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**DOMINICAN REPUBLIC**

**Submission by:**

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## Introduction

1. ADF International is a global alliance-building legal organization that advocates for religious freedom, life, and marriage and family before national and international institutions. As well as having ECOSOC consultative status with the United Nations (registered name “Alliance Defending Freedom”), ADF International has accreditation with the European Commission and Parliament, the Organization for Security and Co-operation in Europe, and the Organization of American States, and is a participant in the FRA Fundamental Rights Platform.
2. This report explains why the Dominican Republic must continue to affirm the sanctity of life of all human beings, including the unborn, and why it should resist calls to liberalize access to abortion due to the fact that there is no international right to abortion. In addition, this report deals with the issue of high levels of maternal mortality and morbidity in the Dominican Republic, as well as the need for continued adoption of medical standards and protocols to improve the conditions in which deliveries occur.

### (a) Abortion

3. Under Article 37 of the 2010 Constitution, the primary legal instrument of the Dominican Republic, abortion is illegal in compliance with Article 6 of the International Covenant on Civil and Political Rights, which it ratified in 1978. This principle is further reaffirmed in sections 107 and 110 of the 2015 Criminal Code, which state that abortion is illegal, except when it is the only available option for saving the mother’s life. However, before considering this option, doctors and medical staff must explore all viable alternatives to save both lives<sup>1</sup>. Abortion is instead not permitted in cases of rape, incest and preservation of health, including mental health.
4. Pro-abortion organizations and activists argue that abortion is necessary to respect and fulfil the human rights of women, as well as for the sake of improving maternal health and reducing maternal mortality and morbidity, and that the Dominican Republic should fully decriminalize abortion and make it available on demand.

### *The right to life in international law*

5. In addition to its national legal framework, and consistent with the country’s interest in protecting human rights and the right to life, the Dominican Republic has ratified various regional and international conventions to this effect, which include: 1) the Universal Declaration of Human Rights, whose Article 3 states that “Everyone has the right to life, liberty, and the security of person”<sup>2</sup>; the American

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<sup>1</sup> Criminal Code of the Dominican Republic (2014), Articles 107 and 110.

<sup>2</sup> The Universal Declaration of Human Rights: The Universal Declaration of Human Rights (UDHR) is a milestone document in the history of human rights. Drafted by representatives with different legal and cultural backgrounds from all regions of the world, the Declaration was proclaimed by the United Nations General Assembly in Paris on 10 December 1948 (General Assembly resolution 217 A) as a common standard of achievements for all peoples

Declaration of the Rights and Duties of Man, whose Article 1 affirms that “Every human being has the right to life, liberty and the security of his person”<sup>3</sup>; the American Convention on Human Rights; and the International Covenant on Civil and Political Rights.

6. Article 6, paragraph 1 of the ICCPR stipulates that “Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life”<sup>4</sup>. The ICCPR’s prohibition of the death penalty for pregnant women implicitly recognizes the right to life of the unborn.
7. Although the ICCPR allows for the death penalty to be imposed on both adult men and women, it explicitly prohibits applying the death penalty to pregnant women. Article 6(5) states that the “sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.” This clause must be understood as recognizing the unborn child’s distinct identity from the mother and protecting the unborn child’s right to life.
8. The *travaux préparatoires* of the ICCPR explicitly state that “the principal reason for providing in paragraph 4 [now Article 6(5)] of the original text that the death sentence should not be carried out on pregnant women was to save the life of an innocent unborn child”<sup>5</sup>. Similarly, other early UN texts note that the intention of the paragraph “was inspired by humanitarian considerations and by consideration for the interests of the unborn child”<sup>6</sup>. The Dominican Republic abolished the death penalty for all crimes in 1966<sup>7</sup>.
9. The protection of unborn life is also found through an ordinary reading of the language in the preamble of the Convention on the Rights of the Child (CRC). The preamble states that “the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, *before as well as after birth.*”
10. Article 1 of the CRC defines a child as “every human being below the age of eighteen years.” This provides an upper limit as to who is a child, but does not provide a lower limit on when the status of “child” attaches. Moreover, Article 6 of the CRC holds that “States Parties recognize that every child has the inherent right to life. States Parties shall ensure to the maximum extent possible the

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and all nations. It sets out, for the first time, fundamental human rights to be universally protected and it has been translated into over 500 languages.

