

# DOMINICA

Official Name: Commonwealth of Dominica  
Population: 73,126 (July 2012 est.)  
Date of Independence: 3 November 1978 (from the UK)  
Official Language: English  
Capital: Roseau  
Government Type: Parliamentary democracy  
Ethnic Groups: black 86.8%; mixed 8.9%; Carib Amerindian 2.9%; white 0.8%; other 0.7% (2001 census)



## 1. CONSTITUTIONAL PROVISIONS

Hereinafter are the relevant provisions of the constitution of the Commonwealth of Dominica of 25 July 1978, as amended up to 1984:<sup>1</sup>

### Section 1 – *Fundamental rights and freedoms*

“Whereas every person in Dominica is entitled to the fundamental rights and freedoms, that is to say, the rights whatever his race, place of origins, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely –

- (a) Life, liberty, security of the person and the protection of the law;
- (b) Freedom of conscience, of expression and of assembly and association; and
- (c) Protection for the privacy of his home and other property and from deprivation of property without compensation, the provisions of this Chapter shall have effect for the purpose of affording protection to those rights and freedoms subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of the said rights and freedoms by any person does not prejudice the rights and freedoms of others of the public interest.”

### Section 2 – *Protection of right to life*

“1. A person shall not be deprived of his life intentionally save in execution of the sentence of a court in respect of a criminal offence under the law of Dominica of which he has been convicted.

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<sup>1</sup> Source of introductory information and map from CIA – The World Factbook, <https://www.cia.gov/library/publications/the-world-factbook/>.

Law No. 1027 of 25 July 1978, as amended by Act No. 22 of 1984, available at [http://www.da-academy.org/DA\\_Constitution.html](http://www.da-academy.org/DA_Constitution.html).

2. A person shall not be regarded as having been deprived of his life in contravention of this section if he dies as the result of the use, to such extent and in such circumstances as are permitted by law, of such force as is reasonably justifiable –
  - (a) For the defense of any person from violence or for the defence of property;
  - (b) In order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
  - (c) For the purpose of suppressing a riot, insurrection or mutiny; or
  - (d) In order to prevent the commission by that person of a criminal offence, or if he dies as the result of a lawful act of war."

#### Section 4 – *Protection from slavery and forced labour*

- "1. No person shall be held in slavery or servitude.
2. No person shall be required to perform forced labour.
3. For the purposes of this section, the expression "forced labour" does not include
  - (a) Any labour required in consequence of the sentence or order of a court;
  - (b) Labour required of any person while he is lawfully detained that, though not required in consequence of the sentence or order of a court, is reasonably necessary in the interests of hygiene or for the maintenance of the place at which he is detained;
  - (c) Any labour of a member of a disciplined force in pursuance of his duties as such or, in the case of a person who has conscientious objections to service as a member of a naval, military or air force, any labour that person is required by law to perform in place of such service;
  - (d) Any labour required during any period of public emergency or in the event of any other emergency or calamity that threatens the life and well-being of the community, to the extent that the requiring of such labour is reasonably justifiable in the circumstances of any situation arising or existing during that period or as a result of that other emergency or calamity, for the purpose of dealing with that situation."

#### Section 5 – *Protection from inhuman treatment*

"No person shall be subject to torture or to inhuman or degrading punishment or other treatment."

#### Section 9 – *Protection of freedom of conscience*

- "1. Except with his own consent, a person shall not be hindered in the enjoyment of his freedom of conscience, including freedom of thought and of religion, freedom to change his religion or belief and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance.
2. Except with his own consent (or, if he is a person under the age of eighteen years, the consent of his guardian) a person attending any place of education, detained in any prison or corrective institution or serving in a naval, military or

air force shall not be required to receive religious instruction or to take part in or attend any religious ceremony or observance if that instruction ceremony or observance relates to a religion which is not his own.

