

Justice Derailed:

The Uncertain Fate of Haitian Migrants and Dominicans of Haitian Descent in the Dominican Republic

2015

International Human Rights Clinic

INTERNATIONAL LAW *and* ORGANIZATIONS PROGRAM



JOHNS HOPKINS
SCHOOL *of* ADVANCED
INTERNATIONAL STUDIES

This report is a project of the International Human Rights Clinic, an experiential learning course in the International Law and Organizations Program at Johns Hopkins University – The Paul H. Nitze School of International Studies (SAIS). The views expressed herein are those of the authors and do not reflect the official position of Johns Hopkins University – The Paul H. Nitze School of Advanced International Studies (SAIS) or Johns Hopkins University.

Justice Derailed:

The Uncertain Fate of Haitian Migrants and Dominicans of Haitian Descent in the Dominican Republic

2015

International Human Rights Clinic

INTERNATIONAL LAW *and* ORGANIZATIONS PROGRAM



JOHNS HOPKINS
SCHOOL *of* ADVANCED
INTERNATIONAL STUDIES

Contributors

Liz Agase

Tobias Åkerlund

Tiffany Basciano

Urvashi Bundel

Grace Cineas

Holly Deaton

Nicola Hil

Tess Johnson

Amaury Muñoz

Li-Ming Pan

Vanessa Roy

*Edited by Tiffany Basciano, Professorial Lecturer and Associate Director of the
International Law and Organizations Program, Johns Hopkins University – SAIS*

Table of Contents

Acknowledgements.....	1
Executive Summary	2
Methodology.....	4
Background.....	5
Country Comparison.....	5
Anti-Haitianism in the Dominican Republic	6
Migration from Haiti to the Dominican Republic.....	8
Political Culture in the Dominican Republic.....	12
Human Rights in the Dominican Republic.....	14
International Law.....	15
Nationality.....	15
The Dominican Republic and International Law	16
The Dominican Republic and the Inter-American System.....	18
The Evolution of Dominican Law Pertaining to Issues of Citizenship and Migratory Status.....	20
The Evolution of Citizenship Law in the Dominican Republic.....	21
The Evolution of Migration Law in the Dominican Republic	23
Constitutional Revision of 2010	24
The Establishment of the Constitutional Tribunal	25
Law of the Dominican Republic (Post 2010).....	25
Constitutional Tribunal Sentence 168-13	25
Background.....	26
Implications of the Court of First Instance’s Judgment before the Constitutional Court	27
Decision of 168-13	33
327-13 (Regularization Plan)	33
Law 169-14 (Naturalization Plan)	35
Implementation.....	37
Regularization: The National Plan to Regularize Foreigners (PNRE).....	37
Legal Implementation & Requirements of the PNRE	37
Implementation in Practice	39
Restoration and Naturalization.....	45
Three Affected Groups	45
Implementation of the Naturalization Program.....	48
Expulsions.....	51
Haitian Constitution	52
Haitian Constitution of 1987	52
Changes to the Haitian Constitution of 1987	53
Haitian Citizenship as an Option to Reduce Statelessness?	55
The Role of Intergovernmental Organizations	55
International Organization for Migration (IOM).....	55
United Nations Higher Commission on Refugees (UNHCR).....	56
Organization of American States (OAS).....	57

Civil Society Stakeholders	57
Civil Society.....	57
Batey Relief Alliance	58
<i>Mesa Nacional para las Migraciones y Refugiados en República Dominicana</i> (MENAMIRD)	58
Legal Community	59
Centro Bonó.....	59
Improving Access to Legal Assistance.....	60
The Media	61
Freedom of the Press.....	61
Media Campaign to Advertise the Processes	62
Private Sector	63
Bilateral Relations.....	69
Dominican Republic – Haiti Relations.....	69
The Role of the United States	71
The Role of the Caribbean Community	75
The Role of the European Union	78
Conclusion	80
Recommendations.....	82
To the Dominican Republic.....	82
To Haiti	83
To Civil Society.....	83
To the Private Sector	83
To the United States.....	83
To the Caribbean Community (CARICOM).....	84
To the European Union (EU).....	84
Bibliography	85
General References	85
Cases.....	99
International Law	99
Domestic Legislation and Regulations.....	100
Appendix 1: Abbreviations.....	102
Appendix 2: Documents	105
PNRE Brochure	105
Letter from the Embassy of the Dominican Republic to The Paul H. Nitze School of Advanced International Studies - Johns Hopkins University.....	109
Appendix 3: Maps & Charts	111
Office Locations Designated for the Regularization and Naturalization Processes	111
Comparison Chart Between 169-14 and 327-13	113

Acknowledgements

First, we would like to thank Professor Ruth Wedgwood, Edward B. Burling Professor of International Law and Diplomacy and Director of the International Law and Organizations Program at Johns Hopkins University – School of Advanced International Studies (SAIS) and John Harrington, Associate Dean for Academic Affairs for their continued support of the SAIS International Human Rights Clinic. Moreover, we would like to thank the SAIS Language Studies Program, as well as Ronald Desir for their assistance in certifying translations for the Johns Hopkins University Homewood Institutional Review Board (HIRB) application. We would also like to thank Angelika Heider for her work on the initial project proposal.

We greatly appreciate all of our interview partners, including representatives of the International Organization for Migration (IOM), United Nations High Commissioner for Refugees (UNHCR), Embassy of the United States in Santo Domingo, Embassy of the United States in Port-au-Prince, Embassy of Haiti in Santo Domingo, Office of the Organization of American States (OAS) in the Dominican Republic, *La Unidad de Derechos Humanos de la Procuraduría General de la República Dominicana* (The Humans Rights Unit of the Attorney General's Office of the Dominican Republic), *Mesa Nacional para las Migraciones y Refugiados en República Dominicana* (MENAMIRD), *El Movimiento de Mujeres Dominico-Haitiana* (MUDHA), *Movimiento Social-Cultural de los Trabajadores Haitianos* (MOSCTHA), *Centro Bonó*, Batey Relief Alliance, *Observatorio de Migrantes del Caribe* (OBMICA), as well as Dominican Supreme Court Judge Juan Hirohito Reyes Cruz, Edwin Paraison, Ambassador Alberto E. Despradel, and Lic. Eduardo Jorge Prats.

We would also like to acknowledge representatives of the Robert F. Kennedy Center for Justice & Human Rights, U.S. State Department Bureau of Population, Refugees, and Migration, American Bar Association Rule of Law Initiative, as well as Jillian Blake, who generously took the time to meet with us in Washington, DC regarding our research interests.

Finally, we would like to thank the Embassy of the Dominican Republic in the United States for all of their kind assistance.

