constitution and the laws of the country for both nationals and foreigners, Article 9 of our Constitution of November twenty-nine (29), nineteen sixtysix (1966), current on the date of the petitioner's birth (April 1, 1984), provides the following:

Given that the prerogatives recognized and guaranteed by the preceding article of the Constitution assumes the existence of a sequential order of legal and moral responsibility which compels human's conduct in society, the following are determined to be fundamental duties: a) to abide by and comply with the Constitution and laws, and to respect and obey the authorities established by them.88

1.1.14.6. In this case, Ms. Juliana Dequis (or Deguis) Pierre has not proven in any way that at least one of her parents had legal residency in the Dominican Republic at the time of the birth of their daughter (the petitioner under constitutional review) nor after her birth. Rather, the petitioner's affidavit of birth89 shows that her father, Mr. Blanco Dequis (or Deguis), declarant of the birth, was a temporary laborer of Haitian nationality, i.e., a foreigner in transit, as was her mother, Marie Pierre.90 Therefore, the 88 Emphasis added by the Constitutional Court. 89 As well as her birth certificate for judicial purposes issued by the Director of the Civil Registry Office on May seventeen (17), two thousand thirteen (2013). 90 As shown in her birth certificate for judicial purposes issued by the Director of the Civil Status Registry on May seventeen (17), two thousand thirteen (2013).

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Constitutional Court considers that the petitioner has not complied with the dispositions in Article 11.1 of the Constitution of 1966, as has been demonstrated previously.

2. The position of the Inter-American Court of Human Rights (IACHR)

2.1. In the explanation that follows, we will discuss the issue based upon the analysis made in the case of the minor girls Yean and Bosico vs. Dominican Republic,91 because, in that case, the Inter-American Court of Human Rights provides important defining and interpretive elements related to the foreigner in transit concept, in accordance with the opinion of that international high court; namely:

2.1.1. On July eleventh (11), two thousand three (2003), the InterAmerican Commission on Human Rights92 filed a lawsuit before the InterAmerican Court of Human Rights93 against the Dominican Republic. In that lawsuit, the Commission demanded that the Court declare the Dominican Republic internationally responsible for alleged violation{s} of the American Convention on Human Rights, in particular, Articles 3,94 8,95 19,96 20,97 24,98 and 25,99 in connection with Articles 1.1100 and 2101 of the Convention. 91 Yean and Bosico vs. Dominican Republic case, Ruling dated September 8, 2005, paragraph 3, IACHR Court 9.08.05. 92 Hereinafter, "the Commission." 93 Hereinafter, "the Court." 94 Right to acknowledge the legal authority. 95 Legal warranties. 96 Rights of the Child. 97 Rights to Nationality. 98 Lawful equality rights.

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Ruling TC/0168/13. Reference: Record No. TC-05-2012-0077, concerning an appeal of a writ of amparo filed by Mrs. Juliana Dequis (or Deguis) Pierre, challenging Ruling No. 473/2012 rendered by the Civil, Commercial and Labor Branch of the Court of First Instance in the Judicial District of Monte Plata on July ten (10), two thousand twelve (2012). Page 69 of 147 © Haitian American Lawyers Association of New York, Inc. 2014

2.1.2. The Commission alleged before the Court that the Dominican government refused to issue birth certificates to Dilcia Yean and Violeta Bosico, even though they were born in the Dominican Republic,

and that the Dominican Constitution had established the principles of jus soli in order to determine those who are Dominican citizens. The Commission not only made the above allegations, but, in addition, it claimed that the country forced "(…) the alleged victims to remain in a state of continued illegality and social vulnerability, a violation that acquires a more serious dimension when it involves minors, insofar as the Dominican Republic refused the Yean and Bosico girls their right to Dominican nationality and kept them stateless until September 25, 2001."102

2.1.3. Based on the allegations and complaints made by the Commission, the Court concluded that the Dominican Republic had violated, to the detriment of the complainants, the legal right to citizenship and equality provided in Articles 20 and 24, respectively, of the American Convention.

2.1.4. Of the violations listed, we will discuss the one with respect to nationality, as the other violations derive from the latter. On this subject, in Nos. 151 to 158 of the aforementioned ruling, the Court analyzes Article 11 of the Constitution, in force at the time of the lawsuit, particularly, the exception related to the principle of jus soli, establishing that the children of foreigners in transit are not Dominicans.

99 Legal protection. 100 Obligation to Respect the Law. 101 Right to establish Domestic Legal Provisions. 102 Ruling of September 8, 2005, paragraph 3.

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Ruling TC/0168/13. Reference: Record No. TC-05-2012-0077, concerning an appeal of a writ of amparo filed by Mrs. Juliana Dequis (or Deguis) Pierre, challenging Ruling No. 473/2012 rendered by the Civil, Commercial and Labor Branch of the Court of First Instance in the Judicial District of Monte Plata on July ten (10), two thousand twelve (2012). Page 70 of 147 © Haitian American Lawyers Association of New York, Inc. 2014

2.2. With respect to the notion of foreigners in transit, the Court has established the following:

In addition to the foregoing, the Court considers it appropriate to refer to Section V of the Dominican Republic Migration Regulation No. 279 of May 12, 1939, currently in effect […], which is clear in stating that a transient person's only purpose is to pass through the territory, for which a temporary ten-day limit has been set. The Court notes that for a person to be considered transient or in transit, regardless of the classification used, the State must respect a reasonable time limit and be consistent with the fact that a foreigner who develops ties to a State may not be compared to a transient person or a person in transit.103

2.3. Note that in the first part of the transcribed paragraph, the Court creates confusion when considering the ten days granted to the transient foreigner as also applicable to the foreigner in transit, which is a blatant error of interpretation, given the distinction between both categories of foreigners, as explained above. And, as for the last part of the paragraph, per the Court, the Dominican government is obliged to take into consideration two elements in order to determine when a foreigner is in transit in the country, namely, the time spent in the country, on one hand, and the development of ties to the Country, on the other hand. In the first element, the Court requires that the deadline established be reasonable; while in the second element, it limits itself to merely mentioning it.

103 Ibid. paragraph 157.

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2.4. In terms of the demands made by the Court in relation to the interpretation of the foreigners in transit concept, this Constitutional Court considers it important to note that each State has the power to determine which individuals meet the requirements to acquire citizenship, as recognized by the Court itself, which states that:

The determination of who is considered a national continues to be within the domestic jurisdiction of the States. However, its discretionary nature undergoes constant restrictions in accordance with changes to international laws in this respect, with a view to granting greater protection to individuals against arbitrariness of the States. Therefore, in the current stage of international human rights development, on one hand, the authority of the States is limited by its duty to provide individuals with equal and effective law and without discrimination; and, on the other hand, by its duty to prevent, avoid and reduce statelessness (94).104

2.5. It is, therefore, up to each State to establish, define and interpret the requirements for the acquisition of nationality. The end result, in terms of nationality, would be that States should maintain an important level of discretion, with limitations, to be used rationally in preventing the clashing of national interests with community interests.

104 Ibid. paragraph 140.

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2.6 The question of recognizing the discretion available to States on certain issues, and particularly the issue under consideration, deserves special attention by the Court, since it is largely an element that could affect the effectiveness of the Inter-American system of the protection of fundamental rights incorporated into the Convention, with the understanding that, while it is true that the peoples of the signatory States to the Convention live the same realities, generally, it is equally true that there are peculiarities that, instead of being ignored, should rather be taken into consideration with respect to each case being investigated by the Commission and heard and decided by the Court.

2.7. Concerning this issue, the European Court of Human Rights has developed important case law to which we will refer in the following paragraphs, since we consider it very useful in our context. Certainly, the European system for the protection of human rights set forth the criterion for

interpretation known as “margin of appreciation.” It is a legal approach that the European Court of Human Rights first used in the Handyside vs. United Kingdom case, which was decided on December 7, 1976.105 Proceedings were dismissed in the above-mentioned case where British citizen, Richard Handyside, brought an action against the United Kingdom and Northern Ireland alleging that his right to freedom of expression and dissemination of thought was violated while preventing the release of a book of his authorship because it was considered immoral.

2.8. The European Court of Human Rights cites the “margin of appreciation” theory in response to the complainant’s allegation that the order by the British courts to ban the circulation of the book was largely unfounded, since the book circulated freely in Northern Ireland, the Isle of

105 Pastor Ridruejo, José Antonio, former judge of the European Court of Human Rights. The Recent Jurisprudence of the European Court of Human Rights: Topics Chosen. (Madrid, 2007), p. 257 (Material used in “International Law and Vitoria-Gazteiz, 2007 International Relations Courses”).

Man, as well as in the Channel Islands. The Court’s response was as follows:

The Court recalls that the laws of 1959 and 1964, under the terms of Article 5.3, do not apply in Scotland or in Northern Ireland (paragraph 25 in fine). It is essential not to forget that the Convention, and in particular Article 60, never forced any of the organs of the Contracting States to limit any of their guaranteed rights and freedoms. Specifically, Article 10.2 does not require them in any case to impose sanctions or restrictions on freedom of expression; neither does it prevent them from enforcing these rights and freedoms (…). In view of the local situation, the competent authorities of Northern Ireland, the Isle of Man and the Channel Islands may have had reasonable motives for not acting against the book and the publisher, and the fiscal (Fiscal Procurator) in Scotland for not asking Mr. Handyside to appear in person in Edinburgh after rejecting the request made in accordance with Scottish law (…). Their absence, for which the Court does not give any reasons and which have not prevented the measures taken in England to proceed with the review of the Schoolbook, does not prove that the October 29, 1971 judgment, given the margin of appreciation afforded to the national authorities, has not responded to a real need.106

2.9 The logic that emerges from the theory developed in the decision under analysis is that a country within the European community may have

106 Handyside vs. United Kingdom of Great Britain and Northern Ireland. Ruling dated April 29, 1976. European Court of Human Rights.

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particular reasons for establishing restrictions on certain rights without necessarily violating Community standards, even if other countries do not provide such restrictions. What is at issue is recognition of the existence of special situations and particular realities that require a tempering of the interpretation and application of community law.

2.10. The theory of the "margin of appreciation" was also invoked in other instances, such as on the partial repeal or suspension of certain rights in instances of war or hazards that threaten the life of the nation,107 also regarding the ban imposed on homosexuals to adopt children.108

2.11. The European Court of Human Rights concluded that sensitive and delicate matters were discussed in the cases cited, and that it was convenient to grant a high margin of appreciation to local authorities, to the extent that they were in a better position to decide these cases in the most appropriate manner, given that they were in contact with the vital powers of the country.109 It can be noted from the above that the "margin of appreciation" theory is applied in the context of particular cases. Accordingly, it states "(…) that the Court has never applied this principle in the context of Article 20 of the Convention (right to life) or in Article 3 (the banning of torture and cruel inhumane or degrading treatment) or in paragraph 1 of Article 4 (the banning of hard labor)."110

2.12. The Constitutional Court considers that in this case it is feasible to apply the "margin of appreciation" theory with regard to the meaning and scope of the foreigners in transit concept, since the question of nationality 107 Ireland vs. The United Kingdom, dated January 18, 1978 (See, PASTOR RIDRUELO, José Antonio, op. cit., p. 257). 108 Fretté vs. France (Ibidem). 109 Ibidem. 110 Op. Cit. Pastor Ridruejo, José Antonio, P. 259.

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is a particularly sensitive issue to all sectors of Dominican society. In this respect, it is understood, as discussed in previous pages, that foreigners lacking residence permit in the country must be comprehended similarly to the foreigners in transit category, which, as explained above, is an appropriate concept of Dominican constitutional and migratory rights, under which the children in that category do not acquire Dominican nationality, even though they were born in the national territory.

2.13. Considering foreigners who lack authorization to reside in a country as in transit is not a new theory or unique to the Dominican Republic, to the extent that, as discussed elsewhere in this Ruling, it has been applied by the Colombian State Council and the Constitutional Court of that country in cases similar to this case. It is important to note that to compare foreigners who lack residence permit with the foreigners in transit group does not, in any way, convey or transfer parents' immigration situation to their children, since the latter are not considered to be in an illegal situation, but rather lacking the right

to Dominican nationality; and it should also be noted that the fact that the petitioner, Mrs. Juliana Dequis (or Deguis) does not have the right to Dominican nationality by jus soli, does not place her in a stateless situation, because, as discussed below, she is entitled to a Haitian nationality.

3. The petitioner is not at risk of becoming stateless

3.1. Under this aspect, the Constitutional Court has made the following observations:

3.1.1. In light of the foregoing, with respect to the status of foreigners in transit in Dominican law, people born in the Dominican Republic, whose parents are under that status can only acquire Dominican nationality when they are not entitled to another nationality, i.e., when they become stateless.

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This rule is based on the provisions of Article 1 of the Convention on the Reduction of Statelessness,111 Article 7 of the Convention on the Rights of the Child,112 ratified by the Dominican Republic on June eleven (11), nineteen ninety-one (1991), and Article 24 of the International Covenant on Civil and Political Rights,113 respectively, prescribing the following:

Article 1 of the Convention on the Reduction of Statelessness: All Contracting States shall grant its nationality to a person born in its territory who would otherwise be stateless. (...)

Article 7 of the Convention on the Rights of the Child: The child shall be registered immediately after birth and shall have the right at birth to a name, to acquire a nationality and, to the extent possible, meet and be cared for by his/her parents. 2. The participating States shall ensure the implementation of these rights in accordance with their national legislation and the obligations undertaken under the relevant international legislations in this realm, especially when the child would otherwise be stateless.114

Article 24.1. International Covenant on Civil and Political Rights: Every child shall have, without any discrimination as to race, color, sex, language, religion, national or social origin, economic position or birth, the rights to the measures of protection that his status as a minor requires from his family, society and the State. 2. Every child

111 Signed (but not ratified) by the Dominican Republic on December 5, 1961. 112 Ratified by the Dominican Republic on June 11, 1991. 113 Ratified by the Dominican Republic on January 4, 1978. 114 Emphasis added by the Constitutional Court.

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will be registered immediately after birth and shall have a name. 3. Every child has the right to acquire a nationality.115

3.1.2. However, none of the above international mandates apply to the case that concerns us or any other similar case of the same nature. In fact, the refusal by the Dominican State to grant citizenship to children of foreigners in transit under no circumstance creates statelessness. In the particular case of children of Haitian parents in transit, it is worth noting that Article 11.2 of the Haitian Constitution of 1983, which is applicable, expressly provides that Haitian nationality will be granted to all foreign individuals of Haitian father and mother born abroad:" "They are of Haitian origin (...). 2 - Any person born abroad to a Haitian father or mother.{"}116

3.1.3. Note, therefore, that the {Haitian} Constitution provides that the children of Haitian nationals are tied to the Haitian nationality in perpetuity; thus, the loss of nationality is impossible once it has been acquired by birth or later,117 except in the case of naturalization in a foreign country. The Haitian nationality originated by jus sanguinis has traditionally been recognized in most Constitutions of the Republic of Haiti

115 Emphasis added by the Constitutional Court. 116 "Art 11 - Sont Haïtiens d'origine. [...] . 2 - Tout individu né à l'étranger de père et mère haïtien." 117 The original Haitian nationality by jus sanguinis was also included in Article 2.2 of the Decree on Haitian Nationality of November 6, 1984; in Article 11 of the Haitian Constitution of 1987, and in Article 11 of the Haitian constitutional amendment of 2011, namely:

 Article 2 of the Decree on Haitian Nationality of November 6, 1984: "They are of Haitian origin [...] 2. Any individual born abroad to a Haitian father and mother." Article 11 of the Haitian Constitution of 1987: "Individuals born of a Haitian father or Haitian mother who, in turn, were born Haitian and have never waived their nationality since birth, have Haitian nationality by origin," and Article 11 of the Haitian Constitution of 2011: "Individuals born of a Haitian father or Haitian mother, who, in turn, were born Haitian and have never waived their nationality since birth, have Haitian nationality by origin."

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for nearly a century,118 beginning with the Constitution of 1843,119 and then the Constitutions of 1846,120 1849,121 1867,1221874,123 1879,124 1888,125 1889,126 1946,127 1957,128 1964,129 1971,130 1983,131 1987132 and 2011.133

3.1.4. Therefore, the fact that the petitioner, Mrs. Juliana Dequis (or Deguis) Pierre, has full Haitian nationality as the daughter of Haitian parents, does not contravene in any way the scope of Article 20.2

of the American Convention on Human Rights. Especially when it states: “Everyone has the right to nationality of the State in whose territory they

118 Except the Constitutions of 1859, 1918, 1932, 1935 and 1957, which do not have any such provision. 119 Article 6. “Any individuals born in Haiti or descendants of Africans or Indians, and all those who are born in foreign countries of a Haitian father or Haitian mother […] are Haitians.”

120 Article 5. 121 Article 5. 122 Article 3. Any individuals born in Haiti or in a foreign country of a Haitian father or a Haitian mother are Haitians […].”

123 Article 4. 124 Article 3. 125 Article 7. [...] 2. The legitimate or biological child of a Haitian father born in a foreign country is Haitian; 3.. The child born of a marriage and registered only by the Haitian mother, even if in a foreign country, is Haitian […].”

126 Article 3, Paragraphs 1 and 2. 127 Article 4 of both constitutional amendments of 1946 (August 12 and October 23). 128 Article 4. 129 Article 4. 130 Article 4. 131 Article 11. They are Haitians by origin: 1) Any individual born in Haiti of a Haitian father or Haitian mother; 2) Any individual born in a foreign country to a Haitian father or Haitian mother.”

132 Article 11. “Individuals born of a Haitian father or Haitian mother, who, in turn, were born Haitian and have never waived their nationality since birth, have Haitian nationality by origin.” 133 Article 11. “Individuals born of a Haitian father or Haitian mother, who, in turn, were born Haitian and have never waived their nationality since birth, have Haitian nationality by origin.”

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were born, if they are not entitled to another nationality.”134 All this is in harmony with the position of the Permanent Court of International Justice in its Advisory Opinion on the acquisition of Polish nationality,135 stating that:

Generally speaking, although it is true that a sovereign State has the right to decide which persons shall be considered as their nationals, the fact remains that this principle is applicable subject only to the obligations of treaties signed by the State.136

3.1.5. Similar logic is implemented by the Spanish immigration authorities when they are unable to attribute Spanish nationality to children born of Dominican parents in Spain, without causing statelessness caused by origin, stating that:

On the merits of the case, there is no doubt that Spanish nationality is not granted to those born there, because, according to what this Directorate Center for Dominican legislation has learned, those children born to Dominican parents abroad are Dominicans jure sanguinis, unless they have acquired a nationality jure soli (cfr. Art.11 No. 3 of the Constitution of the Dominican Republic). Therefore, given

the subsidiary nature of the jure soli attribution of Spanish nationality and the Spanish lawmakers' preference for jus sanguinis over jure soli, one must conclude that those born were Dominicans and that the above provision of the Civil Code does not 134 Emphasis added by the Constitutional Court. 135 Acquisition of Polish nationality (Interpretation of the 1919 Minorities Treaty between Poland and Its Allies), CPJI, Ser. B, No. 7, September 15, 1923, Paragraph 27. 136 Emphasis added by the Constitutional Court.

come into play, since a situation of statelessness that originally justified the attribution of Spanish nationality has not occurred.137

3.1.6. In the case of the Dominican Republic, the aforementioned regulations show that the limits on the discretion imposed on states by international law in connection with the regulation of nationality reaffirms the powers of the first in relation to the last, and show also, that there is no breach in the requirements for the full protection of human rights recognized by the Inter-American Court of Human Rights in the previously cited Advisory Opinion on Proposed Amendments to the Constitution of Costa Rica, regarding the naturalization of citizens,138 as well as in the aforementioned case Petruzzi et al. vs. Peru:

101. The Court has stated that international law imposes certain limits on States' discretion and that, currently, when regulating nationality, not only the States' power enter into play, but also the requirements for the comprehensive protection of human rights must coincide, since "nationality is the inherent right of an individual," which not only has been captured at the regional level, but also in Article 15 of the Universal Declaration {of Human Rights}.