3. Every religious community shall be entitled, at its own expense, to establish and maintain places of education and to manage any place of education which it maintains; and no such community shall be prevented from providing religious instruction for persons of that community in the course of any education provided by that community whether or not it is in receipt of a government subsidy or other form of financial assistance designed to meet in whole or in part the cost of such course of education.
4. A person shall not be compelled to take any oath which is contrary to his religion or belief or to take any oath in a manner which is contrary to his religion or belief.
5. Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provisions which is reasonably required –
  - (a) In the interests of defence, public safety, public order, public morality or public health;
  - (b) For the purpose of protecting the rights and freedoms of other persons, including the right to observe and practise any religion without the unsolicited intervention of members of any other religion; or
  - (c) For the purpose of regulating educational institutions in the interests of the persons who received or may receive instructions in them, and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society;
  - (d) References in this section to a religion shall be construed as including references to a religious denomination, and cognate expressions shall be construed accordingly."

#### Section 10 – *Protection of freedom of expression*

- "1. Except with his own consent, a person shall not be hindered in the enjoyment of his freedom of expression, including freedom to hold opinions without interference, freedom to receive ideas and information without interference freedom to communicate ideas and information without interference (whether the communication be to the public generally or to any person or class of persons) and freedom from interference with his correspondence.
2. Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision
  - (a) That is reasonably required in the interests of defense, public safety, public order, public morality or public health;
  - (b) That is reasonably required for the purpose of protecting the reputations, rights and freedoms of other persons or the private lives of persons



concerned in legal proceedings, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts or regulating the technical administration or the technical operation of telephony, telegraphy, posts, wireless broadcasting or television; or

- (c) That imposes restrictions upon public officers that are reasonably required for the proper performance of their functions, and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society."

#### **Section 11 – *Protection of freedom of assembly and association***

- "1. Except with his own consent, a person shall not be hindered in the enjoyment of his freedom of assembly and association, that is to say, his right to assemble freely and associate with other persons and in particular to form or belong to trade unions or other associations for the protection of his interests.
- 2. Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision –
  - (a) That is reasonably required in the interests of defense, public safety, public order, public morality or public health;
  - (b) That is reasonably required for the purpose of protecting the rights or freedoms of other persons; or
  - (c) That imposes restrictions upon public officers that are reasonably required for the proper performance of their functions, and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society."

#### **Section 12 – *Protection of freedom of movement***

- "1. A person shall not be deprived of his freedom of movement that is to say, the right to move freely throughout Dominica, the right to reside in any part of Dominica, the right to enter Dominica, the right to leave Dominica and immunity from expulsion from Dominica.
- 2. – 5. (...)."

#### **Section 13 – *Protection from discrimination on the grounds of race, etc.***

- 1. "Subject to the provisions of subsections 4, 5 and 7 of this section, no law shall make any provision that is discriminatory either of itself or in its effect.
- 2. Subject to the provisions of subsections 6, 7 and 8 of this section, no person shall be treated in a discriminatory manner by any person or authority.
- 3. In this section, the expression "discriminatory" means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by sex, race, place of origin, political opinions, colour or creed whereby persons of one such description are subject to disabilities or restrictions to which persons of another such description are not made subject or are

accorded privileges or advantages which are not accorded to persons of another such description.