We commend all the individuals and organizations who tirelessly work to promote and protect the rights of Haitian migrants and Dominicans of Haitian descent in the Dominican Republic.

Executive Summary

Over time, the Dominican Republic formalized a more restrictive definition of citizenship by birth. By expanding the interpretation of what it means to be “in transit,” the Dominican Republic began to chip away at its *jus soli* (right of soil) regime. Given the long history of migration from Haiti to the Dominican Republic and demographic realities, this shift has had a disproportionate impact on individuals of Haitian descent. The redefinition of the *jus soli* basis for citizenship reached its peak in the now infamous sentence of the Constitutional Tribunal of the Dominican Republic, 168-13. In September 2013, the Constitutional Tribunal issued Sentence 168-13, which retroactively denationalized and effectively rendered stateless many Dominicans of Haitian descent by establishing that children born in the Dominican Republic to those illegally residing in the country were not entitled to citizenship by birth, as their parents were considered to be “in transit.” The Sentence further called for a national regularization plan.

In an effort to implement Sentence 168-13, the Dominican government established the National Plan for the Regularization of Foreigners (PNRE). The PNRE is a plan to regularize the status of undocumented migrants in the Dominican Republic, which most notably impacts Haitian migrants. To be clear the PNRE provides a pathway to regularization for undocumented migrants, it does not provide an adequate avenue for those Dominican nationals rendered stateless by Sentence 168-13. Following international backlash over Sentence 168-13, Dominican Republic President Danilo Medina issued Law 169-14 (Naturalization Law), which provides a pathway to naturalization for those effectively left stateless by the Sentence.

As will be detailed in this Report, although attempts to regularize undocumented migrants and remedy the fallout from Sentence 168-13 for Dominican nationals are commendable, the implementation of the PNRE and the Naturalization Law was problematic in many respects. Both the PNRE and the Naturalization Law suffered from insufficient capacity, inadequate timeframes, and poor publicity, amongst other factors.

This Report will also detail how various actors were involved in or impacted by the regularization and naturalization processes, including intergovernmental organizations, the private sector, civil society, as well as several important bilateral relationships with the Dominican Republic. Moreover, this Report will discuss the role that these actors could play moving forward.

Undoubtedly, states have the sovereign right to determine the criteria for citizenship, but they must do so consistently with international human rights law, including, *inter alia*, the right to nationality and prohibitions on racial discrimination. This Report will discuss the Dominican Republic’s responsibilities under international human rights law.

Finally, this Report will outline the constraints that may inhibit the work of policy makers and human rights defenders in addressing immigration and citizenship issues. The plight of Haitian migrants and Dominicans of Haitian descent in the Dominican Republic is complicated by a history of anti-Haitianism, an unfavorable domestic political climate, and a nascent human rights culture.

With the deadline to apply under the Naturalization Law expired and the deadline for the PNRE quickly approaching, the fate of Haitian migrants and Dominicans of Haitian descent still remains uncertain. Along with the PNRE deadline comes the expiration of the moratorium on deportations. As such, there is concern about Haitian migrants being deported and Dominicans of Haitian descent being expelled without adequate due process. Consequently, the situation on the ground merits close monitoring and human rights driven solutions.

Methodology

This Report is the product of an academic yearlong experiential learning course on international human rights at Johns Hopkins University – The Paul H. Nitze School of Advanced International Studies (SAIS). The research team consisted of ten graduate student researchers and one professorial lecturer.

During the Fall 2014 semester, the research team began by broadly studying the human rights situation of Haitian migrants and Dominicans of Haitian descent in the Dominican Republic. Through the course of study, including reviewing some of the existing literature, hearing from guest speakers, attending events on the issue, and class discussion, the research topic was refined to examining the protection and promotion of the rights of Haitian migrants and Dominicans of Haitian descent in the Dominican Republic with regards to access to documentation and regularization of status. The research team developed a questionnaire to help frame their understanding of how different actors were working to protect and promote the aforementioned rights. In addition to background research, the research team identified relevant experts and stakeholders to contact for meetings and interviews.

Following the initial background research, a majority of the research team visited Santo Domingo, Dominican Republic to conduct a five-day fact-finding mission in January 2015.¹ The team conducted interviews with a number of organizations and individuals while there, including the International Organization for Migration (IOM), Embassy of the United States in Santo Domingo, Embassy of Haiti in Santo Domingo, Office of the Organization of American States (OAS) in the Dominican Republic, *La Unidad de Derechos Humanos de la Procuraduría General de la República Dominicana*, *Mesa Nacional para las Migraciones y Refugiados en República Dominicana* (MENAMIRD), *El Movimiento de Mujeres Dominico-Haitiana* (MUDHA), *Movimiento Social-Cultural de los Trabajadores Haitianos* (MOSCTHA), *Centro Bonó*, Batey Relief Alliance, *Observatorio de Migrantes del Caribe* (OBMICA), as well as Ambassador Alberto E. Despradel, and Lic. Eduardo Jorge Prats.

Upon returning to Washington, DC, the team analyzed the information collected during the fact-finding mission, and continued to conduct research, including follow-up research and additional interviews.

The research team drafted this Report over the course of the Spring 2015 semester. The team met weekly to further analyze issues, strategize, and to discuss the logistics of the Report.

On May 12, 2015, the research team publicly presented their report findings at an event held at Johns Hopkins University – SAIS.

This study received approval for human subjects research from the Johns Hopkins University Homewood Institutional Review Board (HIRB). Oral consent was obtained from our interview partners. When permitted, the research team uses the interviewees' names and/or affiliations in this report.

¹ A subset of the research team also visited Haiti, where they had an opportunity to visit with a representative from the Embassy of the United States in Port-au-Prince.

Background

Country Comparison

Indicators ²	Dominican Republic	Haiti
GDP per Capita	5,879	819.9
GDP Total (billions)	61.164	8.459
GDP Growth (annual %)	4.6 (2010-2013 average =4.625)	4.3 (2010-2013 average =1.8)
Population	10,403,761	10,317,461
Population Growth	1.2	1.4
Net Migration	-140,000	-175,001
Ethnic Groups* ³	mixed 73%, white 16%, black 11%	black 95%, mixed and white 5%
Official Language(s)*	Spanish	French, Haitian Creole
Government Type*	Democratic republic	Republic
Gini Coefficient*	45.7 (2012)	59.2
Migrant population by country of origin - (% of total immigrant pop.) * ⁴	Haiti (65%), Venezuela (5%), United States (3.3%)	Dominican Republic and Venezuela (13%); U.S, Spain and Cuba (8%)
Sources of GDP (Value Added % GDP)	Agriculture = 6.3 Industry =26.9 Services =66.7	Agriculture = unknown Industry = unknown Services = unknown
Urban Population	8,019,427	5,795,111
Poverty headcount ratio at \$1.25 a day (PPP) (% of population)	2.3 (2012)	24
Poverty headcount ratio at \$2 a day (PPP) (% of population)	8.8 (2012)	Not listed
Poverty headcount ratio at national poverty lines (% of population)	40.1 (2012), 41.1 (2013)	58.5 (2012)
International migrant stock, total	434,343	34,966
International migrant stock (% of population)	4.3	0.4

² Unless otherwise noted, the data was taken from The World Bank database, <http://data.worldbank.org/>.