3.1.7. Moreover, it should be noted that the right to nationality by origin is also guaranteed through consular birth registration mechanisms available in the Dominican Republic, which are available to the foreign population in their respective consulates to register births occurring in the national
137 Emphasis added by the Constitutional Court. See decisions issued by the General Directorate of Registries and Notaries (DGRN) of the Ministry of Justice of Spain; DGRN Res. 4th of December 13, 2004 (BOE, 11-3-2008, pages 3878-3879; BIMJ No. 1985, 2005, pages 1308-1310 (Attachment III.3.II)); subsequently, DGRN Res. 1st of January 3, 2005 (BIMJ, No. 1986, 2005, pages 1553-1556). 138 Paragraphs 32-33.

territory. In the case of Haitian nationals, in general, and of the petitioner under review, in particular, her parents should have registered her birth at a Haitian consulate in the Dominican Republic, according to the provisions of the Haitian Act of September fourteen (14), nineteen fifty-eight (1958) on Législation sur les Attributions du Consul,139 in force on the date of the petitioner's birth (and even today),140 which provides:

B. Civil Powers [of consuls]

In carrying out his or her role as the Civil Registry Officer, the Consul shall:

1) Issue, pursuant to the provisions of the Civil Code, for all intents and purposes, records of civil status related to birth,141 marriage and death of Haitian nationals registered in their jurisdiction and report the issuance of such certificates at the end of each month to the Office of the Secretary of State.

139 Published in "Le Moniteur" No. 78-141, of December 29, 1958. This law amended the September 23, 1953 Act. 140 Recently, the Haitian consular services reported to its nationals in Atlanta, Georgia, United States of America, via the internet, the following: "Under the September 17, 1958 legislation, which amended the September 14, 1953 law regarding Consular Services, consular officers may issue, pursuant to the provisions prescribed in the Civil Code, for all purposes and intentions, civil status certificates pertaining to births, marriages and deaths of Haitian nationals residing within their jurisdiction. They may conduct marriages between Haitians and issue statements or certificates of Civil Status records received at the Consulate, as required. They may proceed with consular registrations of Haitian nationals in Georgia and other States in their jurisdiction. This process establishes a record that contains personal information of the interested party: identity, marital status, family situation, residence, profession […]. Consular officers are authorized to issue passports to Haitian nationals residing in Georgia and other states within their jurisdiction whose nationality has been clearly established. Consular officers exercise the same legal authority as those granted to other authorized Haitian authorities; they legalize signatures and issue certificates to Haitian nationals and to other States in their jurisdiction. They may also provide legal assistance, if necessary."

141 Emphasis added by the Constitutional Court.

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2) Manage the issuance by another Haitian consular officer of any Civil Registry records concerning him/her personally or concerning his/her spouse, parents or children, under penalty of nullity.

§3. The exception to children of foreign parents in transit also exists in other Latin American Constitutions

§3.1. In fact, with respect to the application of this exception in the acquisition of nationality by jus soli, the Constitutional Court makes the following comparative law observations:

§3.1.1. Regarding the acquisition of citizenship by birth, the Constitution of the Republic of Colombia, in its Article 96, published in 1991,142 provides the following:

Article 96. They are Colombian nationals:

1. By birth:

a) The natives of Colombia with one of two conditions: that either parent is a native or Colombian national, or that, being the children of foreigners, at least one parent is domiciled in the Republic at the time of birth,143 and;

142 This article is still valid since there has not been any modification in any of the Colombian constitutional amendments to date. 143 Emphasis added by the Constitutional Court.

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b) The children of a Colombian father or mother who were born abroad and then domiciled in Colombian territory or registered at a consular office of the Republic. (...).

§3.1.2. Note, therefore, that the Colombian Constitution (like the Dominican Constitution of 1966),144 links the granting of citizenship to the issue of being born in Colombia, being the child of a Colombian father or mother, and, for children of foreign citizens, that at least one parent "is domiciled in the Republic at the time of birth."

§3.1.3. The definition of domicile and the legal impact of the specified rule are explained in the opinion issued by the State Council of Colombia, on June thirty (30), two thousand five (2005),145 pursuant to a consultation requested by the Ministry of Foreign Affairs of Colombia,146 regarding children of foreigners born in Colombia who are in the country on a temporary visa or illegally:147

On the above, it should be emphasized that the concept of domicile is, within the Constitution and the law, a determining factor for 144 And, as we have seen, all of the Dominican constitutions since June 20, 1929 until 2010. 145 Relates to filing No. 1653. 146 The Ministry of Foreign Affairs of Colombia, on its Website (Section: Homepage - >Community Service> Frequently asked questions. Available at: http://www.migracioncolombia.gov.co/index.php/servicios-al-ciudadano/preguntasfrecuentes/ministerio-de-relaciones-exteriores.html, last accessed: 09/07/2013), offers the following information: When is it understood that a foreigner is domiciled in Colombia for the purpose of acquiring Colombian nationality? It is understood that a foreigner is domiciled in Colombia, when he/she has obtained a resident visa, so that the period of residence is counted from the date on which the visa was granted. Non-Hispanic foreigners must be domiciled in Colombia for five (5) consecutive years prior to the filing date of the application with resident visa. Latin American and Caribbean foreigners must be domiciled in Colombia for one (1) consecutive year immediately preceding the filing date of the application with resident visa. Foreigners (non-Hispanic) married to Colombians or in a de facto marital union, or with Colombian children must be domiciled in Colombia for two (2)

consecutive years, immediately preceding the date of filing the application with resident visa. Spaniards must be domiciled in Colombia for two (2) consecutive years. 147 Emphasis added by the Constitutional Court.

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nationality and the effects that are derived from it; (...) To which should be added that, being the duty of foreigners to comply with Colombian law regarding entering and remaining in the country, they can only be recognized as residents when they have been granted a resident visa, given the direct relationship that this type of visa has with residence, pursuant to the provisions of Articles 13 and 48 of Decree 4000 of 2004.

The Court notes that only resident visas require a declaration of intent to remain in the country; for other visas, the reason provided by the foreigner for entering the country may infer that there is no intention of settling in the country and, therefore, a different visa is granted. Therefore, foreigners holding visas different than that of a resident are transients under Article 75 of the Civil Code.148 (...)

It may happen that a foreigner who entered first as a transient decides to reside in the country, for which he/she shall apply for a change of visa and regularization of his/her status, since he/she cannot, without violating migration rules, omit that information and withhold its factual situation from the State with the expectation of acquiring a right under such fact.149

§ 3.1.3.1. There are four important consequences derived from the opinion issued by the Council of the State of Colombia:

148 Article 73 of the Colombian Civil Code provides that persons are natural and legal, while Article 75 provides “In fact, people are divided into domiciles and transients.” 149 Paragraph 2.4 of the consultation (Emphasis added by the Constitutional Court).

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a. That, according to the law and the Colombian Constitution, the children of foreigners are only entitled to citizenship by jus soli when at least one parent has a resident visa in Colombia.

b. That a resident visa is the only legal mechanism that can attribute residence to a foreigner in that country.

c. That foreigners who do not hold a resident visa are deemed transients, which is equivalent to the Dominican constitutional concept of foreigners in transit.

d. That a transient foreigner cannot legally invoke a temporary migration status to claim Colombian nationality for their children born in Colombia, since that factual irregular situation (lack of immigrant visa) cannot originate rights.150

§ 3.1.3.2. The principles contained in the advisory opinion of the Council of the State of Colombia were ratified by the Constitutional Court of that country in Ruling T-1060/10 of December 16, 2010,151 issued in the case of Mrs. Frida Victoria Pucce Marapara, to whom the Special Registry of the State of Leticia refused to issue the identity card for failing to provide proof 150 Except when there is the possibility of statelessness, as we shall see later. 151 The facts of the case cited are of interest because the Special Registry of the State of Leticia took into consideration the identity card, which was issued on December 29, 2006, although the legal residence of the parents in Colombia had not been established at the time of birth; c) at age 18, the claimant applied to the Special Registry of the State of Leticia for an identity card (equivalent to the Dominican identity and voter card), for which she provided the pertinent documentation; d) the application was rejected by the Registry on the grounds that the parents of the amparo petitioner had not provided proof that they were legal residents in Colombia at the time of the appellants' birth; e) the legal representative for Mrs. Pucce Marapara filed an amparo action alleging that the Registry "made a mistake because it had issued Mrs. Victoria Pucce Marapara's birth certificate and the respective identification card, even though she had not established that her Peruvian parents were legal residents in Colombia at the time of her birth, however, at this stage, that error cannot be blamed on Mrs. Pucce" (Emphasis added by the Constitutional Court) (Frida Victoria Pucce Marapara vs. Special Registrar of the State of Leticia- Amazones), Ruling T-1060/10 of December 16, 2010, paragraph No. 2.6). See, also, Ruling T-965 rendered by the same Constitutional Court on October 7, 2008, which was taken into consideration as precedent for the above Ruling T-1060/10.

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of residence in Colombia for her parents, who were of Peruvian nationality at the time of the birth of their daughter. In that ruling, the Court ruled as follows:

In the case of Mrs. Victoria Pucce Marapara, this Court finds that the evidence demonstrates that she does not meet the requirements to be a national of Colombia by birth because, as reported by the Immigration Branch of the Department of Administrative Security (DAS) and the Office of the Coordinator of Visas and Immigration of the Ministry of Foreign Affairs of the Republic of Colombia, Mr. and Mrs. [...], the plaintiff's parents, were never residents in the country, which is essential for eligibility to this right.

As a result, and given that it has not been proven otherwise, it is not feasible for Mrs. Victoria Pucce Marapara to acquire an identity card without having obtained first the Colombian nationality.

(...)

Regarding the issuance of the identity card to Mrs. Victoria Pucce Marapara by the Special Registry Office of the Civil Registry of Leticia, without having demanded the fulfillment of all requirements as the child of foreign parents, this Court has noted152 'that that error is not a constitutionally admissible reason to order the issuance of the claimed identity card, and incidentally conferring Colombian nationality.{'}

152 The Court refers to the precedent set forth in Ruling T-965 rendered in 2008.

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§3.1.4. Moreover, it is noteworthy that Article 10 of the Constitution of the Republic of Chile also prescribes an exclusion from the right to acquire nationality by jus soli, on behalf of the children of transient foreigners, similar to those in the above provisions of the Constitutions of Colombia and the Dominican Republic.153

§3.1.5. In conclusion, based upon the foregoing, the Constitutional Court reiterates that Mrs. Juliana Dequis (or Deguis) Pierre, as proven, is the daughter of Haitian nationals who were in transit in our country at the moment of birth, has no right to Dominican nationality according to Article 11.1 of the Constitution of 1966 in effect on the date of her birth.

§3.1.6. Therefore, the refusal by the Central Electoral Board to issue an identity and voting card to the petitioner based on the fact that she is the daughter of foreign nationals in transit at the time of her birth is a correct and legally well-founded decision in light of the constitutional and legal standards of the Dominican Republic. In that sense, such refusal does not constitute any violation of the petitioner's fundamental rights, unless she runs the risk of becoming stateless, which is not the case.

11.1.4. The lack of legal foresight of Dominican migration policy and institutional and bureaucratic deficiencies of the Civil Registry

11.1.4.1. The Constitutional Court will briefly allude to the lack of legal foresight of Dominican migration policy, and to the institutional and bureaucratic deficiencies of the Civil Registry service of the country, as evidenced in this case (§1), before issuing any opinions regarding the solutions to be adopted (§2).
153 "Article 10,- Chileans are: I. Anyone born in Chilean territory, except the children of foreigners who are in the country serving their Government, and the children of transient foreigners […]." (Emphasis added by the Constitutional Court).

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§1. Institutional and bureaucratic deficiencies of the Civil Registry

§1.1. These deficiencies are not attributable to the current migratory authorities or the Central Electoral Board, but have burdened the Civil Registry for a long time, as explained below:

§1.1.1 The National Household Survey for Multiple Purposes (ENHOGAR-2011), developed by the National Statistics Office (ONE) in 2011, which is specialized research that seeks to collect data periodically on social, economic and environmental issues in the Dominican Republic, determined that:

(...) 95.6% of the Dominican population has a birth certificate (see Table 5.11). The proportion of people is higher in urban areas (96.6%) than in rural areas (93.7%). The geographic strata having the highest proportion of people with birth certificates are in the larger municipalities and other urban areas (97.5% and 97.2%, respectively). Moreover, the Enriquillo region has the lowest proportion of people having this document with 91.1%. By age groups, it is noted that as the age increases the proportion of people with a birth certificate also increases, suggesting the existence of late registrations.154

§1.1.2. Reading these figures gives the impression that the Dominican Civil Registry is better than a lot of developing countries, which is undoubtedly true. But, behind this achievement lies a reality that shows a system that has been affected by erratic registrations, forgeries, 154 National Statistics Office (ONE). General Report of the National Household Survey for Multiple Purposes (ENHOGAR 2011) on "Household Access to Information and Communications Technology, citizens' security, agricultural production, migration and remittances." Dominican Republic. October 2012.

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impersonations and tampering with vital records, and also by deficiencies in the maintenance of books, records (although there is currently an advanced scanning process taking place), and the increased underreporting of births and deaths.

§1.1.3. In the case at hand, the refusal to grant Dominican nationality to children of foreign parents in transit or to their own parents did not constitute an arbitrary deprivation of the right to nationality; on the contrary, it is a legitimate act of sovereignty based on applicable constitutional law on this matter. However, the many years of delay to legally resolve irregularities that foreigners' identity documents may have is worrisome, since it could potentially undermine the fundamental rights of foreigners, even if they are living in the country illegally. It should be noted, however, that this delay also affects legal

processes for many Dominicans under the same circumstances, so it is not a discriminatory policy, but, instead, deficiencies in the system.

§1.1.4. Accordingly, the system for registering and identifying people and other legal acts (marriage, divorce, name and surname changes, deaths, issuance of records and statements, etc.) in the Dominican Republic is done by the Civil Registry. The birth certificate, which is the first identification document, and then the identity and voter card (conditional on the existence and regularity of the latter), are issued through this entity, which documents are proof of nationality for both nationals and foreigners.155 Article 5 of Law No. 659 regarding Civil Registry Records provides that the General Directorate of the Main Civil Registry Office relies upon the Central Electoral Board. Similarly, Article 1 of Law No. 8-92 regarding the Identity and Voter Card provides that the General Directorate of Personal Identity Office and the offices and agencies issuing identity cards, the Main

155 As noted, for the latter, only an identity card is issued (not voting card).

Civil Registry Office and the Civil Registry Offices also rely on the Central Electoral Board. Similarly, Article 9 of Law No. 659 provides that Civil Registry officers must comply with the instructions given by the Central Electoral Board and the Main Civil Registry Office.

§1.1.5. Similarly, as noted above, among the instructions issued by the Central Electoral Board to officers of the Civil Registry officers are those contained in Circular No. 17-2007, issued by that administrative branch of that entity on March twenty-nine (29), two thousand seven (2007). This document instructed the Civil Registry offices to thoroughly examine birth certificates before issuing copies or any document related to the civil status of persons due to complaints received alleging that some offices had issued birth certificates irregularly, to foreign parents who had not established residency or legal status in the Dominican Republic.156

§1.1.6. Circular No. 17 was replaced in December of the same year by Decision No. 12-2007, which, as previously noted, establishes the provisional suspension of the issuance of flawed or irregularly registered vital records until such time as the Plenary of the Central Electoral Board determines whether they are valid or not, subject to the appropriate investigation, and proceeds to provisionally suspend them, request their cancellation before a Court or acknowledge their legality.

§ 1.1.7. Subsequently, it has also been reported that, in response to the difficulties caused by the implementation of Decision No. 12-2007, the National Civil Registry Office of the Central Electoral Board issued Circular No. 32-2011, instructing the officers of the Civil Registry to issue, without hesitation, the birth certificates for the children of foreign nationals under investigation, until the competent courts rule on their validity or

156 See the Supreme Court of Justice's ruling of November 2, 2011, BJ No. 1212.

invalidity. This allowed framing of the actions of the Civil Registry Offices within the most convenient and respectful legal regulations of the population's fundamental rights; but, it did not resolve the complex problems that hang like a serious threat to the future of the country.

a.{sic} But, while these and other regulations issued by the Central Electoral Board have played a positive role in the reorganization of the Dominican Civil Registry, by no means have they ceased to be late, as they were issued with many decades of delay, which has led to vulnerability to the commission of irregularities in the system. In fact, the lack of foresight of the Dominican government's legal immigration policy dates back to the time immediately after the proclamation of the Constitution of June twenty (20), nineteen twenty-nine (1929), because, although an exceptional mechanism was then introduced to control the indiscriminate granting of Dominican nationality to children born in the country of foreign parents in transit, the laws and regulations necessary to properly register these births were not adopted; neither were any subsequent effective control mechanisms introduced in a timely matter to prevent the increasing multiple and diverse abnormalities constantly affecting the country's Civil Registry.

§2. Considerations regarding solutions to be adopted

§2.1. Regarding measures to be adopted, the Constitutional Court considers the following:

§2.1.{sic} Immigration Law No. 285 was enacted on August fifteen (15), two thousand four (2004), towards the middle of the last decade, and Migration Regulation No. 631 of October nineteen (19), two thousand eleven (2011) was enacted at the beginning of this decade. Both statutes replaced Law No. 95 of nineteen thirty-nine (1939) and Regulation No. 279

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of the same year, which were in effect for a period of close to seventy years; a lengthy period during which the lack of legislative foresight led to the creation of conditions that have adversely affected the Dominican Civil Registry. However, gladly, the country now has these two important legal instruments that grant policy solutions to the current migration issues and whose legislations will allow restoring reliability to our registration system. In this regard, the motivation behind Law No. 285-04 is very revealing:

WHEREAS: International migration is one of the most important social processes of the Dominican nation at the beginning of the XXIst Century, the consequences of which significantly influences the economic, political and cultural life of the country{;}

WHEREAS: The country should give a functional and modern answer to the challenges of a changing, interdependent, and global world, of which one of its main expressions is the international migration phenomenon;

WHEREAS: Migration is a population, economic and social phenomenon, whose determinations and consequences require a significant planning level that contributes to its regulation, control and orientation towards the demands of qualified human resources, workforce and overall requirements for development;

WHEREAS: The regulation and control of the movement of people entering and leaving the country is an inalienable and sovereign right of the Dominican State;

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WHEREAS: The Dominican State gives high priority to migration problems, in recognition of the Constitution, laws and international agreements that it has contracted in this matter;

WHEREAS: The migratory movement must be aligned with the needs of national development.

§2.2. The scope of the law is clearly stated in Article 1, which provides that it “organizes and regulates migration flows in the national territory, in terms of entry, duration of stay and departure, such as immigration, emigration and the return of nationals.” Also, its purpose is expressed in Article 2, which reads as follows:

Article 2: The presence of foreigners in the national territory is regulated so that everyone is in the country legally, provided they qualify to enter or remain in it, for which the competent authority shall issue a document to prove such status under an immigration category defined in this Law, whose bearing is mandatory. Illegal foreigners will be excluded from the national territory under the rules of this Law.