4. Subsection 1 of this section shall not apply to any law far as that law makes provision –
  - (a) For the appropriation of public revenues or other public funds;
  - (b) With respect to persons who are not citizens of Dominica;
  - (c) For the application, in the case of persons of any such description as is mentioned in subsection 3 of this section (or of persons connected with such persons) of the law with respect to adoption, marriage, divorce, burial, devolution of property on death or other like matters which is the personal law of persons of that description;
  - (d) Whereby persons of any such description as is mentioned in subsection 3 of this section may be subject to any disability or restriction or may be accorded any privilege or advantage that having regard to its nature and to special circumstances pertaining to those persons or to persons of any other such description, is reasonably justifiable in a democratic society.
5. Nothing contained in any law shall be held to be inconsistent with or in contravention of subsection 1 of this section to the extent that it makes provision with respect to standards or qualifications (not being standards or qualifications specifically relating to sex, race, place of origin, political opinions, colour or creed) to be required of any person who is appointed to or to act in any office or employment.
6. Subsection 2 of this section shall not apply to anything which is expressly or by necessary implication authorised to be done by any such provision of law as is referred to in subsection 4 or subsection 5 of this section.
7. Nothing contained in or Done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision whereby persons of any such description as is mentioned in subsection 3 of this section may be subject to any restriction on the rights and freedoms guaranteed by sections 7, 9, 10, 11 and 12 of this Constitution, being such a restriction as is authorised by section 7(2) section 9(5), section 10(2), section 11(2) or paragraph (a), (b), or (h) of section 12(3), as the case may be.
8. Nothing in subsection (2) of this section shall affect any discretion relating to the institution, conduct or discontinuance of civil or criminal proceedings in any court that is vested in any person by or under this Constitution or any other law."

#### Section 108 – *Appointment, etc., of Commissioner*

- "1. There shall be a Parliamentary Commissioner for Dominica who shall be an officer of Parliament and who shall not hold any other office of emolument whether in the public service or otherwise nor engage in any other occupation for reward.

2. The Parliamentary Commissioner shall be appointed by the President, acting after consultation with the Prime Minister and the Leader of the Opposition, for a term not exceeding five years.
3. – 9. (...)."

#### Section 110 – *Functions of Commissioner*

- "1. Subject to the provisions of this section and sections 111 and 112 of this Constitution,<sup>2</sup> the principal function of the Parliamentary Commissioner shall be to investigate any decision or recommendation made, including any advice given or recommendation made to a Minister, or any act done or omitted by any department of government or any other authority to which this section applies, or by officer or members of such a department or authority, being action taken in exercise of the administrative functions of that department or authority.
2. The Parliamentary Commissioner shall be provided with a staff adequate for the efficient discharge of his functions and the offices of the members of his staff shall be public offices.
3. The Parliamentary Commissioner may investigate any such matter in any of the following circumstances –
  - (a) Where a complaint is duly made to the Commissioner by any person alleging that the complainant has sustained an injustice as a result of fault in administration;
  - (b) Where a member of the House request the Commissioner to investigate the matter on the ground that a person or body of persons specified in the request has or may have sustained such injustice; and
  - (c) In any other circumstances in which the Commissioner considers that he ought to investigate the matter on the ground that some person or body of person has or may have sustained such injustice.
4. The authority other than departments of government to which this section applies are –
  - (a) Local authorities other bodies establishment for purposes of the public service or of political government;
  - (b) Authorities or bodies the majority of whose members are appointed by the President or be a Minister or whose revenues consist wholly or mainly of moneys provided out of public funds;
  - (c) Any authority empowered to determine the person with whom any contract shall be entered into by or on behalf of the Government; and
  - (d) Such other authorities as may be prescribed by Parliament."

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<sup>2</sup> Sections 111 and 112 refer to, respectively, restrictions of matters of investigation and discretion of commissioner.

## 2. HUMAN RIGHTS RELATED LEGISLATION

### *Genocide Act of 1969*<sup>3</sup>

#### Article 2

- "1. A person commits an offence of genocide if he commits any Genocide act falling within the definition of "genocide" in Article II of the Genocide Convention<sup>4</sup> as set out in the Schedule.
2. A person guilty of an offence of genocide is liable on conviction on indictment-
  - (a) If the offence consists of the killing of any person, to imprisonment for life;
  - (b) In any other case, to imprisonment for fourteen years.
3. Subject to section 72 of the Constitution, proceedings for an offence of genocide shall not be instituted in Dominica except by or with the consent of the Attorney General."