³ Unless otherwise noted, starred (*) data was taken from Central Intelligence Agency (CIA), The World Factbook, <https://www.cia.gov/library/publications/the-world-factbook/>.

⁴ Based on Migration Policy Institute (MPI) data, "International Migrant Population by Country of Origin and Destination," MPI, <http://www.migrationpolicy.org/programs/data-hub/charts/international-migrant-population-country-origin-and-destination>. Percentages were calculated by a research team member.

Anti-Haitianism in the Dominican Republic

There is a long history of contentious relations between the Dominican Republic and Haiti. In the period from 1822 through 1844, Haiti occupied the Dominican Republic and controlled the island of Hispaniola engendering early anti-Haitianism in the Dominican Republic. Notably, Dominican Independence Day celebrates the day that the Dominican Republic gained independence not from Spain but from Haiti.

Demonstrating the divide and enduring animosity between the countries, Dominican President Rafael Trujillo killed between 9,000 and 18,000 ethnic Haitians residing in the Dominican Republic in 1937 (commonly referred to as the Parsley Massacre).⁵ Indeed, President Trujillo forged a national identity centered around the racial ideals of Dominicans as descended from Spaniards versus Haitians as descended from slaves, despite the vast majority of Dominicans having a mixed race heritage.⁶ What followed were decades of anti-Haitian vitriol that continues to inform the Dominican conception of national identity. Light skin was and continues to be valued. Throughout the 1980s, 1990s and 2000s certain civil registry offices started turning away even individuals who had valid *cédulas de identidad y electoral*⁷ from registering Dominican birth certificates, on the basis that they were “Haitian” or simply “looked like a Haitian.”⁸

Historical racial tensions have become more institutionalized in recent years. In 2010, the Dominican Republic ratified a new Constitution. It is the first constitution in Dominican history to mention human rights. Although this constitutional recognition of human rights is commendable, the new Constitution also redefined citizenship in a more restrictive manner. As the largest migrant population, the new citizenship definition disproportionately affects Dominicans of Haitian descent and Haitian migrants.

From 1929 until January 26, 2010, the Dominican Constitution granted citizenship to all those born within its territory except for diplomats and those born “in-transit.” During this time, long-standing legal authority interpreted “in-transit” to be individuals who were in the Dominican Republic for less than ten days.⁹ As long as parents were in the country more than ten days at the time of birth, any child born on Dominican soil was conferred Dominican citizenship, regardless of the parent’s residential status in the Dominican Republic. However with the 2010 Constitution, only

⁵ Wilhelmina Agyapong, “Troubled Haitian-Dominican Bilateral Relations Await Progress,” Council on Hemispheric Affairs (February 27, 2014), accessed February 24, 2015, <http://www.coha.org/troubled-haitian-dominican-bilateral-relations-await-progress/>.

⁶ Maja Horn, “Dictates of Dominican Democracy: Conceptualizing Caribbean Political Modernity,” *Small Axe: A Caribbean Journal of Criticism* 18 (2) (2014): 30.

⁷ This is the national form of identification that is needed to receive a variety of services from education to medical care, and a valid *cédula* is required to register the birth of one’s child. Possession is mandatory and to be caught without a *cédula* risks fines, imprisonment and even deportation. Open Society Justice Initiative, “Dominicans of Haitian Descent and the Compromised Right to Nationality. Report Presented to the Inter-American Commission on Human Rights on the Occasion of its 140th Session,” (October 2010): 4, accessed February 10, 2015, <http://www.opensocietyfoundations.org/sites/default/files/Dominican-Republic-Nationality-Report-ENG-20110805.pdf>.

⁸ Ibid., 5.

⁹ Ibid., 3.

children of “legal residents” born on Dominican soil are granted citizenship.¹⁰ Any child born in the Dominican Republic after January 26th 2010, whose parents did not hold either Dominican citizenship or legal residency, was not considered a citizen by birth.

Furthermore, in 2013, the Constitutional Tribunal declared in 168-13 that the “in-transit” definition could be applied retroactively to any Dominicans of Haitian descent born since 1929.¹¹ The new “in transit” definition meant that Dominicans of Haitian descent like Juliana Dequis Pierre [hereinafter: Ms. Dequis],¹² the plaintiff in 168-13, who had Dominican citizenship and a Dominican birth certificate, had both revoked. The Tribunal decided that because her parents were undocumented migrant workers both her and her parent’s status was “irregular,” and thus she was not entitled to Dominican citizenship.

Ms. Dequis’ case came to international attention in 2013 after her request for a national identification card was denied by officials based on the idea that she could not be Dominican because her last name sounded Haitian.¹³ As mentioned above, the Constitutional Tribunal eventually ruled that despite being born in the Dominican Republic and being registered at birth as Dominican, Dequis was not entitled to Dominican citizenship.¹⁴ The Tribunal decided that her parents, migrant workers from Haiti, did not have the correct documentation when Dequis was born. Therefore, Dequis, and her parents are both considered “in transit” and are not entitled to Dominican citizenship. In addition to denationalizing a person who had no other citizenship, the Constitutional Tribunal, then ordered the Central Electoral Board (*Junta Central Electoral “JCE”*)¹⁵ to review all births since 1929 and remove from the registry any individuals who were “wrongfully” registered as Dominican citizens.¹⁶ Thus, the Dominican Republic has systematically diluted the rights of Dominicans of Haitian descent and Haitian migrants within the country with the passing and implementation of the new definition of citizenship in the 2010 Constitution and Law 168-13.

Following Sentence 168-13, Presidential Decree 327-13 (PNRE) was issued to provide a pathway towards regularization for undocumented migrants in the Dominican Republic. Vocal international outcry against the Dominican Republic led to Law 169-14 (Naturalization Law), which created a pathway towards citizenship for those rendered

¹⁰ Liliana Gamboa and Julia Harrington Reddy, “Judicial Denationalisation of Dominicans of Haitian Descent,” *Forced Migration Review* 46 (May 2014): 52-53, accessed May 27, 2015, <http://www.fmreview.org/en/afghanistan/gamboa-harrington.pdf>.

¹¹ *Ibid.*, 53.

¹² Some sources spell Juliana’s last name as Deguis. This report will use Dequis.