§2.3. Article 7 of Law No. 285-04 establishes the National Immigration Council, for the purpose of serving “as a coordinating body to the institutions responsible for the implementation of the national policy on migration and will serve as an advisory body to the State.” The advisory function is reinforced by Article 9.1 of the Law, which also recommends that the State take “special measures on migration, when exceptional situations arise” (Article 9.4).

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§2.4. The rule in Article 28, conceived with respect to non-resident foreign women giving birth inside the country, should also be mentioned:

Article 28: Foreign non-resident mothers, who give birth to a child during their stay in the country, should go to the Consulate of their nationality in order to register the child there. In cases where the child's father is Dominican, the parents may register the child before the corresponding Dominican civil registry office pursuant to the laws governing such matter. 1. All health centers providing delivery assistance to a foreign woman who does not have documentation confirming her status as legal resident, shall issue a pink certificate of birth, different from the birth record for the child of all foreign mothers, which will be recorded in a book for foreigners, if Dominican nationality does not apply. The Ministry of Foreign Affairs shall notify the occurrence to the Embassy of the country that corresponds to the foreign woman for all legal purposes. 3. All Offices are required to notify the National Migration Office of the birth of any child whose mother is a foreigner and does not have the required documentation.

§2.5. On the other hand, Decision No. 02-2007 of the Central Electoral Board, dated eighteen April eighteen (18), two thousand seven (2007), implements the Registry of Births of Children to Non-Resident Foreign Mothers in the Dominican Republic.157 This Resolution authorizes civil registry officials to register in the aforementioned Registry-Book, all 157 The standards prescribed by this Resolution refer to the obligation placed on foreigners under Article 25 of the Constitution of 2010, which regulation concerning the status of foreigners states as follows: "Article 25.- Regulation on the status of foreigners. Foreigners in the Dominican Republic have the same rights and duties as nationals, with the exceptions and limitations established by the Constitution and [Dominican] laws; therefore, [...] 2) they are obliged to register themselves in the Foreigners Status Registry Book, pursuant to the law."

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children born in the country of foreign mothers that are not residents in the country; it also instructs them to issue two (2) birth certificates, one for the parents and the second one to be sent to the corresponding Embassy of the nationality of the parents through the Ministry of Foreign Affairs:

THREE. Empower Civil Registry Officers to enter into the "Registry of Births of Children to Non-Resident Foreign Mothers in the Dominican Republic," all children of foreign mothers not resident in the country who were born in the country from the date this Resolution went into effect, after presentation of the Certificate of Birth issued by the health center.

FOUR. Instruct Civil Registry Officers in the jurisdiction of the place of birth that, upon receipt of the pink Certificate of Birth under Migration Law No. 285-04, to register the birth in the Registry of Births of Children to Non-Resident Foreign Mother in the Dominican Republic and, then immediately issue two (2) Birth Certificates, one (1) of which shall be delivered to the parents, and the other will be sent to the relevant Embassy through the Ministry of Foreign Affairs.

§2.6. Therefore, even if the child of foreign parents is born in Dominican territory, and registered in any of the Civil Registry Offices in the Dominican Republic, its birth certificate can still be transcribed and legalized by the consulate of the country of the parents' nationality, following the applicable procedure for registration at the consulate in question. By implementing the Registration Book, the Dominican Republic is fulfilling its obligation to register the birth of every child born in the Dominican Republic, pursuant to the provisions of Article 7.1 of the

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{U.N.}Convention on the Rights of the Child and Article 24 of the International Covenant on Civil and Political Rights.

§2.7. Article 151 of Law No. 285-04 is of just as much, or even more, relevance in stating that the Dominican government shall prepare a national plan for regularization of illegal foreigners residing in the country, subject to prior preparation of the plan by the National Migration Office. The fact that almost ten years have passed since the enactment of Law No. 285-04 without any implementation of a new managing model for the regularization of illegal foreigners, has created this lack of foresight, the amendment of which should not be postponed. Article 151 states as follows:

Article 151. The Dominican Government will prepare a National Reorganization Plan for illegal aliens living in the country: 1. For this purpose, the National Immigration Council must prepare the National Regularization Plan. The National Regularization Plan must include at least the following criteria: time of residence of the foreigner in the country, ties to society, business and economic conditions, regularization of these persons individually or by family - not in bulk. It should also establish a record of these foreigners, the plan implementation procedures and conditions of institutional and logistical support. The National Immigration Council shall submit a report to the Executive within 90 days of their appointment. Based on the report from the National Immigration Council, the Dominican government, by decree, shall establish the procedure for regularization of foreigners mentioned in this article. The National Immigration Council will support the Executive throughout the regularization process, having therein a monitoring function.

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§2.8. It should be noted that implementation of the stated National Regularization Plan for illegal foreign nationals living in the country will impact positively on the lives of hundreds of thousands of foreigners, since it will lead to the legalization of their migratory status, contributing effectively to promoting and encouraging respect for their dignity and the protection of fundamental rights inherent in a social and democratic state governed by the rule of law. The regularization plan will impact an important sector of the population of the Dominican Republic, regarding the preservation of the right to equality, the right to development of an identity, the right to a nationality, the right to health, the right to a family, the right to free movement, the right to work and the right to education, among others.

§2.9. Therefore, it should be noted that the elements in this case obligate the Constitutional Court to take measures that go beyond the particular situation of Mrs. Juliana Dequis (or Deguis) Pierre, giving the Ruling inter comuni{s} effects, since it tends to protect the fundamental rights of a vast group of people immersed in situations that from a factual and legal point of view are similar to that of the petitioner. In this regard, the Court considers that, in cases like this, the amparo action goes beyond the scope of the particular violation claimed by the {petitioner}, and that its protective mechanisms should include expansive and binding powers for extending protection of fundamental rights to others outside the process who are in similar situations.158

158 In that same sense, see Colombian Constitutional Court Ruling A-207, of June 30, 2010.

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This decision, signed by the justices of the Court, was adopted by the required majority. It also includes the dissenting opinions of justices Ana Isabel Bonilla and Katia Miguelina Jiménez Hernández Martínez.

For the factual and legal reasons set forth above, the Constitutional Court:

DECIDES:

ONE: ACCEPT, as to form, the appeal of the writ of amparo filed by Mrs. Juliana Dequis (or Deguis) Pierre against Ruling No. 473/2012, issued by the Civil, Commercial and Labor {Branch of the} Court of First Instance of the Judicial District of Monte Plata, in exercise of its authority under the writ of amparo on July 10, 2012.

TWO: REJECT, in substance, the appeal for review and, therefore, REVOKE the aforementioned Ruling No. 473/2012, since the petitioner Mrs. Juliana Dequis (or Deguis) Pierre, even though she was born in the country, is the daughter of foreign citizens in transit, which deprives her of the right to be granted Dominican nationality pursuant to Article 11.1 of the Constitution issued on November twenty-nine (29), nineteen sixty-six (1966), which was in effect on the date of her birth.

THREE: ORDER the Central Electoral Board, pursuant to Circular No. 32, issued by the Civil Registry Office on October nineteen (19), two thousand eleven (2011), to adopt the following measures: (i) return within ten (10) working days, counted as from the notification date of this Ruling, the original birth certificate statement of Mrs. Juliana Dequis (or Deguis) Pierre, (ii) submit such document to the competent court, as soon as possible, to determine its validity or invalidity, and (iii) proceed in the same manner with respect to all similar cases, while respecting the peculiarities of each one of them, by extending the aforementioned ten (10) day term when circumstances so require.

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FOUR: ORDER that the National Migration Office, within the established period of ten (10) days, grant a special permit for temporary stay in the country to Mrs. Juliana Dequis (or Deguis) Pierre, until the National Plan for Regularization of Foreign Nationals Residing Illegally in the Country, provided in Article 151 of Migration Law No. 285-04, determines the legalization of the conditions of these types of cases.

FIVE: ORDER, also, that the Central Electoral Board execute the following actions: (i) perform a thorough audit of the Dominican Republic Civil Registry's record books of births from June twenty-one (21), nineteen twenty-nine (1929) to date, within one year of notification of this Ruling (and renewable for a further year at the discretion of the Central Electoral Board), to identify and integrate into a list and/or digital format all foreigners registered in the Dominican Republic Civil Registry record books of births; (ii) include in a second list all foreigners who are illegally registered due to the lack of qualifications required by the Constitution of the Republic to be granted Dominican nationality by jus soli, which shall be named List of Foreigners Illegally Registered in the Civil Registry of the Dominican Republic; (iii) create a special annual registry book of foreigners' births since June twenty-one (21), nineteen twenty-nine (1929) to April eighteen (18), two thousand seven (2007), the time frame in which the Central Electoral Board put into effect the Registry of Births of Children to Non-Resident Foreign Mothers in the Dominican Republic under Resolution 02-2007; and then, administratively transfer the births from the List of Foreigners Illegally Registered in the Civil Registry of the Dominican Republic to the new record books of foreigners' births, according to the corresponding year for each; (iv) report all births transferred under the preceding paragraph to the Ministry of Foreign Affairs, and they, in turn, shall notify all concerned parties, as well as the consulates and/or embassies or diplomatic missions, as appropriate, for applicable legal purposes.

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SIX: ORDER, also, that the Central Electoral Board forward the List of Foreigners Illegally Registered in the Civil Registry of the Dominican Republic to the Minister of the Interior and Police, who chairs the National Immigration Council, so that, that institution, in accordance with the mandate conferred by Article 151 of Migration Law No. 285-04, does the following: (i) Develop, in accordance with the first paragraph of Article 151, within ninety (90) days from the notification of this Ruling, the National Plan for Regularization of Foreign Nationals Residing Illegally in the Country, (ii) Render to the Executive branch, according to the second paragraph of Article 151, a general report on the indicated National Plan for Regularization of Foreign Nationals Residing Illegally in the Country, with its recommendations, within the same term mentioned in the preceding paragraph a) {sic}.

SEVEN: URGE the Executive to implement the National Plan for Regularization of Foreign Nationals Residing Illegally in the Country.

EIGHT: ORDER the communication of this Ruling by the Office of the Clerk, for information and any other purposes, to the petitioner Mrs. Juliana Dequis (or Deguis) Pierre, to the respondent, Central Electoral Board, as well as the Executive Branch, the Ministry of the Interior and Police, the Ministry of Foreign Affairs, the National Migration Board and the National Migration Office.

NINE: DECLARE this appeal free of costs, in accordance with Article 72 of the Constitution and Articles 7.6 and 66 of No. 137-11, Organic Law of the Constitutional Court and of the Constitutional Procedures, dated June thirteen (13), two thousand eleven (2011).

TEN: ORDER the publication of this Ruling in the Constitutional Court Bulletin.

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Signed by: Milton Ray Guevara, Chief Justice, Leyda Margarita Piña Medrano, First Associate Justice; Lino Vásquez Sámuel, Second Associate Justice; Hermógenes Acosta de los Santos, Justice; Ana Isabel Bonilla Hernández, Justice; Justo Pedro Castellanos Khoury, Justice; Víctor Joaquín Castellanos Pizano, Justice; Jottin Cury David, Justice; Rafael Díaz Filpo, Justice; Víctor Gómez Bergés, Justice; Wilson S. Gómez Ramírez, Justice; Katia Miguelina Jiménez Martínez, Justice; Idelfonso Reyes, Justice; Julio José Rojas Báez, Clerk.

DISSENTING OPINION OF JUSTICE ISABEL BONILLA HERNANDEZ

In exercise of the authority granted under Article 186 of the Dominican Constitution and Article 30 of No. 137-11, Organic Law of the Constitutional Court and of the Constitutional Procedures.

With all due respect to the majority's views expressed in this decision and pursuant to the position adopted in the deliberations, we issue a dissenting opinion based upon the discrepancy with the ratio decidendi of the Ruling (restrictive and retroactive interpretation of Article 11 of the 1966 Constitution).

1. Background

1.1. This decision refers to the constitutional appeal of the Ruling in the amparo action filed by Mrs. Juliana Dequis (or Deguis) Pierre against Ruling No. 473-2012, issued by the Civil, Commercial and Labor Branch of the Judicial District of Monte Plata, on July ten (10), two thousand twelve (2012), alleging the violation of fundamental rights such as the right to legal identity, a name, right to work and family rights, as that Ruling left her "in a state of uncertainty" because the judge assigned to the amparo

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action did not rule on the merits of the case: her demand that the Central Electoral Board issue her an Identity and Voting Card.

1.2. In responding to this honorable Constitutional Court majority's decision, we believe it pertinent to consider the following aspects:

1.2.1. Social and Democratic State governed by the Rule of Law

1.2.1.1. Article 7 of the Constitution states: The Dominican Republic is a social and democratic state governed by the rule of law, organized as a unitary republic, based on respect for human dignity, fundamental rights, labor, popular sovereignty and separation and independence of public powers.

1.2.1.2. Within this context, the center of the State is the human person and the respect for his or her dignity, and the State is required to guarantee, equally, the full exercise of the fundamental rights of those living in its territory, whether citizens or foreigners. Thus, the essential function of the State is to provide the means to enable people to develop equally, equitably and progressively, within a framework of individual liberty and social justice compatible with public order, general welfare and the rights of all, protected by justice. The paradigm of a Social and Democratic State governed by the Rule of Law supposes that the only way to prevent the arbitrary exercise of power is if governments and the governed are subject to the rule of law.

1.2.2. Human Dignity

1.2.2.1. This concept is defined in Article 1 of the Universal Declaration of Human Rights which provides:

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"All human beings are born free and equal in dignity and rights (...)."

Article 2 provides that: {"}Every person has all the rights and freedoms set forth in this Declaration, without distinction of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status (...)."

Article 5 of the Dominican Constitution states: {"}The Constitution is based on respect for human dignity and on the indissoluble unity of the nation, the common homeland of all Dominicans." Similarly, Article 38 states: The State is founded on respect for the dignity of the person and is organized to offer real and effective protection of the person's inherent fundamental rights. The dignity of a human being is sacred, innate and cannot be violated; their respect and protection is an essential responsibility of the public authorities, and particularly, the Constitutional Court, as expressly mandated in Article 184 of the Constitution.

1.2.3. Sovereignty, International Law and the Constitutional Block

1.2.3.1. The Dominican Constitution in Articles 2 and 3 states:

Article 2: Sovereignty resides exclusively with the people from whom all powers emanate and are exercised through their representatives or directly within the terms established by this Constitution and the laws.

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Article 3: The sovereignty of the Dominican Nation, a Free State independent from any foreign power, is inviolate. None of the public authorities organized by this Constitution may carry out or allow acts which constitute a direct or indirect intervention in the internal or external affairs of the Dominican Republic, or any interference that undermines the character and integrity of the state and any of the attributes recognized and pledged in the Constitution. The principle of non-intervention is an invariable rule of Dominican international policy.

1.2.3.2. In the exercise of its sovereignty, the Dominican State, within its internal jurisdiction, determines through its Constitution and laws to which people it grants nationality and the ways in which it may be revoked.

1.2.3.3. When the State participates as an entity in the international community, it commits itself to protecting human rights. The agreements, conventions and treaties, which are ratified by the Dominican State, become part of its domestic legal system, as provided in Article 74, paragraph 3 of the Constitution: Treaties, agreements and conventions on human rights signed and ratified by the Dominican Republic, have constitutional status and are applied directly and immediately by the courts and other state agencies.

1.2.3.4. The set of international legal documents on human rights is known as the Constitutional Block, as established by the honorable Supreme Court of Justice during the Court's constitutional hearing in Resolution No. 1920 dated November 13, 2003, in issuing its criterion on the principle of

constitutionality: The constitutional system of the Dominican Republic is comprised of provisions of equal hierarchy arising from two fundamental legal sources: a) the national law, shaped by the Constitution and local

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constitutional jurisprudence, as dictated both by attenuated as well as consolidated authority, and b) the international law, consisting of covenants and conventions, advisory opinions and decisions of the InterAmerican Court of Human Rights; legal sources that together, according to the best doctrine, form what is known as the Constitutional Block, to which the formal and substantive validity of all procedural or subordinate legislation are subject.

1.2.3.5. On the binding nature of the rulings of the Inter-American Court of Human Rights (IACHR) and the compliance review.

1.2.3.5.1. The rulings of the Inter-American Court of Human Rights (IACHR) are binding on all states that have ratified the American Convention on Human Rights and have also recognized the jurisdiction of the Court. The Dominican State, on March twenty-five (25), nineteen ninety-nine (1999), recognized the jurisdiction of the Court under Article 62 of the aforementioned Convention.

1.2.3.5.2. Under international law, it is a fundamental principle that states that have signed treaties commit to fulfill their obligations in good faith, in accordance with the international jurisprudence "pacta sunt servanda," the treaty obligations of Signatory States bind all powers and state agencies, i.e., they bind not only the Executive, Legislative and Judicial Branches, but also other branches of government and their officials to enforce them in good faith.

1.2.3.5.3. In accordance with Articles 67 and 68.1 of the American Convention on Human Rights, signatory states recognize that the rulings of the Inter-American Court of Human Rights are final and binding and cannot be challenged or reviewed internally. In this regard, the IACHR has established that: all state authorities are obliged to exercise compliance

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reviews, ex officio, between internal standards and the American Convention, in the framework of their respective powers and the corresponding procedural regulations.159

1.2.3.5.4. Meanwhile, Law No. 137-11, Title I, on Constitutional Justice and its Principles, in Article 7 paragraph 5, "The Principle of Favorability," states: The Constitution and fundamental rights must be interpreted and applied so that maximum effectiveness is optimized in promoting the person's fundamental rights. Where there is a conflict between component laws of the constitutional block, the more favorable approach to the individual whose rights were violated shall prevail. If a sub-constitutional rule is more favorable to the bearer of the fundamental right than the constitutional block rules, the former shall be applied in a complementary manner, so that the maximum level of protection is ensured. None of the provisions of this law shall be interpreted in the sense of limiting or suppressing the enjoyment or exercise of rights and guarantees, i.e., the Constitutional jurisdiction cannot further aggravate the legal status of the person alleging violation of their fundamental rights; the objective is to ensure that the bearer of the rights can optimally and effectively exercise those rights. This Court, rather than remedy the state of uncertainty in which the petitioner was found at the time of her application, has aggravated the situation by declaring in its Ruling that she is a foreigner and disavowing her nationality, which frankly disregards the principle of favorability.

1.2.3.5.5. The Constitutional Court rulings are committed to observing strict adherence to international human rights standards, such as the American Convention on Human Rights or the San José Pact, the 159 Ruling of the Inter-American Court of Human Rights, March 20, 2013, Gelman vs. Uruguay. Supervising Compliance with the Ruling.

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Convention on the Rights of the Child, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the rulings of the Inter-American Court of Human Rights and any other international organization whose jurisdiction it has recognized, to ensure the exercise of fundamental rights of persons within its territory pursuant to the provisions of Article 3 of Law No. 13711, which expressly states: In the performance of duties within its constitutional jurisdiction, the Constitutional Court is subject only to the Constitution, the rules that make up the constitutional block, the Organic Law and its regulations.

2. Basis for the dissenting opinion

2.1. Whereas, the Constitutional Court understands that, in this appeal for review, there is the underlying interest of Mrs. Juliana Dequis (or Deguis) Pierre to be recognized as a Dominican national. Although the petitioner's claim did not mention it, the Court proceeded to consider whether or not to recognize her as a Dominican national.