## 3. PENAL CODE PROVISIONS

### *Prevention of Crimes Act Of 1874 as amended up to 1990*<sup>5</sup>

#### Article 16 – *Saving as to capital punishment*

"This Act shall not affect the infliction of capital punishment in any case where capital punishment would have been inflicted if this Act had not been passed."

### *Seditious and Undesirable Publications Act of 1968*<sup>6</sup>

#### Article 3 – *Meaning of seditious intention*

- "1. For the purposes of this Act, an intention to effect any of the following purposes is a seditious intention:
  - (a) – (c) (...).
  - (d) To incite any person or class of persons to commit unlawful violence or any crime in disturbance of the peace or any misdemeanour or felony;
  - (e) By means of any false statement or wilful misrepresentation of facts or of the motives or intentions of any person to create discontent amongst any of the citizens of the State;

<sup>3</sup> Act No. 20 of 1969, as amended by Law No. 19 of 1974. Government of the Commonwealth of Dominica, <http://www.dominica.gov.dm/laws/chapters/chap10-04.pdf>.

<sup>4</sup> Schedule: "In this Act, "the Genocide Convention" means the Convention on the Prevention and Punishment of the Crime of Genocide approved by the General Assembly of the United Nations on 9th December 1948" (Article 1(2) to this Act).

<sup>5</sup> Act L.L.1 of 1874, chapter 12:31, as last amended by Act No. 12 of 1990, *available at* <http://www.dominica.gov.dm/laws/chapters/chap12-31.pdf>.

<sup>6</sup> Act No. 16 of 1968, *available at* <http://www.dominica.gov.dm/laws/chapters/chap10-03.pdf>.



- (f) By means of any false statement or wilful misrepresentation of facts or of the motives or intentions of any person to promote feelings of ill-will or hostility between different classes or races of the citizens of the State;
  - (g) (...);
  - (h) To advocate, teach, or defend the use without legal authority of force, violence, terrorism, or physical injury to person or property, or threats of such injury, as a means of accomplishing any governmental, industrial or economic change;
  - (i) – (j) (...).
2. But an act, speech, or publication is not seditious by reason only that it intends to show that the President, or this or any Government has been misled or mistaken in his or their measures, or to point out errors or defects in the Government or Constitution of the State as by law established, or in legislation or in the administration of justice with a view to their reformation, or to persuade the citizens of the State to attempt by lawful means the alteration of any matter in the State as by law established, or to point out, with a view to their removal by lawful means, matters which are producing or have a tendency to produce, feelings of hatred and ill-will between different classes or races of the citizens of the State."

#### 4. NON-DISCRIMINATION

##### *Education Act of 1997, as Amended up to 2008<sup>7</sup>*

##### *Article 114 – Prohibition of discrimination*

"A private school which denies admission to a child or expels a student on account of race or the political affiliation of the parents of the student is guilty of an indictable offence and liable on conviction to a fine of ten thousand dollars."

#### 5. OMBUDSMAN / HUMAN RIGHTS AUTHORITY

*Generally, see Chapter IX of the Constitution and sections 108, 110 of the Constitution specified above on the ombudsman. It should be noted, however, that according to the Dominican Presidential website, "The office of Parliamentary Commissioner (popularly referred to as the Ombudsman) and that of his Deputy have not yet been filled. But when the opportunity arises for appointments to be made to these offices, the President should act only after he has received the advice of both the Prime Minister and the Leader of the Opposition. If conflicting advice is received, the President may have to act in his own deliberate judgment."<sup>8</sup>*

<sup>7</sup> Law No. 11 of 1997 as amended up to Act No. 10 of 2008, available at [http://planipolis.iiep.unesco.org/upload/Dominica/Dominica\\_1997\\_Education\\_Act.pdf](http://planipolis.iiep.unesco.org/upload/Dominica/Dominica_1997_Education_Act.pdf). Amendments are available at <http://www.dominica.gov.dm/cms/index.php?q=node/892>.