¹³ Santiago A. Canton and Wade H. McMullen, Jr., “The Dominican Republic and Haiti: Shame,” *Americas Quarterly Higher Education and Competitiveness* (Summer 2014), accessed April 20, 2015, <http://www.americasquarterly.org/content/dominican-republic-and-haiti-shame>.

¹⁴ This became known as the ruling (TC/0168/13). Constitutional Tribunal of the Dominican Republic, *Sentencia TC/0168/13*, Public Law TC/0168/13, (September 23, 2013), available at <http://tribunalconstitucional.gob.do/sites/default/files/documentos/Sentencia%20TC%200168-13%20-%20C.pdf>. [hereinafter: *Sentencia TC/0168/13*].

¹⁵ While the Dominican Constitution defines who has the right to Dominican nationality, official recognition and proof of such nationality is granted by the state civil registry agency, today regulated by the *Junta Central Electoral “JCE.”* The JCE is the organization that issues birth certificates and national identity cards (*cédulas de identidad y electoral*). Open Society Justice Initiative, “Compromised Right to Nationality,” 3.

¹⁶ Gamboa and Reddy, “Judicial Denationalisation of Dominicans of Haitian Descent,” 53.

stateless by Sentence 168-13, most notably Dominicans of Haitian descent. Law 169-14 recognizes the citizenship rights of those individuals born between 1929 and 2007 who were properly registered at birth.¹⁷ In addition this law establishes a route to citizenship for those Dominicans of Haitian descent that were born between these years but lack proper documentation.¹⁸ Unfortunately, these laws were not effectively implemented, as will be discussed further below.

Migration from Haiti to the Dominican Republic

Between 1916 and 1970, initial migration flows from Haiti to the Dominican Republic were a result of agroindustry requirements. Under the 1960's bilateral trade agreements between Haiti and the Dominican Republic, 15,000-20,000 Haitian migrants would come to the Dominican Republic each year.¹⁹ According to former Dominican Ambassador to Haiti, Alberto E. Despradel, Haiti did not have the land needed to establish sugar plantations. This migratory movement displaced Dominicans from agriculture to service industries, which contributed to mounting xenophobia.²⁰

Since the 1970s migration from Haiti has increased dramatically.²¹ Whereas initial migration flows were a result of agroindustry requirements, migration outflows from Haiti are now mostly influenced by political instability, devastation from natural disasters, poor wages and lack of opportunity within Haiti. Those who can, leave for what they hope is a better life abroad. However, despite the problems faced by Haitian migrants abroad, Haiti continues to have a negative net migration rate.²² In the Dominican Republic alone, estimates range between 650,000 and one million Haitians living in the Dominican Republic.²³

During the 1960s, the Dominican government, in an effort to stop Haitian immigrant influence on Dominican culture, proposed the creation of company owned towns on the outskirts of sugarcane plantations called *bateyes*.²⁴ Haitian sugarcane workers were confined to these work camps, often times with no running water, no electricity, no bathrooms, no schools and no medical facilities. "The Haitians were not allowed to leave the bateyes, under the threat of deportation, except to work in the fields."²⁵ Conditions in the bateyes changed during the mid-1990s as non-governmental

¹⁷ Monique A. Hannam, "Soy Dominicano -- The Status of Haitian Descendants Born in the Dominican Republic and Measures to Protect Their Right to a Nationality," Notes, *Vanderbilt Journal of Transnational Law* 47, no. 4 (August 2014): 1151, accessed May 27, 2015, <http://www.vanderbilt.edu/jotl/manage/wp-content/uploads/Hannam-Final.pdf>.

¹⁸ Ibid.

¹⁹ Joseph Cherubin, MOSCTHA, interview by Johns Hopkins University-SAIS International Human Rights Clinic, Santo Domingo, Dominican Republic, January 19, 2015.

²⁰ Ambassador Alberto E. Despradel, interview by Johns Hopkins University-SAIS International Human Rights Clinic, Santo Domingo, Dominican Republic, January 21, 2015.

²¹ Steeve Coupeau, *The History of Haiti*. Greenwood Histories of the Modern Nations, (Westport, Conn: Greenwood Press, 2008), 149.

²² See Graph 1; in 2012 net migration was -175,001 for Haiti.

²³ Minority Rights Group International, "World Directory of Minorities and Indigenous Peoples - Dominican Republic : Haitians," (2008), accessed April 21, 2015, <http://www.refworld.org/docid/49749d2e21.html>.

²⁴ Pam Wright, "The Origin of the Dominican Batey," *Children of the Nations*, November 14, 2007, accessed May 12, 2015, <https://cotni.org/news/dominican-republic/2007/11/14/origin-dominican-batey>.

²⁵ Ibid.

organizations (NGOs) and the international community took notice of how people on the bateyes were treated.²⁶

The privatization of the sugarcane industry in 1998 and the subsequent closing of many plantations forced Haitian migrants out of the bateyes into the cities to find work.²⁷ The changing labor structure has exacerbated and created new tension between Haitians and Dominicans as they took jobs previously occupied by Dominicans.²⁸ Today Haitian migrants work not only in agriculture but also in other sectors such as construction, domestic service and tourism.²⁹ Moreover, because of the complexity of the new regularization and naturalization laws, Haitian immigrants are unsure of what these new laws mean for them. According to *El Movimiento de Mujeres Dominicano-Haitiana* (MUDHA), a NGO in the Dominican Republic that works on health, education and human rights issues, immigration is in fact increasing because migrants believe they can now enter.³⁰ Indeed, in November 2014, two hundred undocumented Haitian workers were arrested after illegally crossing the border in the mistaken belief that they would now qualify for the PNRE.³¹ However, the regularization plan only applies to those living “illegally” in the country before the Constitutional Tribunal passed Sentence 168-13.³²

As mentioned, political instability is a major factor in Haitian migration outflows. From 1957-1986, Haitians endured twenty-nine years of dictatorship. Throughout the 1990s and 2000s military coups and political upheaval wracked Haitian society. Internal upheaval came to a head in February 2004 when the United Nations deployed a stabilization mission to Haiti.³³ Instability within the country was deemed a threat to international peace and security and the Haitian government was deemed incapable of instituting democratic order.³⁴ Haiti currently ranks 9th on the Fund for Peace’s *2014 Fragile States Index* which looks at factors such as poverty, human flight, uneven development, group grievance, human rights and legitimacy of the state.³⁵ Corruption also contributes to instability within Haiti. In 2014 Haiti was ranked 161 out of 175 countries on Transparency International’s *Corruption Perceptions Index*.³⁶ In November of last year, tens of thousands of protesters took to the streets of Port-au-Prince calling for President Martelly’s resignation due to his failure to hold promised elections, hand-

²⁶ Ibid.