2.2. In its analysis, the Constitutional Court interpreted Article 11 of the Constitution of nineteen sixty-six (1966), in effect at the time of the petitioner's affidavit of birth, concluding that she is not Dominican based upon the second exception contained in paragraph 1 of that Article with regards to foreigners in transit, determining that this rule applied to her parents.

Article 11. Dominicans are:

Number 1. All persons born in the Republic, with the exception of the legitimate children of foreigners residing in the country in a diplomatic capacity or those who are in transit.

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2.3. The Manual Dictionary of the Spanish Language defines "in transit" as a person traveling from one point to another, who is waiting to transfer at an intermediate airport from the city of departure to the city of arrival, i.e., passengers who stay for a short time before reaching their final destination. It can be inferred from this definition that a transient person is one who is transiting through the country, for a short period of time.

2.4. We disagree with the majority's decision in this case, because we understand that the provision that should have been applied to the petitioner is the main provision in Article 11 of the Constitution of 1966: "all persons who were born in the Republic" which is the principle on which Jus Soli is based upon, and not the second exception in paragraph 1, because the prolonged presence of the parents in the country, although illegal, does not meet the condition of foreigners in transit. The fact that the petitioner was born in Dominican Republic territory, essentially granted her rights to Dominican nationality.

2.5. Regulation No. 279 of May twelve (12), nineteen thirty-nine (1939), for the application of Immigration Law No. 95 of nineteen thirty-nine (1939), in Section V, entitled, Transients, at paragraph (a), defines foreigners in transit as: "persons whose main purpose for entering into the Republic is to pass through the country en route to another destination (…)."

2.6. Law No. 95/39, pursuant to the Constitution of nineteen sixty-six (1966), and the Jus Soli system, provides in Article 10, Section 10, paragraph two that: "people born in the Dominican Republic are considered nationals of the Dominican Republic, whether or not they are nationals or from other countries, therefore, they should carry the same documents required of nationals of the Dominican Republic. Therefore, when the petitioner's parents appeared before the Officers of the Civil

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Registry Office in the Municipality of Yamasá to register their daughter, they did so based on the ties that linked her to the soil on which she was born. The submission of these documents (records identifying them as farm workers) is main proof of her parentage, since, as foreigners, they do not have

to prove their linkage to the country, because what is important in the jus soli system is that the child was born in the State's territory.

2.7. In this regard, the Inter-American Court of Human Rights (IACHR) established that: (…) Section V of Dominican Republic Migration Regulation No. 279 dated May 12, 1939, in effect at the time of the request for late registration of the petitioner's birth, clearly states that the sole purpose of a transient foreigner is to enter the country for a limited time, which is set at no more than ten days. The Court notes that, to consider a person transient or in transit, regardless of the classification used, the State must comply with a reasonable time limit, and be consistent with the fact that a foreigner who develops ties with the State cannot be equated to a transient foreigner or a person in transit.

2.8. The Constitutional Court has described the petitioner's parents as foreigners in transit based upon the Constitution of nineteen sixty-six (1966) and Law No. 95 of nineteen thirty-nine (1939), which, thus, disqualifies them as Dominican nationals. The honorable justices did not take into account that the influx of people of Haitian descent in the country originated largely from their ancestors being hired sometimes by the State and sometimes by private companies, to come to the Dominican Republic to work in the sugar cane plantations as farm workers. Therefore, these are people who, once their contract ended they did not return to Haiti, but, instead, settled in the Dominican Republic and remained in the country illegally for many years, and, thus, cannot be considered foreigners in transit.

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2.9. Persons born in Dominican Republic territory during the effective period of the Constitution of nineteen sixty-six (1966), the children of Haitian parents residing illegally in the country, as in the case of the petitioner, are protected by Jus Soli, through birth and also by the various ties they have developed in the country. Therefore, in the Yean and Bosico decision, dated September eight (8), two thousand five (2005), the InterAmerican Court of Human Rights (IACHR) determined that: In a jus soli system, the child only needs to be born in the State's territory, and granting them nationality cannot be conditioned to their parents' immigration status. To demand such proof constitutes discrimination.

2.10. The responsibility for matters related to nationality has fallen within the realm of domestic jurisdiction; however, and in accordance with international law principles, this responsibility has been subjected to limitations in the interest of preventing abuses of legal identity rights, which are essential to the benefit and exercise of other fundamental rights.

2.11. With regard to this issue, the International Court of Justice declares nationality as a legal bond that is based upon a social construct of cohesion, adhesion, i.e., an effective union between subsistence, interests and emotions, where factors such as history, language and culture play a major role. These ties are tested through acts or actions by the individual or by the State that proves the existence of a relationship between the two.

2.12. The importance of nationality is that, as a legal and political bond that ties an individual to a particular state, it allows the individual to acquire and exercise the rights and responsibilities of membership in a political community. Thus, nationality becomes a prerequisite for the exercise of certain rights.

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2.13. In conclusion, in terms of nationality, we believe that the majority opinion has erroneously interpreted Article 11 of the Dominican Constitution of nineteen sixty-six (1966), and has focused on the immigration status of the petitioner's parents as opposed to the petitioner's request that the Central Electoral Board issue her identity and voter documents, or to the state of uncertainty that has deprived her from exercising her civil and political rights, in violation of the provisions of Article 3 of the American Convention on Human Rights, which states: "Everyone has the right to the acknowledgment of a legal identity."

2.14. The Convention provides in Article 18 that states are obliged not only to protect the right to a name, but also to provide the necessary measures to facilitate the registration of the person, immediately after birth. Meaning that, the states must guarantee that the person is registered with the name chosen by his/her parents. The first and last names are essential to formally establish the ties between the individual, the society and the state.

2.15. Restricting the right to the name and registration of the person injures the human dignity, as in the case of the petitioner, who, after having been registered in the Civil Registry, has been stripped of her identification documents by an administrative authority, without the benefit of an authoritative res judicata determination regarding its validity or nullity, in violation of the legal protection afforded and due process contemplated in Articles 68 and 69 of the Constitution.

2.16. These fundamental guarantees have been endorsed by the Constitutional Court in its Ruling TC-0010-12, stating that an officer in the performance of his duties, even those exercising discretion, must offer reasonable written justification. This Court's Ruling attempts to eliminate

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the possibilities of dispensing an arbitrary administration of public law, irreconcilable in a constitutional state.

3. The retroactivity of the decision taken

3.1 The principle of non-retroactivity of the law means that it operates towards the future and may not affect legal processes prior to its implementation, i.e., the law takes effect immediately and towards the future, it cannot be applied to actions, acts, or have legal effects derived from previous laws, unless the new law benefits anyone under legal deliberations or serving criminal sentences.

3.2. The main objective of the non-retroactivity of the law is to protect the legal safety of consolidated situations previously secured that strengthens citizens' confidence in the legal system, avoiding the fear of sudden change in legislation that would create uncertainty and instability, which is why non-retroactivity is geared toward preventing new laws from placing values on prior actions, modifying the effects of the existing laws, and canceling prior rights recognized under those laws.

3.3. The Colombian Constitutional Court in its Ruling C-549/93, in assessing the principle of non-retroactivity of the law and its importance to the legal security, states that: "The legal nature of the principle of nonretroactivity is the premise by which, in most circumstances, based upon the preservation of law and order and the embodiment of legal security and stability, it is prohibited for a law to become effective prior to its implementation."

3.4. In the appeal, the respondent invokes the principle of nonretroactivity to justify its refusal to issue the identity and voter card to the petitioner, alleging that doing so would be in violation of Articles 11 and 47

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of the Constitution of 1966, which were in effect at the time of the petitioner's affidavit of birth, and of Articles 6 and 18 of the Constitution of 2010.

3.5. Article 47 of the Constitution of 1966 (Article 110 of the 2010 Constitution) provides that: the Law provides for and applies only to the future. It has no retroactive effect, except in cases where it is favorable to persons under legal deliberations or those serving criminal sentences. In no case may the law or public authority restrict or alter the legal security originating from situations established by previous legislation.

3.6. To the contrary, we believe that a violation of the non-retroactivity principle of the law, as stated in Article 47 of the Constitution of nineteen sixty-six (1966) and Article 110 of the Constitution of two thousand ten (2010), would occur if the criteria established by the honorable Supreme Court of Justice in its December fourteen (14), two thousand five (2005) ruling, whereby it declares Legislation No. 285-04 to be unconstitutional, were to be applied to this case, further underlining the argument that equates foreigners in transit with illegal foreign residents.

3.7. In this context, to equate the requirement of a foreigner in transit with that of an illegal foreign resident is a violation of the principle of nonretroactivity of the law, because the Dominican Constitution, up until the amendment of two thousand ten (2010), remained silent regarding the issue

of the nationality of illegal foreign residents. Article 18, paragraph 2, provides that Dominicans are considered "anyone who is a Dominican national prior to the implementation of the Constitution," which is the reason why the right to Dominican nationality granted to the petitioner by the Constitution of nineteen sixty-six (1966), is acknowledged by the Constitution of two thousand ten (2010).

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3.8. Paragraph 3 of the aforementioned Article 18 of the Constitution states that Dominicans are: Persons who were born on national soil, except for the children of members of foreign diplomatic and consular missions, and foreigners who are in transit or residing illegally in the Dominican territory. Any foreigner defined as such under Dominican legislation is considered in transit. To that end, General Migration Law No. 285 dated July twenty-one (21), two thousand four (2004), in Article 36, paragraph 10 states: "Non-residents are considered to be persons in transit for purposes of applying Article 11 of the Constitution" (Article 11, of the Constitution of 1966, was replaced by Article 18 in the Constitution of 2010).

3.9. The majority opinion applies these rules to the petitioner's case retroactively to the date of her birth, April 1, 1984, which is tantamount to a violation of the principle of non-retroactivity of the law stipulated in Article 2 of the Dominican Civil Code which states that: "The law provides only for the future{;} it has no retroactive effect."

4. Final Thoughts

4.1. With the utmost respect to the majority position in this decision, we wish to state the following thoughts:

4.1.1. The fundamental premise of the decision (ratio decidendi) that considers persons who have lived in the country illegally for an extended period of time as foreigners in transit or transient foreigners, is an erroneous interpretation, since, in our opinion, people in transit or transient foreigners are those who stay for a short time in a country that is not their final destination, which is not the case of the petitioner's parents, as their extended stay in the country, although illegally, does not classify them as transients or foreigners in transit.

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4.1.2. As a result of this restrictive interpretation and retroactive characterization, this ruling defines the petitioner as a foreigner in the country in which she was born, waiving the binding precedent previously established by the Inter-American Court of Human Rights and the Constitutional Block.

4.1.3. Subparagraph Four of this Ruling, on which we base this dissenting opinion, instructs the National Migration Office to grant the petitioner a special permit for temporary stay in the country, until such time as her situation is determined, ignoring her right to reside in her country of origin in which she has developed social and cultural permanent ties, this measure resulting in a penalty due to the migratory status of her parents.

4.1.4. From our viewpoint, this decision contradicts the mission of the Constitutional Court, to preserve the supremacy of the Constitution, respect for human dignity and the full enjoyment of fundamental rights on the basis of equality and in accordance with the Constitutional Block.

5. Proposed solution of this dissenting judge

5.1. We believe, contrary to what has been decided, that the decision of the Constitutional Court should have been to:

5.1.1. Instruct the Central Electoral Board to issue, straightforward, without any conditions, the documents requested by Mrs. Juliana Dequis (or Deguis) Pierre. (The focus of the dispute and the basis for this relief).

5.1.2. Protect and recognize the petitioner's right to Dominican nationality, having been born in Dominican territory, {on} the basis that the Court chose to address an "underlying claim" to the petitioner's complaint.

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Signed: Justice Ana Isabel Hernández.

DISSENTING OPINION OF JUSTICE KATIA MIGUELINA JIMÉNEZ MARTÍNEZ

With all due respect to the majority's opinion reflected in the Ruling and pursuant to the opinions we maintained during deliberations, we feel the need to exercise the powers granted to us under Article 186 of the Constitution, in order to be consistent with our position.

I. Brief summary of the case

1.1. This appeal of the Ruling originates from Mrs. Juliana Dequis (or Deguis) Pierre delivering her original birth certificate to the Civil Registry Center in the Municipality of Yamasá, Monte Plata Province, and requesting the issuance of her identity and voter card. Given the refusal of the Central Electoral Board to issue her that document, the petitioner sent two reminders to the respondent through Bailiff Notice Nos. 705/2009 and 250/2012 dated September sixteen (16), two thousand nine (2009) and May

eighteen (18), two thousand twelve (2012), giving them five (5) and three (3) business days, respectively, to deliver the above-mentioned document.

1.2. Since two thousand seven (2007), the Central Electoral Board has issued administrative rulings, first by Circular No. 017, dated March twenty-nine (29), two thousand seven (2007), signed by the then-presiding justice of the Contentious Court, instructing the officers of the Civil Registry to "examine carefully" the applications for certificates of citizenship, alleging that "in the past, birth certificates were issued illegally to foreign parents who had not provided proof of legal residence in the Dominican Republic." This was endorsed by the Plenary of the Central

Electoral Board through Resolution No. 12-07 dated December ten (10) of that same year.

1.3. Juliana Deguis was informed that the Central Electoral Board had rejected her request on the ground that she was registered illegally in the Civil Registry Office in Yamasá, under the premise that she is the daughter of Haitian nationals with an illegal migratory status.

1.4. It is noteworthy to acknowledge firsthand that, until two thousand ten (2010), the Dominican Constitution recognized as Dominican citizens those who were born in Dominican territory based on the jus-soli principle, except for the children of diplomats and foreigners in transit,160 and Immigration Law No. 95 of nineteen thirty-nine (1939) which limited to ten (10) days the period of time defined as in transit. The {petitioner's} parents were foreign laborers that arrived in the country under the Modus Operandi Agreement with the Republic of Haiti, dated December sixteen (16), nineteen thirty-nine (1939) and Resolution No. 3200, issued by the National Congress, which approved the Agreement between the Dominican Republic and the Republic of Haiti on Temporary Haitian laborers, Official Gazette NQ 7391 of February 23, 1952.

1.5. In two thousand four (2004), General Migration Law No. 285-04 was approved; it denies citizenship to all illegal residents and acquired constitutional status in the Constitution of January 26, 2010. The petitioner, Juliana Dequis (or Deguis) Pierre, was born on April one (1), nineteen eighty-four (1984), that is, before the implementation of the migration law of two thousand four (2004) and the new Constitution of two thousand ten (2010).

160 Dominican Republic Constitution of 1966.

1.6. On May twenty-two (22), two thousand twelve (2012), the petitioner, brought an amparo action before the Civil, Commercial {and Labor} Branch of the Court of First Instance in the Judicial District of Monte Plata at the refusal to issue her an identity and voter card, alleging that this situation violated several of her fundamental rights, such as the right to carry an identity and voter card, have worthy employment, register her two children, travel freely and exercise her voting rights; thus, demanding that the Central Electoral Board issue the document in question, but this jurisdiction rejected her request, alleging that she had only presented a photocopy of her birth certificate in support of her request, and thereby issuing Ruling No. 473-2012, which was reviewed on appeal before the Constitutional Court.

1.7. Accordingly, Mrs. Juliana Dequis (or Deguis) Pierre challenged the Ruling in an appeal filed before the Constitutional Court on July thirty (30), two-thousand twelve (2012), requesting reversal of the aforementioned Ruling and approval of the conclusions presented by the amparo court, alleging that the violations of her fundamental rights persist and continue to worsen.

II. Procedural Issues

We have divided our dissent into two parts. First, we will refer to the procedural aspects of the case, which have not been analyzed by the majority of this Court. Then, we will discuss the reasons that lead us to depart from the majority's approach, also in terms of substantive law.

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2. The Constitutional Court does not declare itself lacking jurisdiction, but neither does it explain the special or particular circumstance of this case to justify a change in the case law

2.1. The ruling of the majority of this Constitutional Court departs from previous precedents regarding jurisdiction of the Administrative High Court to hear amparo cases challenging actions or omissions of public administration {agencies}.

2.2. With regard to the issue under discussion, this Constitutional Court had the opportunity to rule, establishing a precedent from its previous Rulings No. TC 0085-12, of 2012, and Ruling Nos. TC 0004-12, TC 003613 and No. TC 0082-13 of 2013, whereby it declared its lack of jurisdictional authority to hear these types of actions, pursuant to Article 75 of Legislation No. 137-11; therefore, it deferred to the contentious administrative jurisdiction. By not doing so in this case, it revokes the rules of jurisdiction, which is a matter of public order.

2.3. Indeed, this case is about the refusal of the Central Electoral Board to issue the petitioner's identity and voter card, to which the Court, in the issue of admissibility, should have declined to hear the case and remanded it back to the administrative court, as this authority holds greater affinity with the issue. The majority of this Court itself recognizes this point in its Ruling to which we dissent, stating "that in view of the elements that make up this case, the legal competence to hear the case corresponded to the

Contentious Administrative Court, which is why there should be a repeal of the Ruling and the case remanded to the latter Court."161

161 Page 17 of this Ruling.

2.4. Therefore, as clearly indicated in Ruling No. TC/0004/13 "if the case relates to an action for amparo against acts or omissions of public administrative entities, Article 75 of the aforementioned law states that jurisdiction falls within the purview of the contentious administrative court."162

2.5. However, in the Ruling, the majority invokes procedural economy as a reason for the Court to hear the merits of the case, which is why it is worth asking why this principle should apply in this case and not in cases mentioned by the dissenting judge.

2.6. Hence, not having indicated any peculiarity in this case to reasonably justify the change in precedent, the Constitutional Court modifies the previous precedent set in Ruling No. 0094/13, which states that "the value of the continuity of the legal approach is that the amendment thereof, without proper justification, is a violation of the principles of equality and legal certainty."163 However, as indicated by the aforementioned Ruling, this does not imply that the legal criteria cannot change, but when the change occurs, it must be properly motivated, which involves exposing the reasons for the new criteria."164 Accordingly, it was imperative for the Constitutional Court to indicate the reasons that have caused the changes in precedent in this case.

2.7. It is necessary to emphasize that, as a result, the principle of procedural economy may hereinafter be relied upon by any citizen wanting to bring its case before the Constitutional Court, even if the legal mandate is to refer the matter to the Administrative High Court or any other court.

162 Paragraph d on page 5 of Ruling No. TC/0004/12. 163 Paragraph 1 on page 12 of Ruling No. TC/0094/13. 164 Paragraph q on page 14 of Ruling No. TC/0094/13 (Emphasis added).

3. Factual issues are not to be resolved in cases under amparo review, and in this case, the majority of this Court has proceeded to analyze issues of ordinary law

3.1. The majority of this Court devotes all 50 pages of Section III, related to the petitioner's non-compliance with legal requirements for obtaining the identity and voter card, to address an issue which should not have been heard by this Court in the first place, as this issue was under the jurisdiction of the Administrative High Court; and secondly, though empowered to hear amparo cases, this Court becomes involved in situations where both Legislation No. 659 on Civil Registry Records165 and the Civil Procedure Code166 provide the proper procedure for reporting irregularities of certificates issued, particularly when the situation relates to general matters.

3.2. Indeed, the Ruling itself states that the Central Electoral Board has submitted one thousand eight hundred twenty-two (1822) requests for cancellation of invalid and duplicate167 birth certificates, which, at the time of the issuance of this Ruling, the Court had no knowledge of whether or not those certificates, including that of Juliana Deguis, had been seen by the competent trial judge in order to determine their validity. Accordingly, this Constitutional Court moved forward in determining the irregularity of the certificate, although this decision is out of its purview.