<sup>8</sup> See [http://presidentoffice.gov.dm/presaddress/dr\\_liverpool/const\\_change\\_adv\\_1007\\_2008/const\\_change\\_adv.html](http://presidentoffice.gov.dm/presaddress/dr_liverpool/const_change_adv_1007_2008/const_change_adv.html).



# DOMINICAN REPUBLIC

Official Name: Dominican Republic  
Population: 10,088,598 (July 2012 est.)  
Date of Independence: 27 February 1844  
(from Haiti)  
Official Language: Spanish  
Capital: Santo Domingo  
Government Type: Democratic Republic  
Ethnic Groups: mixed 73%; white 16%;  
black 11%



## 1. CONSTITUTIONAL PROVISIONS

Hereinafter are the relevant provisions of the Constitution of the Dominican Republic of 26 January 2010:<sup>1</sup>

### Article 4

"The government of the Nation is essentially civil, republican, democratic and representative. It is divided into the Legislative Power, the Executive Power and the Judicial Power. These three powers are independent in the exercise of their respective functions. Their office holders are responsible and cannot delegate their attributions, which are uniquely determined by this Constitution and laws."

### Article 5

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

### Article 7

"The Dominican Republic is a Social and Democratic State of Law, organized in the form of a unitary Republic, founded on the respect for human dignity, of the fundamental rights, labor, popular sovereignty and the separation and independence of the public powers."

### Article 8

"The effective protection of the rights of the person, the respect for their dignity and obtaining the means that permit their improvement in an equal, equitable and progressive form, within a framework of individual liberty and social justice,

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<sup>1</sup> Source of introductory information and map from CIA – The World Factbook, <https://www.cia.gov/library/publications/the-world-factbook/>.

Constitution of 26 January 2010. Unofficial English translation available at <http://www.heinonline.org/HOL/Page?handle=hein.cow/zzdooogo&id=4&type=text&collection=cow>.

compatible with the public order, the general well being and the rights of all, is an essential function of the State."

#### Article 20

"The faculty to acquire a foreign nationality is recognized for Dominican women and men. The acquisition of other nationality does not imply the loss of the Dominican nationality. (...)."

#### Article 25

"Foreign men and foreign women have in the Dominican Republic the same rights and duties as nationals, with the exceptions and limitations established by this Constitution and the laws.

(1) – (3) (...)."

#### Article 26

"The Dominican Republic is a member State of the international community, open to cooperation and adhering to the norms of international law, therefore:

- (1) It recognizes and applies the norms of international, general and American law, in the manner in which its public powers have adopted it;
- (2) The norms in force of ratified international agreements will govern within the domestic sphere, once published in official manner;
- (3) The international relations of the Dominican Republic are founded and governed by the affirmation and promotion of its national values and interests, the respect for human rights and for international law;
- (4) In equal conditions with other States, the Dominican Republic accepts an international juridical order that guarantees the respect for fundamental rights, peace, justice, and the political, social, economic and cultural development of the nations. It undertakes to act in the international, regional and national levels in a manner compatible with the national interests, a peaceful coexistence among peoples and the duties of solidarity with all nations;
- (5) The Dominican Republic shall promote and favor integration with the nations of America, in order to strengthen a community of nations that defends the interests of the region. The State may subscribe to international treaties to promote the common development of the nations, to assure the well being of the people and the collective security of its inhabitants, and to attribute to supranational organizations the competences required to participate in processes of integration;
- (6) It is in favor of the economic solidarity between the countries of America and supports all initiatives that are in defense of their basic products, raw materials and biodiversity."

#### Article 29

"The official language of the Dominican Republic is Spanish."

#### Article 37

"The right to life is inviolable from conception to death. The death penalty cannot be established, pronounced or applied, in any case."