²⁷ Ibid.

²⁸ William Charpentier, MENAMIRD, interview by Johns Hopkins University-SAIS International Human Rights Clinic, Santo Domingo, Dominican Republic, January 22, 2015.

²⁹ Cherubin, interview.

³⁰ Liliana Dolis, MUDHA, interview by Johns Hopkins University-SAIS International Human Rights Clinic, Santo Domingo, Dominican Republic, January 19, 2015.

³¹ "Haiti - Social: Arrest of 200 Haitians in the Dominican Republic," *Haiti Libre*, November 19, 2014, accessed May 15, 2015, <http://www.haitilibre.com/en/news-12542-haiti-social-arrest-of-200-haitians-in-the-dominican-republic.html>.

³² Ibid.

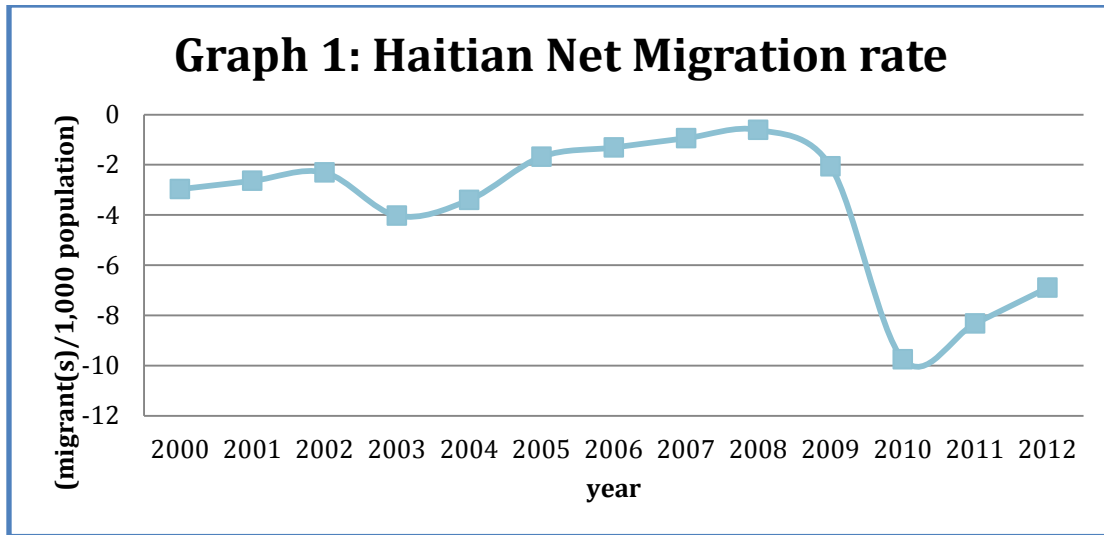
³³ United Nations Stabilization Mission in Haiti (MINUSTAH).

³⁴ Coupeau, *History of Haiti*, 145.

³⁵ The Failed State Index was renamed in 2014 to the Fragile State Index to better encourage discussions that support an increase in human security and improved livelihoods. Fund for Peace, *Fragile States Index*, Fund for Peace (2014), <http://fsi.fundforpeace.org/>.

³⁶ Transparency International, *Corruption Perceptions Index 2014*, Transparency International (2014), <http://www.transparency.org/cpi2014/results>.

picking representatives, and wide-scale corruption throughout the government.³⁷ Since January 2015, most members of Parliament's terms have expired without renewal, leaving President Martelly to rule the country by decree with an interim Government.³⁸ Thus, Haiti remains politically unstable.



39

Country	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Haiti	-2.97	-2.64	-2.31	-4.03	-3.4	-1.68	-1.31	-0.94	-0.61	-2.07	-9.75	-8.32	-6.9

Economic weakness and weak governmental institutions contributed to the devastation of the 2010 earthquake in Haiti. Systemic poverty, a fragile government and a poor infrastructure limited the capacity of local actors to respond to the crisis.⁴⁰ A government that was already incapacitated became virtually nonfunctioning in the immediate aftermath of the earthquake.⁴¹ The very actors who would normally manage the response were themselves victims. In the end, 220,000 people were killed, 300,000 were injured and two million individuals were left homeless.⁴² The humanitarian and economic costs were incredibly high and further contributed to the instability within Haiti. Pursuant to Graph 1, Haiti experienced a significant decrease to net migration in 2010, dropping from -2.07 in 2009 to -9.75. The United States is the largest recipient of

³⁷ Thomas Peralte, "Haiti: Largest Anti-Government Demonstration to Date Demands President Michel Martelly's Resignation," *Global Research*, November 17, 2014, accessed April 20, 2015, <http://www.globalresearch.ca/haiti-largest-anti-government-demonstration-to-date-demands-president-michel-martellys-resignation/5416581>.

³⁸ The World Bank, "Country Overview- Haiti," (2015), retrieved from <http://www.worldbank.org/en/country/haiti/overview>.

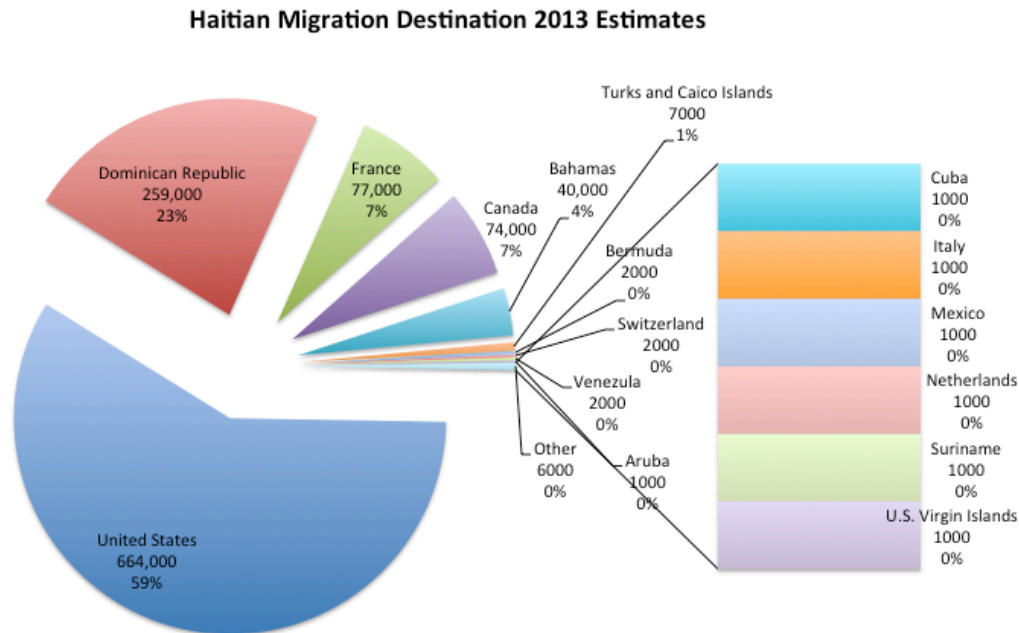
³⁹ This graph was created using data published by Mundi, "index mundi," retrieved from <http://www.indexmundi.com/g/g.aspx?c=ha&v=27>.