3.3. For example, it is worth mentioning Ruling No. TC0016-13 in which this Constitutional Court establishes that both the doctrine as well as the comparative constitutional case law, have stated that the determination of facts, {and} the interpretation and enforcement of the law, are in the
165 Article 31 of Law No. 659 of 1944 regarding Civil Registry Records. 166 Article 214-251 of the Civil Procedure Code. 167 Page 39 of this Ruling.

purview of the regular judge; therefore, the scope of the constitutional judges' actions are limited to the confirmation that, in applying the law, there has not been a violation of constitutional rights. This Court believes that the nature of the amparo appeal prevents raising before a constitutional agency ordinary legal issues, whose interpretation is not a function of this Court.168 Similarly, we can also mention the precedents set forth in Ruling Nos. TC/0017/13 and TC/0086/13 of 2013.

3.4. Therefore, in deciding upon the legal requirements necessary to obtain a birth certificate, the majority opinion of this Court ignores previous precedents related to jurisdiction, since both Article 31 of Law No. 659 of nineteen forty-four (1944) and Articles 214 to 251 of the Civil Procedure Code grant jurisdiction to hear cases of falsified birth certificates to the Judge of First Instance. This, in addition to other reasons, has provided us a firm determination to issue this dissenting opinion.

III. Substantive issues

Although we do not divert from our position stated in sections 2 and 3 of this opinion, we will discuss the substantive aspects of the case addressed by the majority opinion, since as the decisions of this Constitutional Court are final, irrevocable and binding, we would be remiss if we did not mention the legal grounds which lead us to also differ substantively from the Ruling, particularly, in terms of the fundamental issues such as the concept of nationality, the acquisition of Dominican nationality, the

binding nature of the decisions of the Inter-American Court of Human Rights, the principle of transit, the legal concept of “margin of appreciation,” {and} the state or condition of “statelessness,” among others.

168 Page 14 and 15 of Ruling TC/0017/13 (Emphasis added).

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The development of the second part of this dissenting opinion contains the following points: 4. A case of denationalization; 5. The acquisition of Dominican nationality; 6. Review of compliance controls which should have been exercised by the Constitutional Court. Effects of our domestic law of the ruling in the September 8, 2005 case of the Yean and Bosico Girls vs. Dominican Republic, rendered by the Inter-American Court of Human Rights; 7. The application of the national margin of appreciation; 8. The petitioner, Juliana Deguis, becoming stateless by being divested of her Dominican nationality; 9. Contradictory measures of the fundamental principles and holding of the Ruling; and 10. The application of the inter comunis effects of the Ruling.

4. A case of denationalization

4.1. It is worth noting that, in this Ruling by the majority of the Court, there is an obvious confusion regarding migration issues as it applies to denationalization, which, as stated earlier, falls within the purview of the Administrative High Court, under whose administrative authority the omission was made.

4.2 The undersigned has always maintained that this appeal of the ruling in the amparo action does not merely involve migratory issues related to the rights of an undocumented person, but of divesting that person of the nationality based upon the registration by an officer of the Civil Registry Office, who registered her as a Dominican based upon the Constitution in effect at the time of birth and the law in effect up until two thousand four (2004).

4.3. Paragraph 11.1.2 of the Ruling discusses the authority charged with regulating nationality, both domestically and internationally. However, this dissenting judge realizes that this was unnecessary, because, in this case,

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the argument was not whether the Dominican government had the authority to stipulate the rules for obtaining Dominican nationality, but rather, whether the procedures used to withhold the original birth certificate and deny issuance of the identity and voter card violated the petitioner's fundamental rights.

4.4. Indeed, the fact that the determination of how nationality is obtained is, in principle, a discretional issue for each State, consideration should have also been given to the fact that international law, incorporated by the Constitution, under Articles 26 and 74 of the Constitution, in accordance with the comprehensive protection of fundamental rights, imposes certain discretionary limitations on the State. Moreover, the Inter-American Court of Human Rights ruling against the government of the Dominican Republic in the case of the Dominican-Haitian Yean and Bosico Girls, which we will refer to later, reinforced the notion that nationality has become more than a simple attribute granted by the State to its citizens; it is, rather, a fundamental right in itself.169 It is salient that, once these regulations have been created, they must be applied equally to all situations without discrimination, for which it is necessary to refer back to the effective date of the Law, including the Constitution.

4.5. In this regard, without diverting from our position explained in sections 2 and 3 of this opinion, as indicated, in this instance, contrary to the assertions of the majority justices in the Ruling, the analysis should not have been whether the petitioner is entitled to the Dominican nationality, since she already has it, but, again, whether or not the mechanisms used by the Central Electoral Board in this case violated her fundamental rights. The Ruling by the majority of this Court asserts that the birth certificate of the petitioner is under investigation by the Central Electoral Board, and
169 See Eduardo Jorge Prats. The Right to Nationality. Hoy Newspaper. October 14, 2005.

with respect to this issue states that "once the legal situation regarding the petitioner's birth certificate, which is under investigation and currently held by the Central Electoral Board, has been resolved, it should determine whether she meets the conditions for acquiring Dominican nationality under that document, in her status as the child of foreign immigrants in transit born in the country."170

4.6. To illustrate, we transcribe Article 31 of Law No. 659 of July seventeen (17), nineteen forty-four (1944), regarding Civil Registry Records:

Article 31. Any person may request copy of records held in the Civil Registry Office. These copies, issued in accordance with registrations authenticated by the Presiding Justice of the Court of First Instance or by an appointee in that jurisdiction, will be considered valid, so long as they have not been determined to be false, and provided that the originals were drafted within the statutory deadlines. The proceedings regarding late registrations which did not follow proper procedures may be challenged by all legal means, and the justices will determine the truthfulness of these cases.171

4.7. Regarding the validity of these records and the procedure to be implemented in pursuing their cancellation, the Supreme Court of Justice has ruled as follows: WHEREAS, as a result, it is imperative to infer that the affidavits of birth made by the father of a child within the legal time

170 Page 41, paragraph s of this Ruling. 171 Cfr. Art. 45, Civil Code of the Dominican Republic. See also Art. 6.c) of Law No. 659 dated July 17, 1944 regarding Civil Registry Records establishing the provisions regarding records and death certificates.

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frame, properly registered in the corresponding registry by competent officers of the Civil Registry Office, and the copies issued pursuant to those authenticated records, as in the present case, are irrefutable records, unless they are proven to be false, which, as already noted, are evident from the legal provisions governing their validity.172

5. Acquiring Dominican nationality

5.1. Regarding the acquisition of Dominican nationality, the Constitutional Court's Ruling, the contents of which we reject completely, states the following: a) In the Dominican Republic, a person can acquire Dominican nationality through parentage, i.e., by consanguinity or "right of blood" (jus sanguinis); and, also by place of birth, i.e., by "right of soil" (jus soli). In addition to these two forms, there is a third called "naturalization," whereby the State grants sovereign citizenship to foreigners who request it and meet the requirements and formalities of each country … .173

5.2. Accordingly, the majority opinion of the Constitutional Court itself on page 41{sic} provides a concept of jus soli stating: "the following is meant by jus soli: "Right of Soil. A system allocating nationality whereby the criterion for granting nationality is based upon the place of birth, regardless of whether or not the ancestors were from that place; it is contrasted by jus sanguini." Spanish-American Legal Dictionary, Volume I (a/k), cited above, p. 1210 (word "jus soli")."174

172 Supreme Court of Justice Civil Branch ruling dated July 10, 2002, No. 7. 173 Paragraph 2.1.1. on page 47 of this Ruling. 174 Footnote No. 44 on Page 47 of this Ruling (Emphasis added).

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5.3. In fact, the prior concept of jus soli is in tune with various regulatory provisions in effect at the time, such as the Civil Code, which, in its Article 9, provides that Dominicans are: First – All persons who are born or were born in the Republic, regardless of the parents' nationality. For purposes of this provision, the legitimate children of foreigners residing in the Republic during service or representation of their country of origin will not be considered born in the Republic's territory.

5.4. In addition, Immigration Law No. 95 of April fourteen (14), nineteen thirty-nine (1939), in the paragraph of Article 10, provided that "People born in the Dominican Republic are considered nationals of the Dominican Republic, regardless of whether or not they are nationals of other countries. As a result, they are required to possess the same documentation as nationals of the Dominican Republic."

5.5. Likewise, the Constitution of nineteen sixty-six (1966), in effect on the day of the petitioner's birth, i.e., April first (1), nineteen eighty-four (1984), states in Article 11.1 of such Magna Carta, that Dominican nationality can be acquired by "[…] 1. Persons born in the territory of the Republic, except the legitimate children of foreign diplomats residing in the country or in transit."

5.6. However, the series of arguments presented in the above Ruling determines that the petitioner fits exactly within the aforementioned constitutional exception, not only because she was born in the country, but also, because she is the child of foreign citizens (Haitians) who, at the time of her birth, were in transit in the country. Note that, in fact, as previously demonstrated, her father, Mr. Blanco Dequis (or Deguis), declarant of the birth, identified himself before the Officer of the Civil Registry Office of Yamasá using "record" or "document" 24253; and the mother, Mrs. Marie

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Pierre, was the owner of "record" or "document" 14828.175 Therefore, it can be concluded that the petitioner's father and declarant of her birth was a Haitian migrant laborer, who was in the country to perform industrial or agricultural work, and had not been issued a personal identity card at the time he made the affidavit of birth of his daughter before the Civil Registry Office in the Municipality of Yamasá.176

5.7. With regard to the allegation that her parents had no Dominican identity cards, it is necessary to note that in the Yean and Bosico case the Court had already determined that: "this Court considers that the State, in establishing the requirements for late registrations of birth, shall take into account the particularly vulnerable situation of Dominican children of Haitian descent. The requirements should not be an obstacle to obtaining Dominican nationality and should consist only of what is indispensable to establish that the birth occurred in the Dominican Republic. In this regard, identity of the child's father or mother should not be limited to their identity and voter cards, and, for this purpose, the State must accept other suitable public documentation, since the identity and voter card is an exclusive right of Dominican citizens. In addition, the requirements must be impartial and clearly identified, and its application should not be left to the discretion of state officials, so as to guarantee the legal rights of the

people using this process, and also to effectively guarantee the rights invoked by the American Convention pursuant to Article 1.1. of the Convention.177

175 As of September 17, 2003, these are to be considered documented migrant laborers or in regular status pursuant to the concept published in Advisory Opinion OC-10/03, regarding Legal Status and Rights of Undocumented Migrants. U.N.O., International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families dated December 18, 1990, Article 5.a. 176 Emphasis added. 177 The Yean and Bosico Girls Case. Ruling of the Inter-American Court of Human Rights dated September 8, 2005. Paragraph 240. (Emphasis added).

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5.8. In fact, under the law in effect at that time, Juliana Deguis's parents were or are foreigners, specifically Haitians, who were allowed to enter into the country to work within the framework of a bilateral agreement between the two countries, so that it is absurd to define them as foreigners in transit, particularly when they were holding documents that credited them as seasonal laborers. Keep in mind, also, that Immigration Law No. 95 of nineteen thirty-nine (1939) had implemented a ten (10) day limit for foreigners "in transit."178

5.9. In addition, the undersigned does not share the view that such illegal situation is transferable to their offspring as such requirement was not included until the Constitution of two thousand ten (2010), when the Court broadened the spectrum of the exception to the principle of jus soli, by including foreigners residing illegally in Dominican territory. This extension shows that, in the Constitution of nineteen sixty-six (1966), the term "transit" did not include illegal aliens, as argued in the Ruling by the majority of this Court, an argument that filters the retroactive application of the Constitution of two thousand ten (2010) to a citizen born on April one (1), nineteen eighty-four (1984).

5.10. The current case deprives the petitioner of the Dominican nationality she had acquired based on the principle of jus soli, by relying upon the immigration status of the parents; this Court devoted many pages of its Ruling to explaining their immigration status, which was unnecessary, because, according to Juliana Deguis's birth certificate, which was withheld "for investigative purposes," she was born on Dominican soil and, pursuant

178 See the Yean and Bosico Girls case. Inter-American Court of Human Rights Ruling dated September 8, 2005, paragraph 157: "The Court notes that, to consider a person transient or in transit, regardless of the classification used, the State must observe a reasonable time limit, and be consistent with the fact that a foreigner who develops ties within a State cannot be equated to a transient person or a person in transit."

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to the Constitution in effect at that time, was entitled to Dominican nationality by jus soli.

5.11. Therefore, the Court concludes that: 17) In this case, Mrs. Juliana Dequis (or Deguis) Pierre has not proven in any way that at least one of her parents had legal residency in the Dominican Republic at the time of her birth (currently under constitutional appeal) or subsequently. In fact, the petitioner's affidavit of birth document evidences that her father, Mr. Blanco Dequis (or Deguis), declarant of her birth, was a Haitian seasonal laborer, i.e., a foreign national in transit, as was her mother, Ms. Marie Pierre. Therefore, according to this Constitutional Court, the petitioner has not met the requirements prescribed in Article 11.1 of the Constitution of 1966, as previously demonstrated.179

5.12. The above is evidence that this Court has disassociated itself from the ruling issued by the Inter-American Court of Human Rights on September 8, 2005, in which it established, among other things, the following: The Court considers it necessary to note that the legal duty to respect and guarantee the principle of equality, without discrimination, is irrespective of the immigration status of any person in any State. In other words, the States have an obligation to ensure this fundamental principle to its citizens and to any foreign person in its territory, without discrimination because of regular or irregular length of stay, nationality, race, gender, or any other cause.180

5.13. It is well known that the issue of migrant children's right to citizenship in the Dominican Republic was judged by the Inter-American

179 Paragraph 1.1.14.6. on page No. 66 of this Ruling.

180 Paragraph 155 in the Yean and Bosico Girls case. Ruling of the Inter-American Court of Human Rights dated September 8, 2005, paragraph 157.

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Court of Human Rights, whose jurisdiction was recognized by the Dominican Republic on March twenty-five (25), nineteen ninety-nine (1999). And, among other things, stated the following on the subject:

As stated, and in accordance with the right of migrant children to nationality in the Dominican Republic with respect to the relevant constitutional principles and international standards of protection to migrants, the Court finds that:

a) the migratory status of a person cannot be a condition for States to grant nationality, since their migratory status cannot constitute, in any way, a justification for depriving them of the right to nationality or the enjoyment and exercise of their rights;

b) the migratory status of a person is not transferable to the children, and

c) the only requirement necessary to demonstrate the acquisition of nationality for persons who would, otherwise, have no right to any other nationality, if they had not acquired the nationality of the State in which they were born, is that the birth occurred in the State's territory.181

5.14. Organic Law of the Constitutional Court and of the Constitutional Procedures No. 137-11 provides that one of the guiding principles of the constitutional justice system is, precisely, its binding nature. Hence, "the interpretations adopted or made by international courts on the subject of

181 Ibidem. Paragraph 157. (Emphasis added by the author of this opinion).

human rights are binding precedents for all public authorities and State agencies," from which the Constitutional Court cannot be excluded. To the contrary, this Court would be the one most subjected to observing the "international res judicata" in its role as supreme and ultimate interpreter of the Constitution, defender of the constitutional order, and the effective and adequate interpretation and protection of fundamental rights.

6. Compliance review that should have been exercised by the Constitutional Court. Effects on our domestic law in the ruling of the Yean and Bosico Girls vs. Dominican Republic case of September 8, 2005, rendered by the Inter-American Court of Human Rights

6.1. As previously indicated, the Ruling by the majority of this Court ignores the binding nature of rulings issued by the Inter-American Court of Human Rights, particularly in a case similar to this case, that addresses the same issues for which the Dominican Republic was previously adjudged to have violated, to their detriment, the legal rights to nationality and equality of the (Yean and Bosico Girls), in contravention of the American Convention provisions in Articles 20 and 24, respectively.

6.2. Therefore, all State authorities are obliged to exercise, ex officio, "a review of compliance" between domestic law and the American Convention, in the framework of their respective competences and relevant procedural regulations. This entails taking into consideration not only the treaty, but also the interpretation made by the Inter-American Court, and the ultimate interpretation made by the American Convention.182

182 Cfr. Alonacid Arellano et. al vs. Chile, Par. 124; Gomes Lund et al. (Guerrilha do Araguaia) vs. Brasil, Par. 176, and Cabrera García and Montiel Flores vs. México. Preliminary Objection, Merits, Reparations and Costs. Ruling of November 26, 2010, Series C No. 220, Par. 225. See also Gelman vs. Uruguay, Par. 193, and Furlan and Family vs. Argentina Case, Par. 303.

6.3. Under Inter-American case law, the doctrine of compliance review was conceived as an institution to apply international law, namely, international human rights law and specifically, the American Convention and its sources, including the laws of that Court.

6.4. The obligation to comply with the decisions of the Inter-American Court of Human Rights follows a basic principle of law on the State's international responsibility, supported by international case law, by which the State, in good faith, must abide by the international treaty (pacta sunt servanda), and in accordance with the provisions of Article 27 of the Vienna Convention on the Law of Treaties of nineteen sixty-nine (1969), governments cannot, for domestic reasons, fail to take responsibility for internationally established laws.183 The obligations of the participating states in the treaty is binding on all governmental authorities and agencies, i.e., all branches of the government (Executive, Legislative, Judicial, and other branches of governmental authority) and other public and state governmental authorities, at all levels, including the highest courts, having the duty to comply with international laws in good faith, including the Constitutional Court of the Dominican Republic.184

6.5. Certainly, the conventional mechanism requiring judges and judicial agencies to prevent potential human rights violations makes sense, and must be addressed internally taking into account the Inter-American Court's interpretations, and only if in opposition, can it be considered by this Court, in which case a supplementary compliance review shall govern.

183 Cfr. Case of Garcia Asto and Ramirez Rojas. Supervising Compliance with the Ruling. Decision of the Inter-American Court of Human Rights of July 2007. Sixth Recital Clause; Molina Theissen Case. Supervising Compliance with the Ruling. The Inter-American Court of Human Rights Decision of July 10, 2007. Third Recital Clause; Bámaca Velásquez Case. Supervising Compliance with the Ruling. The Inter-American Court of Human Rights decision of July 10, 2007 Third Recital Clause. 184 See paragraph 59 of Gelman vs. Uruguay of the Inter-American Court of Human Rights dated March 20, 2013.

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6.6. Furthermore, in terms of compliance review, it is possible to distinguish two different interpretations of the government's obligation to exercise such control, depending upon whether the ruling was issued in a case in which the government was a party or not. This is because the interpretation and application of the standard rule acquires a different linkage, depending on whether or not the government was a material participant in the international process. Note, that in this

dissenting opinion, we have emphasized a ruling by the referenced Court in which the Dominican Republic had participated and a decision was made with respect to the fundamental rights to nationality, which is the matter under discussion.

6.7. With respect to the first interpretation, i.e., when there has been an international "res judicata" determination with respect to any government that participated in a case under the jurisdiction of the Inter-American Court, all of its agencies, including judges and other organisms linked to the administration of law, are also subject to the treaty and the Court's ruling, which requires them to ensure that the provisions of the Convention, and, therefore, the decisions of the Inter-American Court, are not being undermined by the application of rules contrary to its objective and purpose or by legal or administrative decisions that make illusory the total or partial compliance of the ruling.185 Thus, in this case, one is faced with international res judicata, and, therefore, the government is required to abide by and enforce the ruling. Note, then, that in certain cases, the InterAmerican Court will have jurisdiction to review the actions of national judges, including the proper exercise of "compliance review," inasmuch as the Inter-American Court has the authority to consider whether the governments' actions under the structure of the American Convention on 185 See Paragraph 68 Gelman vs. Uruguay of the Inter-American Court of Human Rights. The Inter-American Court of Human Rights Decision dated March 20, 2013. Gelman vs. Uruguay (Emphasis added).