<sup>3</sup> Declaración Americana de los Derechos y Deberes del Hombre- Aprobada en la Novena Conferencia Internacional Americana (Bogotá, Colombia, 1948).

<sup>4</sup> International Convention on Civil and Political Rights (20 November 1989). Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 entry into force 23 March 1976, in accordance with Article 49.

<sup>5</sup> A/C.3/SR.819, para. 17 & para. 33; In accordance with the Article 32 of the Vienna Convention, the *travaux préparatoires* are considered to be a “supplementary means of interpretation.”

<sup>6</sup> Commission on Human Rights, 5th Session (1949), 6th Session (1950), 8th Session (1952), A/2929, Chapter VI, Article 10.

<sup>7</sup> Consideration of reports submitted by States parties under article 40 of the Covenant. Sixth periodic reports of States parties due in 2016-Dominican Republic.

survival and development of the child.” Viewed in the context of the preamble, both Articles 1 and 6 of the CRC indicate recognition and protection of unborn life.

#### *Legalizing abortion does not make it safe*

11. Although medical infrastructure in the Dominican Republic is of a relatively high standard, and arguably one of the most advanced healthcare systems in the Caribbean, it is still not of the same quality as more developed countries, and access to quality health-care services is less available in remote and poor areas. Women who receive abortions will still face the same poor conditions faced by women who give birth and deal with similar complications, such as bleeding and infection. Providing more access to abortion will mean more women will suffer from abortion complications.
12. High rates of maternal mortality have less to do with the legality of abortion per se than with an inability to access obstetric care, lack of information, and lack of health workers, especially in the case of women living in poverty and in remote or rural areas.
13. Further, abortion can never be safe because it takes the life of the unborn child, and harms the mother through the loss of her child.

#### *Reducing recourse to abortion*

14. The Dominican Republic must focus on introducing measures to reduce recourse to abortion, instead of focusing on legalizing it, in line with paragraph 8.25 of the Program of Action of the International Conference on Population and Development. Measures to reduce recourse abortion include improving access to education, which empowers women and leads to social and economic development, as well as facilitating healthy decision-making.
15. The Dominican Republic must also focus on helping women get through pregnancy and childbirth safely, rather than helping women end their pregnancies. Given the maternal health crisis in the Dominican Republic, resources must focus on improving conditions for pregnant women, women undergoing childbirth, and postpartum women.

#### **(b) Maternal Health**

16. The Dominican Republics’ maternal mortality ratio (MMR) in 2015 was 92 maternal deaths per 100,000 live births, down from 198 per 100,000 in 1990<sup>8</sup>. Although the number of maternal deaths in the Dominican Republic has declined in recent years, it remains a pressing human rights concern. Indeed, every maternal death is a tragedy. It devastates the woman’s family, in particular the woman’s children, and affects the entire community socially and economically.

#### *Necessary maternal health interventions*

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<sup>8</sup> World Bank, Maternal Mortality Ratio (modeled estimate, per 100,000 live births), 2015, <https://data.worldbank.org/indicator/SH.STA.MMRT?end=2015&locations=DO&start=1990&view=chart>.