⁴⁰ Jonathan Patrick, "Haiti Earthquake Response Emerging Evaluation Lessons," *OECD Evaluation Insights*, no. 1 (2011), accessed April 20, 2015, <http://www.oecd.org/countries/haiti/50313700.pdf>.

⁴¹ Ibid.

⁴² Ibid.

Haitian migrants accounting for 59% of total migrants; the Dominican Republic is the second largest recipient with 23%.



43

Labor migration is vital to the Haitian economy. Haiti is one of the poorest countries in the world with a gross domestic product (GDP) in 2012 of only 8.4 billion US dollars. Twenty percent of Haiti's total GDP comes from personal remittances,⁴⁴ which is a direct result of emigration. In a paper commissioned by The World Bank in 2006, Manuel Orozco estimates between 134,400,000 USD and 218,400,000 USD is sent from the Dominican Republic to Haiti, though the actual contribution is unknown.⁴⁵ In addition to remittances, Haiti's GDP per capita is only about 819 USD, compare this to the Dominican Republic's GDP per capita of 5,879 USD. Fifty-nine percent of the population lives on less than 2.44 US dollars per day.⁴⁶ This is however a slight decrease, from 2010 in which, seventy-six percent of the population lived on less than 2 US dollars per day.⁴⁷ Given the conditions in Haiti, Haitian migrants have a great economic incentive to immigrate to the Dominican Republic.

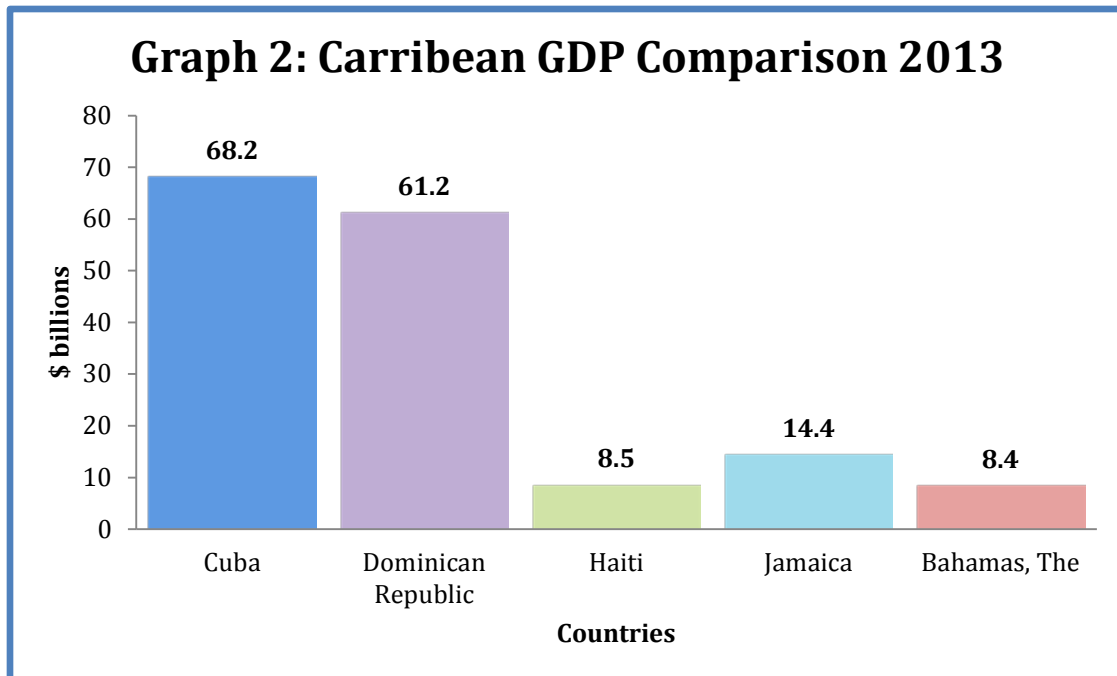
⁴³ This graph was created using data from The World Bank. Retrieved from <http://data.worldbank.org>.

⁴⁴ The World Bank, "World Development Indicators," (2013). *Personal remittances, received (% of GDP)* [Data file]. Retrieved from <http://data.worldbank.org/indicator/BX.TRF.PWKR.DT.GD.ZS>.

⁴⁵ Manuel Orozco, "Understanding the Remittance Economy in Haiti," (paper commissioned by The World Bank, March 15, 2006): 6, accessed May 27, 2015, <http://www.thedialogue.org/publicationfiles/understanding%20the%20remittance%20economy%20in%20haiti.pdf>.

⁴⁶ The World Bank, Country Overview- Haiti (2015).

⁴⁷ Amélie Gauthier and Madalena Moita, "Vulnerability and Causes of Fragility in Haiti," *Fride Project Report* (2010), accessed April 19, 2015, www.fride.org/download/IP_Haiti_final_ENG_Mar10.pdf.



48

Likewise, Haitian migrants provide economic benefits to the Dominican Republic. Haitian migrants account for over 2% of the population in the Dominican Republic and are therefore integral to the Dominican economy and labor force. Haitian labor in the Dominican Republic is critical and represents about 5.4% of GDP- this is more than 2 billion dollars a year.⁴⁹ According to The World Bank, agricultural, industry, and services sectors make up 99.7% of GDP value added in the Dominican Republic.⁵⁰ As the largest migrant group, Haitians impact all sectors of the economy. According to the president of the Dominican Housing Builders and Developers Association, up to 270,000 undocumented Haitians work in the construction industry and “deportation would paralyze the economy.”⁵¹ As such, policy makers and society should take notice of the benefits of Haitian migrant labor to the Dominican Republic.⁵²

Political Culture in the Dominican Republic

Since its foundation, the Dominican Republic has struggled with its own political and cultural identity. It is only recently that the Dominican Republic has embarked on a

⁴⁸ This graph was created using data from the World Bank. Retrieved from <http://data.worldbank.org>.

⁴⁹ Edwin Paraison, Skype interview by Johns Hopkins University-SAIS International Human Rights Clinic, Washington, D.C., USA, March 10, 2015.

⁵⁰ The World Bank, World Development Indicators (2013), *Agriculture, value added (% of GDP), Industry, value added (% of GDP), Services, etc., value added (% of GDP)*, retrieved from <http://data.worldbank.org/indicator>.