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Human Rights, its additional protocols and the Inter-American Court's legislations, are compatible, because that would determine whether it has complied with the commitments made by the state in question.

6.8. Therefore, "60. The duty to comply with treaty laws is an obligation of all authorities and domestic agencies, regardless of their affiliation with the legislative, executive or judicial branches, so long as the government responds as a whole and acquires international responsibility for failure to enforce the international legislations it has undertaken …"186 The purpose is to prevent the State, to which they belong, from becoming internationally responsible for violating international human rights commitments.

7. Application of domestic margin of appreciation

7.1. Margin of appreciation refers to an interpretive criterion that defers to the signatory states of an international treaty the ability to decide certain difficult issues, particularly those related to controversial moral issues. It is a doctrine created by the European Court of Human Rights, which is frequently used by its magistrates. Not so in the Inter-American human rights system. Quite the opposite; the Inter-American Court's case law suggests an increased distancing from any application of the margin of appreciation.187

7.2. To ignore the binding nature to which we have referred, the Constitutional Court relies on the proposition of "domestic margin of appreciation." In fact, the majority of this Constitutional Court considers

186 Separate Opinion of Ad Hoc Justice Eduardo Ferrer Mac-Gregor Poisot in connection with the Ruling of the InterAmerican Court of Human Rights in Cabrera García and Montiel Flores vs. México dated November 26, 2010. 187 Artavia Murillo et al. ("in vitro fertilization") vs. Costa Riva, Ruling on Preliminary objections, merits, reparations and costs, of November 28, 2012.

that it is feasible to apply the theory of "margin of appreciation" to the present case, with respect to the meaning and scope of the concept of foreigners in transit, because the question of nationality is a particularly sensitive topic for all sectors of Dominican society. In this respect, it is understood, as discussed in previous pages, that foreigners lacking residential authority must be assimilated into the category of foreigners in transit, which, as explained above, is a distinctive opinion of Dominican constitutional and migratory rights, under which the children in this category do not acquire Dominican nationality, even though they were born in the country.188

7.3. Now, can one speak of margin of appreciation when the legal matter of (in transit) was already determined by the Inter-American Court of Human Rights? In this instance, a few doctrinaires have expressed their opinion stating that when the Court requires the exercise of the compliance review not only with regard to domestic law vs. treaty law, a matter that clearly falls under the responsibility of the legislative branch, but, also, as it relates to the interpretation by the court issuing the legislation, which is already part of its jurisdiction, the exercise of the margin of appreciation by domestic bodies becomes minimal.189 To this we add that one cannot speak of margin of appreciation when there has already been a finding by the Inter-American Court on an issue that has been decided by this Court in the Ruling to which we object.

7.4. Also, the doctrine is challenged in the sense that allowing governments a margin of appreciation upon implementation and, therefore,

188 Paragraph 2.12 on pages 72 and 73 of this Ruling. 189 Delpiano Lira, Cristián y Quindimil López, Jorge Antonio. "The Protection of Human Rights in Chile and the Domestic Margin of Appreciation: Legal Basis Since the Democratic Consolidation." Virtual Law Library Legal Research Institute of the UNAM. P. 21.

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interpretation of the law, conflicts with the effective protection of human rights, since the Court applying the margin of appreciation is a member of the structure that is currently one of the most effective in protecting those rights,190 so that, contrary to the decision by the majority of this Court, it is not possible to assert the margin of appreciation standard in this case.

8. The petitioner, Juliana Deguis, devoid of her nationality, is stateless

8.1. As noted by the majority of this Court, under Article 1 of the Convention to Reduce Statelessness, "each participating State shall grant nationality to a person born in its territory who would otherwise be stateless."

8.2. Furthermore, Article 7 of the Convention on the Rights of the Child provides that the Child shall be registered immediately after birth and have the right to a name, to a nationality and, to the extent possible, to know the parents and be cared for by them. 2. The Signatory States shall ensure the implementation of these rights pursuant to their domestic legislations and the obligations assumed under the scope of relevant international agreements, particularly, when the child would otherwise be stateless.

8.3. Likewise, the 1948 Universal Declaration of the Rights of Man, in its Article 15, states that "everyone has the right to a nationality. No one shall be arbitrarily deprived of his nationality or be denied the right to change his nationality."

190 Benavides Casals, Maria Angelica. "Consensus and the Margin of Appreciation for the Protection of Human Rights." Ius et Praxis Magazine, 15(1): 295-310, 2009.

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8.4. However, the Constitutional Court alleges that none of the international laws cited applies to the case under review or any other similar cases or of the same nature. In fact, such refusal by the Dominican State to grant nationality to the children of foreigners in transit under no circumstance generates a condition of statelessness. In the particular case of the children of Haitian parents in transit, it is worth noting that Article 11.2 of the Haitian Constitution of 1983, which applies in this case, expressly states that any individuals born abroad of Haitian father and mother shall be entitled to Haitian nationality.191

8.5. Thus, with respect to the right to nationality of the children of Haitians in the Dominican Republic, the inapplicability of jus soli is based upon the jus sanguini principle provided under the Haitian Constitution, by virtue of which the children of Haitian nationals "are tied to the Haitian nationality in perpetuity, thus, the loss of nationality is impossible once it has been acquired by birth or later."

8.6. It is necessary to transcend the erroneous belief that the Jus Sanguinis excludes the Jus Soli, i.e., if the Constitution of the country of the ancestors of the child born in another territory provides for the possibility of the child acquiring the nationality of his or her ancestors, the child loses the right to nationality from his or her place of birth. Generally, both criteria (jus soli and jus sanguinis) are not mutually exclusive; rather, they are combined by the laws of the majority of countries. However, when it comes to acquiring a nationality that was not acquired by birth, usually the ways to acquire it are by marriage, naturalization, or by choice. None of these cases automatically confer citizenship. However, the position of the majority of this Court is: to exclude the right to Dominican nationality by jus sanguinis in the Haitian Constitution, which sets an 191 Paragraph 3.1.2. on page 75 of this Ruling.

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exception that is not contained in either the Dominican Constitution of 1966 or the current one of 2010.192

8.7 In addition, it should be noted, as a doctrinaire of the Dominican constitutional law has done, that natural citizenship (whether by jus soli or by jus sanguinis) arises directly and operationally from the Constitution in favor of those born in Dominican territory; whereas, it infers that the law regulating nationality has a duty to assign such nationality and in so doing, shall not adjust it to suppress certain category of individuals. The territorial nationality (jus soli) depends on an involuntary fact which affects a human being, who, at the time of birth, has no initial nationality other than the one granted by the Constitution. This constitutional mandate is granted to those individuals, who are not included in any of the situations limited by the Constitution, exceptional situations which must be interpreted in a restrictive sense.193

8.8. In addition, neither Article 11 of the Constitution of nineteen sixtysix (1966), nor Article 18 of the Constitution of 2010, exclude Dominican nationality if nationality is acquired through affiliation with descendants (jus sanguinis). The exceptions have been the children of diplomats and those who were in transit, and illegal residents in Dominican territory, which exception was added in two thousand ten (2010), making applicable the legal interpretation of the term “where the rule does not distinguish, it is not up to the interpreter to make the distinction. Therefore, it is not legally feasible to conclude by these means, any implied constitutional regulations that conflicts with the text of the Constitution itself.”194

192 See paragraph 8.8 of this dissenting opinion. 193 Eduardo Jorge Prats. The Right to Nationality. Hoy Newspaper. October 14, 2005. 194 Ruling 317/12 of the Colombian Constitutional Court.

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8.9. In addition to the above, it is worth remembering the provisions of Article 19 of the American Declaration of the Rights and Duties of Man, which states that "every individual has the right to the nationality to which he is legally entitled, and the right to change it, if desired, for that of any other country that is willing to grant it."

8.10. Therefore, the refusal by the Dominican Republic to apply the jus soli based on the Haitian Constitutions jus sanguinis places the petitioner, Juliana Deguis, in a stateless condition, since she would have to undergo a process whose duration would render her devoid of any legal identity and vulnerable, a situation exacerbated by the fact that the petitioner has no ties to Haiti, and is not just stateless, but is also being forced to become Haitian.

8.11. The undersigned understands that the measures adopted by the Central Electoral Board, as well as those contemplated by the Court's Ruling, which gave rise to Ms. Juliana Deguis' situation, if continued during an extended period of time could leave the petitioner and thousands of other people also affected by this Ruling in a state of legal uncertainty, remaining stateless while their cases are resolved; as it would serve them no purpose to have their birth certificates returned to them, if the Ruling considers them to be irregulars. And, pursuant to the criterion of the majority of this court, Ms. Juliana Dequis (or Deguis) Pierre, while she was born in Dominican Republic, is the daughter of foreigners in transit, which deprives her of the right to be granted Dominican citizenship in accordance with the provisions of Article 11.1 of the Dominican Constitution, enacted on November twenty-nine (29), nineteen sixty-six (1966), and in effect on the date of her birth.195

195 Subparagraph two of the Court's holding. Page 96.

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8.12. In fact, denationalization produces statelessness. Being aware of this, the majority of this Court proposes fleeting alternatives with useless effects by asking the National Migration Office to issue a special permit to Ms. Juliana Dequis (or Deguis) for temporary stay in the country, until such time as the domestic plan for legalizing the status of illegal foreigners residing in the country, as provided in Article 151 of General Migration Law No. 285-04, determines the requirements necessary to formalize these types of cases.

8.13. Thus, in the Yean and Bosico Girls ruling, the Inter-American Court of Human Rights case law states that "a stateless person has no recognizable legal identity, as he/she has not established any legal or

political link with the State; therefore, identity and nationality are prerequisites to the recognition of a legal identity.196

8.14. Similarly, the Inter-American Court of Human Rights has indicated that "the lack of recognition of legal identity injures the human dignity, as it absolutely denies their fundamental rights and makes them vulnerable to non-enforcement of their rights by the State or by private persons." 197

8.15. Accordingly, the Court ordered the Dominican government to take legislative and administrative measures and resources to issue birth certificates, particularly to people of Haitian descent born in the Dominican Republic, who would otherwise be stateless;198 therefore, after nine years of the ruling being issued, our country is in violation of its international obligation to comply with the supranational Court's decision.

196 Paragraph 178. Inter-American Court of Human Rights. The Yean and Bosico Girls vs. Dominican Republic. 197 Paragraph 179. Idem. 198 Paragraph 239. Idem.

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8.16. And, furthermore, in its November 23, 2006 ruling, the InterAmerican Court of Human Rights dismissed the request for interpretation of the ruling on preliminary objections, merits, reparations and costs filed by the Dominican State in connection with the Yean and Bosico Girls case. It specified that:

21. In its request for interpretation, the Dominican State divided the claims into four paragraphs …. In paragraph c) regarding statelessness,199 it indicated that the girls were never stateless, since they could have acquired Haitian nationality200 from their grandparents…22. From the foregoing, the Court notes that in the above-mentioned paragraphs the State seeks to contest the provisions of the ruling which argues first, that Dilcia Yean and Violeta Bosico were born in the Dominican Republic and are, therefore, Dominicans under the jus soli principle, as evidenced in paragraphs 109.6, 109.7, 109.12, 144 and 158 of the aforementioned ruling. Second, the Dominican State rejected the provisions established in paragraphs 173 and 174 of the Ruling, which provide that the State is internationally responsible for breaching its obligation to guarantee the fundamental rights pledged in the American Convention," by engaging, to the detriment of Dilcia Yean and Violeta Bosico, in the "arbitrary deprivation of their nationality, leaving them stateless for over four years and four months, in violation of Articles 20 and 24 of the American Convention, in connection with Article 19 thereof."

199 Emphasis added. 200 Emphasis added.

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8.17. From the above we see that, first, this Constitutional Court, based on exactly the same criteria as that of the Dominican State's claim that was dismissed, has decided the case against Juliana Deguis, with the aggravating factor that it seeks the adoption of retroactive measures which would denationalize Dominicans of Haitian descent who are not parties to this appeal. Second, this Ruling threatens another international sanction of the Dominican State.

9. The Ruling contains contradictory measures in its legal grounds and holding

9.1. The Ruling from which we dissent shows a verifiable contradiction, because, although throughout its development the Court supports the theory that Ms. Juliana Deguis's birth certificate was illegal, in its decision the Court adopts the following measures: THIRD: TO STIPULATE, that in return, the Central Electoral Board, in connection with Notice No. 32, issued by the Civil Registry Office on October nineteen (19), two thousand eleven (2011), take the following steps: a) to restore within ten (10) working days from the notification of this decision, the original birth certificate of Mrs. Juliana Dequis (or Deguis) Pierre. Hence, it is worth asking what good will it serve the petitioner to have a birth certificate that the Constitutional Court has stated is not only illegal, but does not grant her Dominican nationality.201

9.2. Furthermore, there are obvious inconsistencies in the Ruling, as evidenced by the statement that the petitioner's birth certificate is illegal

201 SECOND, REJECT, the appeal on the merits, and, therefore, REVOKE the aforementioned Ruling No. 473/2012, since the petitioner, Ms. Juliana Dequis (or Deguis) Pierre, while she was born in Dominican Republic, she is the daughter of foreigners in transit, which deprives her of the right to be granted Dominican nationality, pursuant to the provisions of Article 11.1 of the Dominican Constitution, enacted on November twenty-nine (29), nineteen sixty-six (1966), in effect on the date of her birth. Page 96 of the Ruling.

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and does not grant her Dominican nationality, while on the other hand, "the Board is ordered to submit this document to the appropriate court, as soon as possible, to determine its validity or nullity." Among the reasons for such inconsistencies is the fact that the Constitutional Court, as noted in the development of Article 3 of this dissenting opinion, has chosen to resolve issues of general law, while empowered to hear an appeal of the ruling in the amparo action.

10. The inter comunis effect on the application of the Ruling

10.1. First, it should be emphasized that when point (c) in the third paragraph of the Ruling that stipulates "to proceed in the same manner with respect to all similar cases to this case, showing due

respect to the peculiarities of each one and extending the aforementioned ten (10) day limit as required under the circumstances," violates the principle of relativity in constitutional relief cases, creating ex-parte effects that benefit or harm only those who were part of the appeal. Note, that this Court is empowered to hear the appeal of the Ruling in the amparo action in which the petitioner is Juliana Deguis and the Central Electoral Board, a state entity, is named as the respondent.

10.2. From the above, it can be concluded that the amparo action is wedged between the person or persons reporting a violation of their fundamental rights and the person or persons to whom such violation is imputed. However, this ruling adopts measures which effects are beyond the scope of those who have been part of the process, using as justification the effects of the application of the inter comunis principle, which has been used previously by the Colombian Constitutional Court.

10.3. In this case, the majority of this Court states that it should be noted that the elements making up this case compel the Constitutional Court to

adopt measures that go beyond the particular situation of Mrs. Juliana Dequis (or Deguis) Pierre, granting the ruling inter comunis effects, which tends to protect the fundamental rights of a vast group of people immersed in situations which are factually and legally similar to that of the petitioner. In this regard, the Court considers that, in cases like the one under review, the amparo action goes beyond the scope of the particular violation claimed by the plaintiff, and that the mechanism used should enjoy expansive and binding powers for extending the protection of fundamental rights to others outside of the process who are in similar situations.

10.4. In fact, the Colombian Constitutional Court has ruled that in exceptional cases, where the protection of petitioners' fundamental rights attacks fundamental rights of the unprotected, the Constitutional Court has recognized that the effects of rulings handed down in cases on appeal extend to people who have not filed the appropriate action, on the grounds that granting the amparo protection exclusively to the protected, without considering the effects such action might have on those who have not brought an amparo action, may imply the violation of other fundamental rights.202

10.5. The Colombian Constitutional Court, in Order 244 of July twentythree (23), two thousand nine (2009), justifies the application of the inter comunis effect on the existence of an unconstitutional state of affairs, which is defined through the following criteria:

(i) the massive widespread violation of several constitutional rights affecting a significant number of people; (ii) prolonged omission of the authorities in fulfilling their obligations to guarantee rights; (iii)

202 Cfr. Ruling No. 698/10 of September 6, 2010 by the Colombian Constitutional Court.

the adoption of unconstitutional practices, such as the incorporation of the procedure for ensuring the violated right; (iv) the existence of a social problem whose solution compromises the intervention of several authorities and the adoption of a complex and coordinated set of measures; (vi) judicial congestion that it creates or would create if all those affected availed themselves of an appeal for amparo action to safeguard their rights for the same identical reason.

10.6. However, in this case, the inter comunis effect was not granted in the ruling, because as clearly stated, the purpose of the inter comunis effect is to duly protect the fundamental rights, guaranteeing the integrity and supremacy of the Constitution, which, as we have addressed during the development of this dissenting opinion, does not apply to this case in that the measures taken by the majority of this Board do not effectively safeguard the fundamental rights of the petitioner, leaving her lacking of the Dominican nationality, and, therefore, stateless.

10.7. Therefore, there is no justification or legitimacy to allow modification of the rule according to which amparo rulings have an inter partes effect as, in this case, there is no reason to grant inter comunis effects to the Ruling, since it only provides limited provisional measures that do not benefit the {petitioner} or others in similar situation, as to the effective protection of their fundamental rights. Quite the contrary; the majority of this Court has determined that Mrs. Juliana Dequis (or Deguis) Pierre, although born in the country, is the daughter of foreign nationals in transit, which deprives her of the right to be granted Dominican citizenship pursuant to the provisions of Article 11.1 of the Constitution of the Republic, issued on November twenty-nine (29), nineteen sixty-six (1966), in effect on the date of birth of the petitioner, worsening her situation by stripping her of Dominican nationality, leaving her stateless, and forcing

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her to apply for Haitian nationality. Hence, with regard to the inter comunis effect embraced by the majority of this Court, thousands of people who were born on Dominican soil of Haitian parents, even though they were registered in the Civil Registry, as was Juliana Deguis, shall also be denationalized, particularly when the measures contained in this ruling are retroactive to June twenty-one (21), nineteen twenty-nine (1929).

Finally, and for the reasons stated in the contents of this dissenting opinion, we reiterate our strong disagreement with the ruling reached by the favorable votes of a majority of the Constitutional Court justices.

Signed: Justice Katia Miguelina Jiménez Martínez

I hereby certify that this Ruling was issued and signed by the foregoing justices of the Constitutional Court, during the Plenary Session held on the day, month and year expressed above, and published by me, the Clerk of the Constitutional Court.

Julio José Rojas Báez Clerk

APPENDIX

DOMINICAN REPUBLIC CONSTITUTIONAL COURT RULING TC/0168/13 TRANSLATORS' NOTES & GLOSSARY

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In the official Constitutional Court (the "Court") Ruling, TC 0168/13, we observed omissions of quotation marks, parentheses, punctuation and errors in dates. Additionally, we noticed instances where the Court, in footnotes, indicated emphases were added, but the actual quoted text had no such emphasis. For better reading comprehension, we inserted words where we thought necessary, and where we were able to identify omissions and proper place of insertion, we inserted the omission or additional text with curly brackets { }. These brackets should signify a translator insertion as opposed to alterations made or found in the original decision by the Court. Otherwise, we translated the text as written. We declined to make any emphases that were not originally done by the Court.