**Article 38**

"The State is founded on the respect for the dignity of the person and it is organized for the real and effective protection of the fundamental rights 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**

"Persons are born free and equal before the law, they receive the same protection and treatment from the institutions, authorities and other persons and enjoy the same rights, freedoms and opportunities, without any discrimination for reasons of gender, color, age, disability, nationality, family ties, language, religion, political or philosophical opinion, and social or personal condition. In consequence:

- (1) The Republic condemns all privilege and situation that may disrupt the equality of Dominican men and women, among whom there should be no differences other than those resulting from their talents or their virtues;
- (2) No entity of the Republic may concede titles of nobility or hereditary distinctions;
- (3) The State must promote the juridical and administrative conditions to make equality real and effective and adopt the measures to prevent and combat discrimination, marginalization, vulnerability and exclusion;
- (4) Women and men are equal before the law. Any act is prohibited whose purpose or effect diminishes or annuls the recognition, enjoyment or exercise in conditions of equality of the fundamental rights of women and men. The necessary measures to guarantee the eradication of inequality and gender discrimination shall be promoted;
- (5) The State must promote and guarantee a balanced participation of women and men in the candidacy for offices of popular election for the instances of supervision and decision in the public domain, in the administration of justice and in the organs of control of the State."

**Article 40**

"All persons have the right to liberty and personal security. Therefore:

- (1) No one shall be imprisoned or restrained from their liberty without substantiated and written order by a competent judge, except in the case of flagrant offense;
- (2) Any authority that executes measures depriving of liberty is obliged to identify himself;
- (3) All persons, at the moment of their detention, shall be informed of their rights;
- (4) All detained persons have the right to communicate immediately with their family, lawyer or someone of trust, who in turn have the right to be informed of the place where the detained person is held and the grounds for the detention;



- (5) All persons deprived of their liberty shall be submitted to the competent judicial authority within forty-eight hours of their detention or released. The competent judicial authority shall notify the interested party within the same time, with the decision specified to that effect;
- (6) All persons deprived of their liberty, without cause or without the legal formalities or outside the cases set forth by the laws, shall be immediately released at their own request or of any person;
- (7) Every person must be released once complying with the imposed sentence or after a release order specified by the competent authority;
- (8) No one can be subjected to measures of coercion unless by their own act;
- (9) The measures of coercion, which restrict personal freedom, have an exceptional character and their application must be proportional to the danger being safeguarded;
- (10) Physical constraint may not be established for debt that does not come from an infraction of the penal laws;
- (11) Any person having a detainee in their custody is obligated to present them as soon as the competent authority requires it;
- (12) The transfer of any detainee from a prison facility to another location without a written and substantiated order from a competent authority is strictly prohibited;
- (13) No one can be convicted or sanctioned for actions or omissions which when committed did not constitute a criminal or administrative infraction;
- (14) No one is criminally responsible for the action of another;
- (15) No one shall be obligated to do what the law does not require or shall be prevented from doing what the law does not prohibit. The law is equal for all: it can only order what is just and useful for the community and it cannot prohibit more than what is damaging to it;
- (16) The penalties of deprivation of liberty and the measures of security will be oriented towards the social rehabilitation and reintegration of the convicted person and may not involve forced labor;
- (17) In the exercise of the punishments established by the laws, the Public Administration may not impose punishments which imply in a direct or subsidiary form the deprivation of liberty."

#### Article 41

"Slavery, servitude, and the trade and trafficking in persons, are prohibited in all of their forms."

#### Article 42

"Every person has the right of respect for their physical, psychic, and moral integrity and to live without violence. They have the protection of the State in the cases of threat, risk or violation thereof. Therefore:

- (1) No person may be subjected to penalties, torture or degrading procedures involving the loss or diminishment of health, physical or psychic integrity;
- (2) Inter-family and gender violence in all its forms is condemned. The State shall guarantee by law the adoption of the necessary measures to prevent, punish and eradicate violence against women;
- (3) No one shall be subjected, without prior consent, to experiments and procedures that do not comply with internationally recognized scientific and bioethical norms. Neither to medical tests or procedures, except when there is a danger to life."