⁵¹ Ezra Fieser, “Dominican Nurse Fired for Haitian Parents Shows Expulsion Threat,” *Bloomberg*, March 24, 2015, accessed March 30, 2015, <http://www.bloomberg.com/news/articles/2015-03-24/dominican-nurse-fired-for-haitian-parents-shows-expulsion-threat>.

⁵² Please see section on the private sector *infra* for additional discussion of Haitian migrant labor in the Dominican Republic.

path to political democratization.⁵³ The past three centuries of political turmoil has left an indelible mark on the Dominican mindset, with the Dominican Republic perennially under the control of foreign nations including Spain, France, Haiti, the United States, and a series of authoritarian and unstable governments. From the Dominican Republic's official independence in 1844 to present day, the presidency changed 84 times with only 19% of those completing at least one term.⁵⁴ Of particular importance in shaping the political and cultural sphere of modern day Dominican society is the legacy left by the Trujillo dictatorship. President Trujillo centralized power, killed off opponents, and monopolized the economy,⁵⁵ while retaining the veneer of democracy by holding "free elections." For several decades, Dominicans participated in a democratic process knowing that their voices had no effect in shaping government.⁵⁶

Currently, the Dominican Republic is a representative democracy with three branches of government, judicial, executive, and legislative, that share political power. There are three major political parties, the Dominican Liberation Party (PLD), the Reformist Social Christian Party (PRSC) and the Dominican Revolutionary Party (PRD). However, the PLD has acquired political hegemony gaining the presidency and large majorities in both parties—31 members of the 32-seat Senate, 105 of the 183-seat Chamber of Deputies.⁵⁷ According to the political risk firm Political Risk Services (PRS), the PLD is likely to remain the dominant party in the future due to its popularity and the popularity of President Medina as well as a split within the PRD.⁵⁸

During the past twenty years, there has been a steady increase in the openness of the political process in the Dominican Republic but progress has been limited by a national identity and political culture that discriminates against Dominicans of Haitian descent and Haitian migrants. Even President Medina is not immune to the public's anti-Haitianism. After the 2013 Constitutional Tribunal Sentence 168-13, which retroactively revoked the citizenship of thousands of Dominicans of Haitian descent and affected hundreds of thousands of Haitian migrants, President Medina apologized to those affected, promising no one would be denationalized.⁵⁹ Unfortunately, President Medina then retracted the apology citing that rule of law must be respected.⁶⁰ Though he recognized the plight of those effected, President Medina stated, "that the Executive Branch cannot meddle in the Constitutional Tribunal ruling and Central Electoral Board

⁵³ Democratization of the political process started with the end of the Trujillo regime, but it is only since 1996 that international observers believe that the presidential and congressional elections have been generally free and fair. The PRS Group, "Dominican Republic Country Conditions for Investment & Trade" in *Political Risk Yearbook: Dominican Republic Country Report*, The PRS Group, January 1, 2015, 12, EBSCOhost (AN 100605609).

⁵⁴ Ewout Frankema and Aline Masé, "An Island Drifting Apart. Why Haiti is Mired in Poverty While the Dominican Republic Forges Ahead," *Journal of International Development* 26 (1) (2014): 130.

⁵⁵ Helen Chapin Metz, ed., *Dominican Republic and Haiti: Country Studies*, 3rd ed. (Washington, DC: Federal Research Division, Library of Congress 2001), 14.

⁵⁶ Horn, "Dictates of Dominican Democracy," 23.

⁵⁷ The PRS Group, "Dominican Republic Country Forecast" in *Political Risk Yearbook: Dominican Republic Country Report*, The PRS Group, January 1, 2015, 15, EBSCOhost (AN 100605609).

⁵⁸ *Ibid.*, 17.

⁵⁹ Gamboa and Reddy, "Judicial Denationalisation of Dominicans of Haitian Descent," 54.

⁶⁰ *Ibid.*

resolutions.”⁶¹ However President Medina and the Dominican government made significant progress in trying to address the problem created by Sentence 168-13 by creating Law 169-14. Unfortunately, political will in implementing both the regularization and naturalization laws is limited due to the public mindset and weak rule of law.

Human Rights in the Dominican Republic

The Dominican Republic’s track record on human rights is poor. Corruption is an endemic problem within the police, the government, and the private sector. According to Amnesty International, allegations of torture and mistreatment by the police continue to be reported with little done to bring the perpetrators to justice. Between January and July of 2014 the number of killings by the police increased by 13% since 2013 with 87 people dead in the first six months of 2014.⁶² “Fourteen people a month are dying at the hands of the police in the Dominican Republic. Many of these killings seem to have been unlawful,” said Erika Guevara Rosas, Amnesty International’s Americas Director in 2014.⁶³

Just this year Tulile,⁶⁴ a Haitian migrant, was lynched in Santo Domingo. The police concluded it was robbery gone wrong. However Wade McMullen, an attorney with the Robert F. Kennedy Center for Justice and Human Rights, and others believe it was a racially motivated killing. “For the Dominican authorities to rule out racism as a factor less than 24 hours after a man of Haitian descent was hanged in a public space is not just irresponsible policing, it is an outrageous example of discrimination endemic to the Dominican Republic.” Indeed, the long record of anti-Haitianism continues to be a problem in the Dominican Republic.

Expressions of anti-Haitianism occur at both an individual and institutional level. In speaking with representatives at Mesa Nacional para las Migraciones y Refugiados en República Dominicana, (MENAMIRD), a human rights based organization in the Dominican Republic, there have been numerous examples. For example, in the month preceding the fact-finding trip for this report, documented Haitian workers who were returning to the Dominican Republic after a temporary visit to Haiti for Christmas, were refused entry into the Dominican Republic despite having legal work documents. In another case, the Dominican border town of Neiba was raided with over 22 Haitians and Dominicans of Haitian descent illegally deported and their documents torn up by soldiers.⁶⁵ Arbitrary deportations, destruction of documents, and misuse of political power constitute gross violation of human rights and run contrary to international human

⁶¹ “Medina: I apologized, not asked forgiveness, to offspring of Haitians,” *Dominican Today*, October 8, 2013, accessed April 14, 2015, <http://www.dominicantoday.com/dr/local/2013/10/8/49219/Medina-I-apologized-not-asked-forgiveness-to-offspring-of-Haitians>.

⁶² “Amnesty International Report 2014/15: Dominican Republic,” *Amnesty International*, accessed March 7, 2015, <https://www.amnesty.org/en/countries/americas/dominican-republic/report-dominican-republic/>.