SPANISH ENGLISH USAGE/COMMENTS SOURCE accionada defendant Central Electoral Board

accionante plaintiff Mrs. Juliana Dequis (or Deguis)

amparista amparo petitioner Mrs. Juliana Dequis (or Deguis) amparo amparo Most Latin American countries, including the Dominican Republic, have adopted the institution of the amparo proceeding, which is an extraordinary legal remedy against violations of constitutional rights and/or human rights by public officials, government agencies or private individuals. For general background information on the action for amparo in Latin America, please see Hector Fix Zamudio, The Writ of Amparo in Latin America, 13 Law. Am. 361 (1981) or visit: http://www.servat.unibe.ch/jurisprudentia/lit/Amparo_SSRN.pdf amparo en revisión/acción de amparo writ of amparo/amparo action For a brief background on the amparo proceeding in the Dominican Republic, See generally, Stephanie Leventhal, A Gap Between Ideals and Reality: The Right to Health and the Inaccessibility of Healthcare for Haitian Migrant Workers in the Dominican Republic, 27 Emory Int'l L. Rev. 1249, 1279-1283 (2013). comunal community In the context of the European Union or European Community corte/juez a quo court/judge a quo The court/judge from which an appeal has been taken. http://legal-dictionary.thefreedictionary.com/A+quo Corte Suprema de Supreme Court of Justice The Supreme Court has original jurisdiction over For more information regarding the structure of the Dominican

SPANISH ENGLISH USAGE/COMMENTS SOURCE Justicia any cause of action brought against the President, the Vice President, or other public officials, as designated in the Constitution. It hears appeals of cassation and ordinary appeals from matters arising in the Courts of Appeals. Republic judicial system, please visit: http://www.nyulawglobal.org/globalex/dominican_republic1.htm#S UPREMECOURTOFJ Cortes de Apelación Courts of Appeals The Courts of Appeals function primarily as an appellate body and hear appeals from decisions issued by Courts of First Instance. Five judges sit on each of the courts, with the exception of the Courts of Appeals for Minors and the Contentious Administrative Court where a minimum of 3 judges sit. The Courts of Appeals have original jurisdiction in accusations against lower court judges, government attorneys, and provinces. For more information regarding the structure of the Dominican Republic judicial system, please visit: http://www.nyulawglobal.org/globalex/dominican_republic1.htm#S UPREMECOURTOFJ inter comunis inter comunis Ways of distinguishing persons to whom a ruling may apply: erga omnes (includes everyone, general application) inter partes (among the parties to a proceeding) inter pares (among similar proceedings) inter comunis (benefits third parties not part of a proceeding) See Sentencia T-493/05, http://corteconstitucional.gov.co/relatoria/2005/T-493-05.htm See Repertorio constitucional 2008-2011, http://www.corteconstitucional.gob.ec/images/stories/corte/pdfs/rep ertorio_constitucional.pdf For a discussion of the application of rulings under each of these principles, please visit: http://digitalcommons.law.wustl.edu/cgi/viewcontent.cgi?article=12 56&context=globalstudies

ius sanguinis /iure sanguinis

jus sanguinis/jure sanguinis Means "right of blood." The Court uses both terms. Where the ruling uses "ius sanguinis," we use "jus sanguinis" and where it uses "iure sanguinis," we use "jure sanguinis." ius soli/ iure soli jus soli/jure soli Means "right of the soil." The Court uses both terms. Where the ruling uses "ius soli," we use "jus soli" and where it uses "iure soli," we use

SPANISH ENGLISH USAGE/COMMENTS SOURCE "jure soli."

Junta Central Electoral Central Electoral Board Juzgados de Primera Instancia Courts of First Instance The Courts of First Instance are divided into: (a) Courts of First Instance with complete plenitude of jurisdiction which hear all matters; (b) ordinary courts of first instance which are divided into branches to hear criminal, and civil and commercial matters; and (c) specialized courts of first instance which include: Minors and Juvenile Courts; Labor Courts; Land Courts of Original Jurisdiction; Judges for Execution of Sentences; Courts of Control of Juvenile Sanctions and the Courts of Instruction which

have jurisdiction to resolve issues during the preparatory procedures, conduct preliminary hearings, and deliver judgment under the rules of summary proceedings. For more information regarding the structure of the Dominican Republic judicial system, please visit: http://www.nyulawglobal.org/globalex/dominican_republic1.htm#S UPREMECOURTOFJ Ley de Inmigración núm 95 Immigration Law No. 95 Ley General de Migración núm 285-04 General Migration Law No. 285-04 Ley Num. 8/92 sobre Cédula de Identidad y Electoral Law No. 8/92 regarding Identity and Voter Cards Ley Num. 137-11 Orgánica del Tribunal Constitucional y de los Procedimientos Law No. 137-11, Organic Law of the Constitutional Court and of the Constitutional Procedures

SPANISH ENGLISH USAGE/COMMENTS SOURCE Ley Num. 285-04 Ley General de Migración Law No. 285-04, General Immigration Law Ley Num. 659 sobre Actos del Estado Civil Law No. 659 regarding Civil Registry Records Ley Num. 6125 de Cédula de Identificación Personal Law No. 6125 regarding Personal Identity Cards libros de Registros Registration books Libro Registro del Nacimiento de Niño (a) de Madre Extranjera No Residente en la Republica Dominicana Registry of Births of Children to Non-Resident Foreign Mothers in the Dominican Republic Lista de Extranjeros irregularmente inscritos en el Registro Civil List of Foreigners IllegallyRegistered in the Civil Registry margen de apreciación margin of appreciation For more information, please visit, http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=00157499#{%22itemid%22:[%22001-57499%22]} Oficialía del Estado Civil Civil Registry Office Oficina Central del Estado Civil Main Civil Registry Office Oficina Nacional de Estadísticas National Statistics Office Pacto internacional sobre derechos civiles y International Agreement on Civil and Political Rights

SPANISH ENGLISH USAGE/COMMENTS SOURCE políticos peticionario petitioner Mrs. Juliana Dequis (or Deguis) Plan Nacional de Regularización National Regularization Plan Plan Nacional de Regularización de los extranjeros ilegales radicados en el país National Plan for Regularization of Foreign Nationals Residing Illegally in the Country Primera Encuesta Nacional de Inmigrantes en la Republica Dominicana First National Survey on Immigrants in the Dominican Republic recurrente petitioner Mrs. Juliana Dequis (or Deguis). The Court uses the terms "plaintiff" and "petitioner" interchangeably. In certain areas where the Court uses the term "plaintiff," we inserted "petitioner" for consistency and comprehension. recurrida respondent Central Electoral Board. The Court uses the terms "defendant" and "respondent" interchangeably. In certain areas where the Court uses the term "defendant," we inserted "respondent" for consistency and comprehension.

Tribunal Constitucional Constitutional Court The Constitutional Court was established by the 2010 constitutional reform, to defend fundamental rights and protect the constitutional order. Its decisions are final and irrevocable and constitute binding precedent for all public authorities and all State agencies. The Court hears direct actions of unconstitutionality of laws, decrees, regulations,

For more information regarding the structure of the Dominican Republic judicial system, please visit: http://www.nyulawglobal.org/globalex/dominican_republic1.htm#S UPREMECOURTOFJ

SPANISH ENGLISH USAGE/COMMENTS SOURCE resolutions and ordinances; the preventive control of international treaties before their ratification by Congress, and jurisdictional disputes between the public authorities. Thirteen judges sit at the Constitutional Court elected by the National Council of the Judiciary for a 9-year term. Tribunales Contenciosos Administrativos Contentious Administrative Courts The Contentious Administrative Courts are integrated by higher administrative courts and contentious administrative courts of first instance. These courts have jurisdiction over disputes filed against decisions, actions and provisions of the central government including administrative, tax, financial and municipal issues. They hear and determine in first instance or on appeal the contentious administrative actions that arise from conflicts between the public administration and its officers and civilian employees. For more information regarding the structure of the Dominican Republic judicial system, please visit: http://www.nyulawglobal.org/globalex/dominican_republic1.htm#S UPREMECOURTOFJ Tribunales Superiores Administrativos Administrative High Courts See Contentious Administrative Courts For more information regarding the structure of the Dominican Republic judicial system, please visit: http://www.nyulawglobal.org/globalex/dominican_republic1.htm#S UPREMECOURTOFJ Fn 167 The quoted and/or referenced text can be found on page 40 of the Court's Ruling. Fn 170 The quoted and/or referenced text can be found on page 43 of the Court's Ruling. Fn 173 The quoted and/or referenced text can be found on pages 48-49 of the Court's Ruling. Fn 174 The quoted and/or referenced text can be found on page 49 of the Court's Ruling. Fn 179 The quoted and/or referenced text can be found on page 67 of the Court's Ruling. Fn 188 The quoted and/or referenced text can be found on

Appendix C

Immigration Law N0. 95 of April 14, 1939

Immigration Law No. 95 of April 14, 1939, published in the Official Gazette No. 5299, updated with all modifications up to the date of this publication (year 1984)

THE NATIONAL CONGRESS In the Name of the Republic DECLARED THE URGENCY, HAS GAVE THE FOLLOWING LAW:

NUMBER 95

Art. 1.- The territory of the Republic is open to the entry of foreigners of good conduct and good health, under the conditions and restrictions imposed by the Laws.

Article 2.- The laws relating to the entry, residence and deportation of aliens shall be executed in the Republic by the General Directorate of Migration, under the Ministry of Interior and Police. The execution of these laws will be subject to the supervision and direction of the Secretary of State of Interior and Police and the Head of the General Directorate of Migration will be the Director General of Migration.

Law No. 1302 of 2-12-46. Official Gazette No. 6546:

Art. 1.- From this Law, the Law on Registration of Foreigners, No. 1343, of July 10, 1937, reestablished by Law No. 105, of May 5, 1939, is repealed; Law No. 1441, of December 22, 1937; Law No. 263, of April 17, 1943; Regulation No. 2074, of December 15, 1937; Decree No. 1116, of April 24, 1943; And all the dispositions dictated for the fulfillment of the same. Art. 2.- The Foreigners Registry shall be the result of the Immigration Law No. 95 of April 14, 1939 and the Regulation of Migration No.

279, of May 12, 1939, and will continue to be in charge of the General Directorate Of Migration. The Judicial Police Officials and the National Police Officers shall have access to said Registry for all inquiries that may be necessary in accordance with the laws.

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and the National Police Officers shall have access to said Registry for all inquiries that may be necessary in accordance with the laws.

Decree No. 8589 (amended) of 4-10-52. Official Gazette No. 7477: Art. 1.- The instructions and orders that, in the matter of Migration and in relation to the entry of foreigners to the country, communicate the Director General of Migration to the Transport Companies will be of obligatory compliance and its violation will be punished with the penalties established in The Sole Article of Law No. 62 of November 23, 1963.
ARTICLE ONE OF LAW No. 62 OF 23 NOVEMBER 1963
UNIQUE ARTICLE.- Violations of the provisions of the authorities that have prohibited or prohibit the entry into the country of persons included in the lists notified to transport companies shall be punished with imprisonment of three months to two years or RD fine $ 10,000.00 to RD $ 50,000.00 for each infraction, or both penalties at the same time. PARRAFO.- The penalty of imprisonment shall be imposed on the persons of the owners, administrators or managers of said companies.

Art. 3.- Foreigners who wish to be admitted in the Dominican territory, will be considered as Immigrants or Non-Immigrants. Foreigners wishing to be admitted will be Immigrants, unless they are within one of the following Non-Immigrant classes:
1o. Visitors on a business trip, study, recreation or curiosity.
2nd. Persons traveling through the territory of the Republic on a trip abroad;

3rd. Persons who are serving a job on sea or air craft;

4th. Temporary day laborers and their families.

Foreigners admitted as Immigrants may reside indefinitely in the Republic. Non-Immigrants will only be granted a Temporary Admission and this will be regulated by the conditions prescribed in Regulation No. 279 of May 12, 1939, unless an alien admitted as a Non-Immigrant can be considered as an Immigrant By fully complying with the requirements relating to Immigrants. Temporary day laborers shall be admitted to the Dominican territory only when agricultural enterprises apply for their introduction, and in the quantity and under the conditions prescribed by the Ministry of Interior and Police, to fill the needs of such enterprises and to supervise their admission, Temporary stay and return to the country where they came from. Art. 4.- Foreigners wishing to be admitted to the Dominican territory must present valid passports or, in the absence of these, travel documents that identify them, duly endorsed by a Dominican Diplomatic or Consular Officer, unless they are exempted from These requirements or that they be diminished in certain cases prescribed by the Regulation of Migration No. 279, of May 12, 1939. Such documents can not be endorsed without a previous investigation that the foreigners are in the conditions required by the law To be admitted. The visa can not be denied except in accordance with this Law or the Regulation of Migration No. 279, of May 12, 1939, nor will it grant the foreigner the right to enter the territory of the Republic if it proves, upon arriving within Of the Migration Law can not be admitted.

VISA: Required, except for: 1. - Nationals of the Dominican Republic. 2. - Nationals of England (for a stay of not more than 90 days) who hold valid British passports that display in the upper part of the cover the inscription "BRITISH PASSPORT" (British Passport) and in the lower part the "UNITED KINGDOM OF

GREAT BRITAIN AND NORTHERN IRELAND" (United Kingdom of Great Britain and Northern Ireland) or "JERSEY OR GUERNSEY AND ITS DEPENDENCIES" (or Jersey or Guernsey and its dependencies), and to specify on the inside the condition of National of the holder of such passport as "BRITISH SUBJECT, CITIZEN OF THE UNITED KINGDOM AND COLONIES" (or British Sudan, national of the United Kingdom and colonies) or "BRITISH SUBJECT, CITIZEN OF THE UNITED KINGDOM, ISLANDS AND COLONIES"

Or British Subject, UK Nationals, Islands and Colonies). 3. - Nationals (for a stay of no more than 90 days) from Argentina, Austria, Belgium, Costa Rica, Denmark, Spain, Grand Duchy of Luxembourg, Netherlands (including Dutch passports issued in the Netherlands Antilles, Nationality of carrier is Dutch), Israel, Italy, Japan, Norway, Panama, Principality of Liechtenstein, West Germany, Sweden and Switzerland. 4. - Nationals of Ecuador (for a stay of not more than 60 days). 5. - Those who carry a Reentry Permit.

6. - Those persons who are authorized to enter the Dominican Republic carrying tourist cards, which are the national of: ANTIGUA Y BARBUDA; AUSTRALIA; BAHAMAS; BARBADOS; BRAZIL; CANADA; DOMINICA; UNITED STATES OF AMERICA, INCLUDING PUERTO RICO AND VIRGIN ISLANDS; FRANCE AND ITS OVERSEAS DEPARTMENTS: GUAYANA, GUADELOUPE, MARTINIQUE AND REUNION; JAMAICA; MEXICO; MONACO; PARAGUAY; PORTUGAL; ST. VINCENT AND THE GRENADINES; ST. LUCIA; ALL LEGAL RESIDENTS IN THE UNITED STATES OF. AMERICA, REGARDLESS OF ITS NATIONALITY; TRINIDAD AND TOBAGO, VENEZUELA AND SURINAME (nationals of the latter country need to carry valid passports). 7. Those carrying a Military Identification Card (with movement order or route letter), issued to members of the United States Army and who are nationals of that country. 8. Nationals of Colombia, Ecuador and France, including French Guiana,

Guadeloupe, Martinique and Reunion, who hold official or diplomatic passports. 9. Those who have their round-trip tickets confirmed, which can not leave the Airport and must continue their journey on the same line or the first air connection during the same day. 10. Merchant seamen who carry a passport or travel card, arriving by air and then boarding a ship in the Dominican Republic.

A) Merchant seamen not belonging to the nationalities of ALBANIA, SAUDI ARABIA, BULGARIA, NORTH KOREA, CUBA, CZECHOSLOVAKIA, CHINA (People's Republic), EGYPT, HUNGARY, IRAQ, JORDAN, KUWAIT, LEBANON, LIBYA, MOROCCO, POLAND, DEMOCRATIC REPUBLIC OF GERMANY, POPULAR REPUBLIC OF MONGOLIA, ROMANIA, RUSSIA, SYRIA, SUDAN, TUNISIA, VIETNAM (Socialist Republic), YEMEN (Democratic People's Republic) and LOS. CHINESE PEOPLE'S REPUBLIC OF CHINA RESIDENTS IN TAIWAN. B) Merchant seamen who hold a letter from the Maritime Company to which the ship in which they are embarked is consigned, if they arrive at the airport by the Representative of said Maritime Company. The Maritime Company will be responsible for these people and will immediately be transferred to the crew of the ship to which they belong.

Art. 5 - (Modified by Law No. 5630, dated 9/15/61 Official Gazette No. 8603). To any foreigner admitted as an Immigrant, a Residence Permit will be issued, in accordance with the existing regulations. This Permit will be valid for the year from the date it was issued. However, a resident alien who has left the country must, in order to re-enter, be provided with a Reentry Permit, issued by the General Directorate of Migration, for the payment of a right of RD $ 14.00, a document that will be valid for a Year from the date of its issue, and consequently, it may

be used by the interested parties on all occasions that so wish during that period.

The Reentry Permit will grant the right to return to the Republic within the year of its validity, without the requirement of the consular visa. This right will be forfeited if the beneficiary does not renew said Permit within five years from the date of its issuance. These requirements can be reduced or abrogated in any case by International Agreements, on the basis of reciprocity.

Art. 6. - All foreigners admitted as Non-Immigrants will be issued a Temporary Residence Permit, except in the cases specified by Immigration Regulation No. 279 of May 12, 1939. This Permit will be issued in the form and The manner prescribed by Regulation
Quoted and for the period indicated in the same Permit, including any extension that has been granted. During this period, the issuance of a new Temporary Residence Permit will not be required in the case of new admission as a Nonimmigrant.

Art. 7. - (Modified by Law No. 1910, dated 22-1-49 Official Gazette No. 6888, and by Law No. 3387, of 27-9-52 Official Gazette No. 7476). A) - Any foreigner present in the territory of the Republic who holds a Residence Permit issued in accordance with this Law, must renew it in the course of the month of January of each year. After this period, the offenders will be obliged to pay, in addition to the duties due, a surcharge of 10 percent for each month or fraction of a month elapsed without having fulfilled their obligation. B) - Any foreigner whose last entry was made prior to the date of entry into force of this Law, must request from the Director General of Migration the Residence Permit required by this Law. The

request shall be made at the expiration of any Permit it has at the date of entry into force of this Act, or within the next three months, if it does not have the Permission required. C) - All applications for a Residence Permit or for renewal must contain the information and means of identification required by Immigration Regulation No. 279 of May 12, 1939. d) - If the applicant meets the requirements Of this article, the Residence Permit or the renewal thereof, shall be granted by the Director General of Migration. E) - (Repealed by Art. 2 of Law No. 3387).