#### Article 43

"Every person has the right to the free development of their personality, without other limitations than those imposed by the juridical order or the rights of other persons."

#### Article 44

"Every person has the right to privacy. The respect and non-interference in the private, family, and home life and the individual's correspondences is guaranteed. The right to the honor, to the good name and to the reputation of the person is recognized. Any authority or individual who violates them is obligated to compensate or repair them in accordance with the law. Therefore:

(1) – (4) (...)."

#### Article 45

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

#### Article 47

"Every person has the right to associate for lawful purposes, in accordance with the law."

#### Article 48

"Every person has the right to assembly, without prior permission, for lawful and peaceful purposes, in accordance with the law."

#### Article 49

"Every person has the right to freely express their thoughts, ideas and opinions, through any media, without the establishment of prior censorship.

(1) – (5) (...)."

#### Article 62

"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 promote decent and gainful employment. The public powers will promote the dialogue and joint participation between workers, employers and the State. Therefore:

(1) – (4) (...).

- (5) Any class of discrimination in the access to employment or during the rendering of a service is prohibited, except as provided by the law for the purposes of protecting the men and women workers;
- (6) – (10) (...)."

#### Article 63

"Every person has the right to an integral education, of quality, permanent, in equality of conditions and opportunities, without other limitations than those derived from their aptitudes, vocation and aspirations. In consequence:

- (1) (...).
- (2) The family is responsible for the education of its members and has the right to choose the type of education of their minor children;
- (3) – (6) (...).
- (7) The State must see to the quality of higher education and will finance public schools and universities, in accordance with what the law establishes. It shall guarantee university autonomy and academic freedom;
- (8) – (13) (...)."

#### Article 71

"Every person deprived of their freedom or threatened to be, in an unlawful, arbitrary or unreasonable manner, has the right to an action of habeas corpus before a competent judge or tribunal, by themselves or by anyone acting in their name, in accordance with the law, to hear and decide, in a simple, effective, rapid and summary form, the legality of the deprivation of or threat to their freedom."

#### Article 116

"The Defender of the People shall render to the National Congress an annual report of his administration, not later than thirty days before the end of the first ordinary legislature."

#### Article 190

"The Defender of the People is an authority that is independent in its functions and with administrative and budgetary autonomy. It is obligated in an exclusive manner to the mandate of this Constitution and the laws."

#### Article 191

"The essential function of the Defender of the People is to contribute to the safeguarding of the fundamental rights of the persons and the collective and various interests established in this Constitution and the laws, in case they are violated by functionaries or organs of the State, by providers of public services or individuals that affect collective and various interests. The law will regulate what is relative to its organization and functioning."

#### Article 192

"The Defender of the People and his adjuncts will be appointed by the Senate for a period of six years, from issues proposed by the Chamber of Deputies and will remain in the office until being substituted. The Chamber of Deputies must choose



the issues in the ordinary legislature prior to the fulfillment of the time of the mandate of those designated and will submit them before the Senate in a time that may not exceed fifteen days following their approval. The Senate of the Republic will conduct the election before the following thirty days. (...)."

## 2. HUMAN RIGHTS RELATED LEGISLATION

### *Freedom of Expression Act of 1962*<sup>2</sup>

#### Article 1

"There is freedom of expression of thought, except where it infringes on the honor of persons, social order or public peace."

#### Article 33

"The defamation committed against individuals by one of the means set forth in Articles 23 and 29 shall be punished with fifteen days to six months in prison and a fine of RD \$ 25.00 to RD \$ 200.00, or one of these two penalties. The defamation committed by the same means against a group of persons not designated by Article 31<sup>3</sup> of this law, but on the basis of its origin to a particular race or religion, shall be punished by a month to one year in prison and a fine of RD \$ 25.00 to RD \$ 200.00, if she has intended to cause feelings of hatred in the population."