17. Almost all maternal deaths are preventable, particularly when skilled birth attendants are present to manage complications and the necessary drugs are available, such as oxytocin (to prevent haemorrhage) and magnesium sulphate (to treat pre-eclampsia). Problems in many countries with high rates of maternal mortality and morbidity include a lack of drugs and poor infrastructure, such as no electricity or running water and inaccessibility of hospitals due to weather conditions.
18. The World Health Organization (WHO) recommends a minimum of four prenatal visits with trained health workers, in order to prevent, detect, and treat any health problems. Although in 2014 93% of women received the minimum of four visits recommended by the WHO, infant and mother mortality rates still remain high. These issues must be remedied, but frequent calls to increase legal abortion access as a necessary precondition to solving them are misguided. Legalizing abortion also does not guarantee that pregnancy and childbirth will become safer when the real problems with the Dominican Republic's health-care system do not involve lack of access to abortion. Providing more access to abortion will mean more women will suffer from abortion complications<sup>9</sup>.
19. After identifying the causes of mother and child mortality in 2014, UNICEF and the Dominican Ministry of Public Health decided to implement a methodology for continuous quality improvement of attention to pregnancy, childbirth, postpartum and immediate attention to the newborn, called "*Hospital Amigo del Bebe*". This strategy includes key interventions for the reduction of maternal-neonatal mortality through six specific component: (1) Quality prenatal control, (2) Friendly attention to the mother, (3) Clean and quality delivery, (4) Breast feeding and early attachment, (5) Reduction of infections spread to the newborn immediately after birth, (6) Timely registration of birth<sup>10</sup>.
20. Moreover, in March 2017, UNICEF released a study outlining the most recent advances made throughout the country as well as to highlight the current primary causes of maternal mortality. This study concluded that non-compliance with medical standards and protocols in hospitals where deliveries occur is a leading cause of maternal mortality throughout the Dominican Republic.
21. In line with paragraph 8.25 of the ICPD, the Dominican Republic must focus on introducing measures to avoid recourse to abortion by way of investing in social and economic development and by providing women with support throughout and after pregnancy.

### *Impact of premature sexual activity*

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<sup>9</sup> Global distribution of women attended at least four times during pregnancy by any provider, latest available data in the period 2010-2016. <https://data.unicef.org/topic/maternal-health/antenatal-care/>. Antenatal care coverage: at least four visits. Percentage of women aged 15–49 years attended at least four times during pregnancy by any provider. The indicator refers to women who had a live birth in a recent time period, generally two years for MICS and five years for DHS.

<sup>10</sup> Reducción de Mortalidad Materna y Neonatal. Informe De Progreso - Marzo 2017 - Santo Domingo.

22. Premature sexual activity is a serious problem that leads to devastating health implications, and severely undermines the wellbeing of youth. The consequences of premature sexual activity have a disproportionate impact on young girls because their bodies are not developmentally prepared for pregnancy, in addition to the fact that they are more susceptible to HIV and other STIs due to biological factors.
23. The Dominican Republic must ensure cooperation with parents and community and religious leaders, and must respect the religious values of the community. More than 90% of the population of the Dominican Republic are religious, most of whom are Christian.
24. Education on responsible sexual behavior should focus on abstinence and fidelity and inform young people about the risks associated with premature sexual activity and multiple concurrent partners. It must also encourage healthy relationships and responsible decision-making.

**(c) Recommendations**

25. In light of the aforementioned, ADF International suggests the following recommendations be made to the Dominican Republic:
  - a. Affirm that there is no international human right to abortion and that the right to life applies from conception until natural death, and as such that the unborn child has the right to protection of his or her life at all points.
  - b. Resist calls to further liberalize abortion, and instead implement laws aimed at protecting the right to life of the unborn.
  - c. Recognize that the legalization of abortion, in a country with high levels of maternal mortality and morbidity and with severe problems with access to proper health-care, will not make pregnancy and childbirth any safer;
  - d. Improve health care infrastructure, access to emergency obstetric care, midwife training, and resources devoted to maternal health; and
  - e. Focus on safely getting mothers and babies through pregnancy and childbirth, with special attention paid to improving health-care access for women from poor and/or rural backgrounds.



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