Art. 8.- Residence Permits will be issued by the General Director of Migration and the Temporary Residence Permits will be issued by him or by another Official that he appoints with the approval of the Secretary of State of Interior and Police. The Director General of Migration may issue duplicate Permits when it is demonstrated to his satisfaction that the Permit being replaced has been lost, mutilated or destroyed.
Art. 9. - (Modified by Law No. 3669, of 6-11-53 Official Gazette No. 7624 and by Law No. 13 of 9-9-70 Official Gazette No. 9199). A fee of RD $ 3.00 will be paid for the Passport Visa or Identification Travel Document of a foreigner DD $ 5.00 for the Visa of a Crew List. These rights can be reduced or abrogated in any kind of cases by International Conventions, on the basis of reciprocity.
A) - Immigrants arriving in the country must pay as follows:
I. - (Modified by Law No. 4770, dated 9/21/57 Official Gazette No. 8169). For a Provisional Residence Permit, while the application for Permanent Residency in the country is being processed ..... $ 8.00 II. - For the Initial Residence Permit .... .RD $ 10.00 III. - For the renewal of said initial Permit will pay as follows:

- 1d. Category: Foreigners who receive income, wages and salaries, etc. Of two hundred pesos (RD $ 200.00) monthly or more .... RD $ 20.00 - 2nd. Category: Foreigners who receive income, wages and salaries, etc. Of one hundred pesos (RD $ 100.00) monthly up to the concurrence of the value expressed in the First Category .... RD $ 15.00 - 3rd. Category: Foreigners who receive income, wages and salaries, etc. Of sixty pesos (RD $ 60.00) monthly until the concurrence of the Second Category .... RD $ 8.00 - 4th. Category: Foreigners who receive income, wages and salaries, etc. Of less than sixty pesos (RD $ 60.00) per

....RD $ 2.00

- 5th. Category: Foreigners who work permanently in any agricultural or industrial enterprise as day laborers or workers for a salary or wage of no more than sixty dollars (RD $ 60.00) per month .... .RD $ 8.00

IV. - The persons or companies that use in their activities foreign personnel subject to the payment of these taxes, are constituted in Retention Agents and will be responsible for the payment of the taxes created by this Law. The violation of this paragraph will be sanctioned with the double of The taxes left to pay calculated surcharges.

B) - Any foreigner whose stay in the country is more than sixty days and not more than six months must be provided with a Temporary Stay Permit by paying the sum of ... ... RD $ 4.00 c) - The wives of Foreigners and their children who are unmarried

and under 16 years of age, are exempt from the payment of taxes for the renewal of their Residence Permits. D) - The rights of renewal may not be collected or reduced in the cases and species prescribed by Immigration Regulation No. 279 of May 12, 1939. To this end, the issuance of a Residence Permit to a legally resident alien In the Republic to the 1st. Of April 1939, will constitute a renewal. E) - A right of RD $ 1.00 will be charged for the issuance of a duplicate Residence Permit instead of one that has been lost, mutilated or destroyed. F) - The rights prescribed by this article shall be paid by attaching stamps of Internal Revenue, Migration Series, to documents evidencing the payment of the rights. Migration Authorities are prohibited from receiving cash in payment of fees. Law No. 3935, dated 20-9-54, Official Gazette No. 7749: Art. 7.- Foreign Priests, Religious or Religious that the Ecclesiastical Authority invites the country to exercise its ministry or develop the activities of its apostolate, will be Exempt from any Migration tax or tax. Art. 10.- (a) The following classes of foreigners shall be excluded from entering the Dominican Republic.

) Anarchists or persons who promote doctrines or activities for the subversion of the Dominican Government or against Law and Order; 2) Persons convicted of a crime or offense that infamy or dishonor; 3) People attacked by disgusting diseases or dangerous contagion; Or epileptics, 4) Fools or fools or those who have been; 5) Persons attacked by physical or mental defects or by diseases that seriously affect the ability to earn a living; 6) Persons prone to become indigent public charges, beggars, peddlers or other similar detriments; 7) Persons over 14 years of age unable to read printed matter of ordinary use in any language chosen by the foreigner, although this requirement will not apply to: a) persons physically incapable of reading, b)

family members of a citizen Dominican, c) foreigners who possess a valid Permit to reside in the Republic; 8) Women who travel alone and who can not prove to the satisfaction of the official responsible for enforcing this law, who enjoy an honest reputation; 9) Children under the age of 14 who are not accompanied by their parents or another person who agrees to be responsible for them to the satisfaction of the Official responsible for compliance with this Law; 10) Persons who, within the year prior to the date of their application for admission, have been excluded or deported from the Republic, unless, in the opinion of the Secretary of State for Internal Affairs and Police, they might be exempted of that exclusion;

B) The Secretary of State of the Interior and Police, under the conditions that he prescribes, may release from the conditions of this article a foreigner who returns from a foreign visit and who has been domiciled for at least five years in the Republic ; C) Any foreigner, even if subject to exclusion, in accordance with the provisions of this article, may be admitted as Nonimmigrant under the conditions prescribed in Immigration Regulation No. 279 of May 12, 1939, or in cases By the Secretary of State for the Interior and ects of immigration policy and submit to the consideration of the President of the Republic a Draft Regulation to set the requirements on the minimum health conditions of persons wishing to enter To the country as Immigrants. Every Immigrant must undergo a complete medical examination before being authorized to enter the country. In no case will be allowed to settle in the country people affected by communicable diseases, incurable mental illness, habitual intoxicated and customary alcoholics. B) Examination of foreigners with respect to their rights to enter and remain in the Republic shall be made by the Immigration Inspectors with

the advice of the Medical Authorities where appropriate. The Inspectors are authorized to admit any foreigners in compliance with the applicable requirements of the Immigration Law, fill the Immigration Police functions and enforce all laws and regulations relating to the matter. Inspectors also have the right to seek foreigners on board any ship or any means of transport or vehicle in which the Inspectors believe that foreigners are being transported to the Republic. The Immigration Inspectors shall have the authority to arrest, without a warrant, any foreigner who, in his presence or in his sight, is entering or is on his way to enter the Republic by land, in violation of the Migration Law or the Regulations thereto. C) Where there are no regularly appointed Inspectors, their functions, at the request of the Secretary of State of Interior and Police, shall be exercised by the Municipal Trustees and members of the National Police. D) The Inspectors and Diplomatic and Consular Officials and any other person authorized to enforce the Immigration Law are authorized by this Act to receive and take into consideration evidence regarding the right of any foreigner to enter the Republic and reside in the Republic.

E) When it is deemed necessary, a guarantee may be required that offers appropriate security conditions in the event that the foreigner becomes a public charge or to ensure his departure from the Republic without expenses to the Treasury, in case of Temporary Admission. Any amount of money required in cash will be held by the Customs Auditor, who, in the event of a failure, will deposit it in the Internal Revenue Collection of his jurisdiction.

Law No. 492 of 13-11-64. Official Gazette No. 8905: Art. 1 - Law No. 490 of November 11, 1964 is repealed. Art. 2- Law No. 5317,

dated March 4, 1960, is reestablished with the following text: "Art. 1. The services of the Air Health Doctors, Plant and Animal Health Inspectors, Customs Clerks, Internal Revenue Employees and Immigration Inspectors will be provided at Punta Caucedo Airport on a continuous basis, during the four-hour hours of all Days of the week, according to the following schedule:
First shift: from 6:30 a.m. M. At 1:30 p.m. M. Second shift: from 1:30 p.m. M. At 8:30 p.m. M. Third shift: 8:30 p. M. At 1:30 a.m. M. Fourth shift: from 1:30 a.m. M. At 6:30 a.m. M.

Art. 2.- The departments of the Public Administration that are in charge of these services, will take the pertinent dispositions so that they are fulfilled immediately in proportion to the necessities, at all hours of the day and at night. Art. 3.- The companies of the airlines whose flights require the services indicated in article one of this law, during any hour of a Sunday or of a national holiday, or between the 8:30 p. M. And at 6:30 a.m. M. Of any other day, shall pay the Head of the service to which the required employees belong a special right, for each hour or fraction of hour, equal to twice the hourly wage that corresponds to the time and to the employees who actually serve in those circumstances. The amounts thus collected shall be paid as bonuses to said employees, who shall complete the forms prepared for the purpose. "Art. 4.- This law repeals any other law that is contrary to it. Art. 12.- Upon the arrival of a ship or a civil airship to the Republic, from any foreign place, the person in charge of the ship or the consignee shall deliver to the Inspector of Service:

1) A list of the crew showing the names, age, sex, color, nationality and employment on board and place of enrollment of each foreigner who provides services on board in any employment

and if he has to finish his work in the Republic. 2) A passenger list showing the names, age, sex, nationality, port of embarkation and destination of each passenger, including, with respect to each foreign passenger, a personal sheet containing the essential information on compliance with the Law Of Immigration that prescribes the Regulation of Immigration. B) - The person in charge of a ship or a civil air ship leaving the Republic, or the consignee, must promptly provide the Service Inspector with a list showing the names, age and nationality of each foreigner of the service of a Board in any employment at the time of arrival, that I will not return on said ship or airship, as well as any passenger who has arrived on the vessel or aircraft with intent to continue their journey and not carry out this. C) - The requirements previously indicated in this article can be diminished, and even eliminated, in the cases and under the conditions that are prescribed by regulation. The information in this article is prescribed, must be typed or printed in Spanish language in the forms made by authority of this Law.

D) The failure to surrender, by negligence, a complete and correct information in the mentioned lists, will be provided to the person in charge of the ship or of the air ship or to the consignee of the same the imposition of a fine of RD $ 10.00 per Each individual with respect to whom such misconduct has been committed. As many times as the Migration Inspector finds that the indicated fault has been committed, he shall notify the person in charge of the ship or airship and the corresponding consignee, if applicable, of the obligation to pay that fine. The Comptroller of Customs will collect the fine and will require payment by the ship or airship following the same procedure established by the customs laws. The fines will be

deposited in the Collection of Internal Revenue. No fine shall be imposed under the terms of this Article unless notice of the obligation incurred has been made to the person in charge of the ship or airship or to the consignee thereof, within one year of the date In which the failure to deliver the required information has been committed. Art. 13. The following foreigners will be arrested and deported under the command of the Secretary of State of Interior and Police or of another Official designated by him for those ends:

1) Any foreigner who enters the Republic after the date of publication of this Act, through false or misleading statements or without the inspection and admission of the Immigration Authorities in one of the designated ports of entry; 2) Any foreigner who enters the Republic after the publication of this Law, which is not legally admissible at the time of entry; 3) Any foreigner who will mix or associate in activities tending to subvert the Dominican Government or traffic in narcotics in violation of the law or mixed in other activities contrary to public order and security; 4) Any foreigner convicted of a crime after the date of entry into force of this Act, committed within five years after its entry, punishable by public works or imprisonment; 5) Any foreigner who practices prostitution or is a tenant of a house of prostitution or is connected with the management of a house of prostitution or agent of it, 6) Any foreigner who becomes a public charge within five years after its entry, either by disability, or by indigence and that probably continues to be so; 7) Any foreigner who remains in the Republic in violation of any limitation or condition under which he has been admitted as Nonimmigrant; 8) Any bracero who entered the Republic within a year prior to the date of entry into force of this Law without having been admitted to permanent residence;

9) Any foreigner who possesses a Residence Permit prior to the date of entry into force of this Act and at the expiration of said Permit does not make an application to obtain a Residence Permit, as required by this Act; 10) Any alien who has entered the Republic before the date of this Law, who does not have a Residence Permit and who within three months of this date does not apply for a Residence Permit, as required by this Law ; 11) Any foreigner who fails to obtain the renewal of their Residence Permit, as required by this Law.

1) Any foreigner who enters the Republic after the date of publication of this Act, through false or misleading statements or without the inspection and admission of the Immigration Authorities in one of the designated ports of entry; 2) Any foreigner who enters the Republic after the publication of this Law, which is not legally admissible at the time of entry; 3) Any foreigner who will mix or associate in activities tending to subvert the Dominican Government or traffic in narcotics in violation of the law or mixed in other activities contrary to public order and security; 4) Any foreigner convicted of a crime after the date of entry into force of this Act, committed within five years after its entry, punishable by public works or imprisonment; 5) Any foreigner who practices prostitution or is a tenant of a house of prostitution or is connected with the management of a house of prostitution or agent of it, 6) Any foreigner who becomes a public charge within five years after its entry, either by disability, or by indigence and that probably continues to be so; 7) Any foreigner who remains in the Republic in violation of any limitation or condition under which he has been admitted as Nonimmigrant; 8) Any bracero who entered the Republic within a year prior to the date of entry into force of this Law without having been admitted to permanent residence;

9) Any foreigner who possesses a Residence Permit prior to the date of entry into force of this Act and at the expiration of said Permit does not make an application to obtain a Residence Permit, as required by this Act; 10) Any alien who has entered the Republic before the date of this Law, who does not have a Residence Permit and who within three months of this date does not apply for a Residence Permit, as required by this Law ; 11) Any foreigner who fails to obtain the renewal of their Residence Permit, as required by this Law.

B) The rules prescribed in clauses 2, 3, 4, 5 and 6 of this article, will not be altered by the fact that the alien possesses a Residence Permit. In that case this Permit will be returned and canceled upon the deportation. C) In the cases provided for in clauses 9, 10 and 11 of this article, if the deportation proves difficulties that go beyond the ordinary, the foreigner can be downloaded and allowed to apply for a Residence Permit or for the Renewal of said Permit. D) The deportation may take effect within clause 3 of this article at any time after the entry, but shall not be effected under any other clause unless the arrest in the

Deportation procedure was made within five years after the cause of origin of the deportation. E) (Modified by Law No. 1559, dated 10/31/47. Official Gazette No. 6706). No foreigner shall be deported without being informed of the specific charges that motivate his / her deportation, nor without being given a fair opportunity to refute such charges in accordance with Regulation No. 279 of May 12, 1939, except In cases where the deportation has been ordered in accordance with article 55, paragraph 16 of the Constitution, or in the cases of article 10, paragraph 1. And of article 13, subsection 3, of this Law. F) (Modified by Law No. 1559, dated October 31, 47. Official Gazette No. 6706).

In cases of deportation, the foreigner in question may be arrested for up to three months, by order of the Secretary of State of Interior and Police or the Director General of Migration. If the deportation during that time can not be executed for not obtaining a passport or visa of a travel document, the foreigner can be submitted to the Prosecutor and the Provisional Correctional Court will order by sentence that he remain in prison for a period of six months to two Years, depending on the seriousness of the case. However, if after the trial or the sentence the foreigner is provided by the corresponding passport or travel document visa, making it possible to go abroad, he will be released for this purpose by the Prosecutor at the request of the Secretary of State Of Interior and Police or of the General Director of Migration, surpassing the process or being without effect the sentence. Judgments will not be Susceptible of no recourse.
Law No. 4658, of 24-3-57. Official Gazette No. 8105:

Art. 1.- Without prejudice to the powers attributed to the Secretary of State for the Interior and Police, the Courts of the Republic may order the deportation of any foreigner who incurs one of the faults provided for in Article 13 of Law No 95 of April 14, 1939, on Immigration, as the main penalty, when the case is submitted by the Director of the National Department of Investigations. The Courts of the Republic may also order deportation as an accessory penalty when the alien has committed a crime or crime whose seriousness, in the opinion of the court empowered, merits such sanction. Art. 2.- When the deportation is ordered, either as principal penalty or an accessory penalty, the foreigner may be arrested for up to three months by order of the competent Public Prosecutor. The sentence ordering the deportation shall always provide that if the deportation can not

be carried out during that time by not obtaining a passport or visa of a travel document, the foreigner must remain in prison for a period of six months to two years, depending on the severity of the case. However, if after the judgment the foreigner is provided with a passport or document of travel document, making it possible to go abroad, he will be released for that purpose by the Public Prosecutor.

Art. 14.- (a) Any person who: 1) When filing an application for a Migration document, it will be made to pass for another person or falsely appear in the name of a deceased person or evade the Migration Law assuming another name or By means of a fictitious name; Or 2) Issue or otherwise dispose of an Migration document to any person who is not authorized by law to receive documents; U, 3) Obtain, accept or use any Migration documents, knowing that they are false; Or 4) Being a foreigner, enter the Republic at any time or place other than those designated by the Immigration Officers, or evade the examination or inspection of the Immigration Officers or obtain entry to the Republic by means of representation Intentionally false or confused or voluntarily conceal a material fact; Or 5) Being a foreigner, he / she will be made to represent with fraudulent intention like a citizen of the Dominican Republic, to evade any requirement of the Law of Migration; or

6) That in any matter of Migration deliberately make under oath any false declaration or false representation; 7) Incurring in an attempt to perform any of the acts mentioned in this article, will be fined with an amount not exceeding RD $ 500.00 or imprisonment not exceeding one year, which fine or prison will be imposed by the Correctional Courts. Instead of this fine or imprisonment, a foreigner convicted of breach of clause 4 of this article may be sentenced, at the request of the Director

General of Migration, to internment in a camp of detainees and also to work in said camp, if so Disposed of by the Court

B) Any person, acting for himself or on behalf of another person, a corporation or organization that employs a foreigner lacking a valid Residence Permit or a valid Temporary Residence Permit or who has not completed or is not seeking in good faith The Permit or that employs a temporary labor bureau in possession of a valid Permit without the consent of the company for which the bracero was imported shall be punished with a fine of not more than RD $ 50.00 for each individual employed in that mode, which Will be imposed by the Correctional Court. A job, within the terms of this clause, does not include an occasional and individual occupation that is not permanent. C) Any person who introduces or disembarks in the Republic or conceals or shelters any foreigner who has not been duly admitted by an Immigration Inspector, or who is not legally authorized to enter or reside within the territory of the Republic within the terms Of the Immigration Law or attempt or help another person to commit these acts, shall be punished with a fine of not more than RD $ 500.00, which shall be imposed by the Correctional Court. When the person who incurs in this fault is a public employee, in addition to the condemnation to a fine, he will be dismissed. D) The lack of part of any vessel or airship for which an alien is transported to the Republic, as a passenger or otherwise, to detain said alien on board until his landing is allowed by the Immigration Inspector, or Failure of a part of said ship or airship to carry such foreigner from the Republic if it has not been admitted, shall be charged against the person in charge of the ship or airship, or the consignee thereof, a fine of RD $ 100.00 in the case of Every foreigner with Any process of deportation involving the entry of a foreigner, the

care of the evidence will be borne by the foreigner to prove that he entered the Republic legally at the time, place and manner that made such entry and for this purpose the foreigner will have The right to a declaration on arrival as evidenced by any registration in the care of the General Directorate of Migration. Art. 16.- Diplomatic Officials and Consular Officers, as well as Officials in Official Mission, their families, assistants, servants, employees and members of their Official Body, shall be exempt from the requirements of the Immigration Law, Except that they must be included in the passenger list. Art. 17.- (Modified by Law No. 1665 of 13-3-48 Official Gazette No. 6764). Any act contrary to the provisions of this Law, which is not expressly punished in it, as well as any Violation of Immigration Regulation No. 279 of May 12, 1939, shall be punished with a fine of twenty-five to two thousand pesos, or imprisonment from ten days to six months, or both penalties at the same time, in serious cases. All Immigration Laws and Regulations prior to this Immigration Law No. 95 of April 14, 1939, are hereby repealed.

GIVEN in the Senate Room of Sessions, in Ciudad Trujillo, District of Santo Domingo, Capital of the Dominican Republic, on the twenty-ninth day of March of the year one thousand nine hundred and thirty-nine; Year 96 of the Independence and 76 ° of the Restoration.
The President, Porfirio Herrera.
The Secretaries: A. R. Nanita. Manuel A. Amiama.

GIVEN, in the Chamber of Deputies of the Chamber of Deputies, in Ciudad Trujillo, District of Santo Domingo, Capital of the Dominican Republic, on eleven days of April of the year one

thousand nine hundred and thirty-nine; 96th of Independence and 76th of the Restoration.
The President, A. Pellerano Sardá.
The Secretaries: Luis Sánchez A. Font Bernard

JACINTO B PEYNADO President of the Dominican Republic

In exercise of the attribution conferred by article thirty-seven of the Constitution of the State,
I PROMISE this Law, and I order it to be published in the Official Gazette, in the "Listin Diario" and "La Opinión", for its knowledge and compliance.

GIVEN in Ciudad Trujillo, capital of the Dominican Republic, on the fourteenth day of April of the year one thousand nine hundred and thirty-nine.

JACINTO B. PEYNADO