### *Elimination of Forced Labor and Human Trafficking Act of 2003*<sup>4</sup>

#### Article 2

"Any person who promotes, induces, constrains, finances, transports by land, sea or air or collaborates in any way in the illegal entry into or exit of persons from the country, without compliance with legal requirements, for the purpose of directly or indirectly obtaining a financial or other benefit for themselves or for others shall be considered guilty of the crime of illegal trafficking in migrants.

Paragraph – Any person who commits the crime of illegal trafficking in migrants shall be subject to a term of imprisonment of ten to fifteen years and a fine of no less than 150 but not more than 250 minimum salaries."

#### Article 3

"Any person who by means of the collection, transport, transfer, acceptance or reception of persons, children, adolescents, women, resorting to threats, force,

<sup>2</sup> Act No. 6132 of 19 December 1962. Original version in Spanish available at <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/83343/91947/F1965099340/DOM83343.pdf>. On 2010 the House of Representatives presented a bill for replacing this act, but it was not approved as of November 2012. The bill is available at [http://www.funlode.org/Portals/0/docs/Anteproyecto\\_de\\_Ley\\_de\\_Libre\\_Expresion\\_y\\_Medios\\_de\\_Comunicacion.pdf](http://www.funlode.org/Portals/0/docs/Anteproyecto_de_Ley_de_Libre_Expresion_y_Medios_de_Comunicacion.pdf). Note also that freedom of expression is also protected by Article 49 the new constitution of 2010.

<sup>3</sup> For the articles mentioned in Article 33, see: <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/83343/91947/F1965099340/DOM83343.pdf#%20>.

▼ <sup>4</sup> Law No. 137-3 of 8 July 2003.

coercion, kidnapping, fraud, deception, abuse of power, or situations of vulnerability or to the grant or receipt of payments or benefits to obtain the consent of a person who has authority over another to beg, carry out any form of sexual exploitation, pornography, debt servitude, forced labor or service, forced matrimony, irregular adoption, slavery or similar practices, servitude or the harvesting of organs, even with the consent of the victim, shall be guilty of the crime of human trafficking and shall be sanctioned with a term of imprisonment of 15 to 20 years and a fine of 175 minimum salaries."

#### Article 4

"Legal persons shall be criminally liable and may be sentenced for illegal trafficking in migrants and human trafficking committed by any of their management, administrative or controlling organs or those which should be socially, generally or collectively liable or representatives acting on behalf of and in the interests of such legal persons. They may be punished with one, several or all of the following punishments:

(a) – (i) (...).

The criminal liability of legal persons does not exclude that of the natural person who is the perpetrator of these acts or an accomplice thereto.

The punishments listed in sub-paragraphs (a) to (i) of this article shall be applicable to legal persons under public law, political parties, movements or groups, and to unions or professional associations recognized as such by the force of law."

#### Article 9

"The State, through the corresponding institutions, shall protect the privacy and identity of victims of human trafficking, by providing for the confidentiality of judicial proceedings.

Victims of human trafficking shall be provided with legal assistance so that their opinions and concerns shall be presented and examined during the criminal proceedings against the perpetrators and/or traffickers."

#### Article 10

"Victims of human trafficking shall receive physical, psychological and social care, as well as advice and information concerning their rights. This assistance shall be provided by the responsible government organizations in association with non-governmental organizations and other sectors of civil society.

Victims of human trafficking shall be guaranteed suitable accommodation, medical care and access to education, training and employment opportunities.

Victims of human trafficking, especially women, children and adolescents, shall be given psychological assessments and other types of assessments required for their protection, taking their age and sex into consideration."

#### Article 11

"Similarly, the corresponding institutions shall be obliged to develop policies, plans and programs targeted at the preventing human trafficking and assisting its