⁶³ Amnesty International, “Dominican Republic: Killing at the hands of the police rise while reforms stall,” press release, *Amnesty International*, August 15, 2014, <https://www.amnesty.org/en/press-releases/2014/08/dominican-republic-killings-hands-police-rise-while-reforms-stall/>.

⁶⁴ There are varying accounts of the man’s true name but most sources agree that he went by the nickname Tulie.

⁶⁵ Charpantier, interview.

rights law and standards of human decency.

The Human Rights Unit at the Attorney General's Office of the Dominican Republic should address the aforementioned human rights violations. Unfortunately, the Unit is hindered by a number of factors. The Unit does not have the institutional knowledge or capacity to be effective on a large scale. Indeed, it is less than three years old, and with only six people working at the central office, capacity is low.⁶⁶ As such, the Dominican Republic should provide additional resources and personnel to build the necessary capacity.

Due to their size and role as a governmental office, the Human Rights Unit is often disconnected from the very individuals who need their help. Human rights organizations are an important partner for the Unit. In the past, they have worked closely with Centro Bonó, who would alert the Unit to human rights violations.⁶⁷ Unfortunately, communication hinges on personal connections between groups that may be hard to establish. When the Unit's source at Centro Bonó changed organizations, so did their access to that information. As the Unit noted, human rights violations cannot be investigated if they are not known.⁶⁸ Thus, human rights organizations should consider reporting suspected abuses to the Human Rights Unit for investigation.

The Dominican Republic is a country that is struggling with its identity. It has instituted a series of legal changes – some of which are positive, such as the inclusion of human rights in the 2010 Constitution and the creation of the Human Rights Unit in the Attorney General's Office, whereas others are missteps, such as Sentence 168-13 and its fallout. Moreover, human rights abuses are not just happening at a national level but are prevalent at a societal level. For true change to happen, Dominican society needs to retire the entrenched ideas of President Trujillo, and accept a shared Afro-Dominican identity.

International Law

Nationality

Nationality has been observed as “the right to have rights”⁶⁹ because it invites an individual to enjoy various “opportunities and privileges.”⁷⁰ Consistent with this general principle, in the Dominican Republic, nationality is the lynchpin to enjoying many

⁶⁶ Danissa Cruz and Shyam Fernandez Vidal, *La Unidad de Derechos Humanos de la Procuraduría General de la República Dominicana*, interview by Johns Hopkins University-SAIS International Human Rights Clinic, Santo Domingo, Dominican Republic, January 22, 2015.

⁶⁷ Ibid.

⁶⁸ Ibid.

⁶⁹ Shaina Aber and Mary Small, “Citizen or Subordinate: Permutations of Belonging in the United States and the Dominican Republic,” *Journal on Migration and Human Security* 1, no. 3 (2013): 77, accessed June 2, 2015, doi: <http://dx.doi.org/10.14240/jmhs.v1i3.12> (citing Hannah Arendt, *The Origins of Totalitarianism*, new edition (New York: Harcourt 1968): 299).

⁷⁰ Aber and Small, “Citizen or Subordinate,” 77 (citing J.M. Mancini and Graham Finlay, “Citizenship Matters: Lessons from the Irish Citizenship Referendum,” *American Quarterly* 60, no. 3 (2008); Richard Middleton and Sheridan Wigginton, “A Comparative Analysis of How the Framing of the *Jus Soli* Doctrine Affects Immigrant Inclusion into a National Identity,” *Temple Political and Civil Rights Law Review* 21, no. 2 (2012); Ayelet Shachar, “The Worth of Citizenship in an Unequal World,” *Theoretical Inquiries in Law* 8, no. 2 (2007); and Laura Van Waas, “The Children of Irregular Migrants: A Stateless Generation,” *Netherlands Quarterly of Human Rights* 25, no. 3 (2007)).

political, social, and economic rights.⁷¹ Given this interdependence of human rights, rendering a population stateless has severe human consequences in that it leaves individuals vulnerable and unable to fully exercise their basic rights.

Presently, there are two main birthright citizenship regimes – *jus sanguinis* (citizenship by blood) and *jus soli* (citizenship by soil).⁷² *Jus soli* regimes are most notably seen in the Americas.⁷³ It should be emphasized that some scholars have characterized this *jus soli* practice common in the Americas as taking on the character and authority of customary international law, which is binding and “accepted as law.”⁷⁴ Nonetheless, as will be discussed, states are limited by international human rights law in their construction and application of citizenship regimes.⁷⁵

Unsurprisingly, there has been tension between the limits of state sovereignty in determining who is a national and international human rights law, which guarantees a right to nationality. Indeed, this tension was expressed during the drafting of the Convention on the Rights of the Child (CRC) in which concerns regarding the role of state sovereignty in nationality law were prevalent.⁷⁶ More recently, the tension between state sovereignty to determine citizenship and the right to nationality is unfolding in the Dominican Republic.

The Dominican Republic and International Law

“Everyone has the right to a nationality. No one shall be arbitrarily deprived of his nationality” Universal Declaration of Human Rights (1948), Art. 15⁷⁷

The right to nationality is established in many international and regional human rights instruments, including the International Covenant on Civil and Political Rights (ICCPR),⁷⁸ the International Convention on the Elimination of All Forms of Racial

⁷¹ Marselha Gonçalves Margerin, Monika Kalra Varma, and Salvador Sarmiento, “Building a Dangerous Precedent in the Americas: Revoking Fundamental Rights of Dominicans,” *Human Rights Brief* 21, no. 1 (2014): 10, accessed June 2, 2015,

<http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1894&context=hrbrief>.

⁷² Aber and Small, “Citizen or Subordinate,” 77.

⁷³ Hannam, “Soy Dominicano,” 1137.

⁷⁴ *Ibid.*, 1137-1138.

⁷⁵ As the Inter-American Court of Human Rights observed in *Yean and Bosico*, “The determination of who has a right to be a national continues to fall within a State’s domestic jurisdiction. However, its discretionary authority in this regard is gradually being restricted with the evolution of international law, in order to ensure a better protection of the individual in the face of arbitrary acts of States. Thus, at the current stage of the development of international human rights law, this authority of the States is limited, on the one hand, by their obligation to provide individuals with the equal and effective protection of the law and, on the other hand, by their obligation to prevent, avoid and reduce statelessness.” *Case of the Yean and Bosico Children v. The Dominican Republic*, Inter-American Court of Human Rights (IACtHR), para 140, September 8, 2005, accessed June 11, 2015, <http://www.refworld.org/docid/44e497d94.html>.

⁷⁶ Katelyn A. Horne, “Navigating Nationality: The Rights to Birth Registration and Nationality in Refugee magnet States,” Notes, *Columbia Journal of Transnational Law* (2014): 121-122.

⁷⁷ Universal Declaration of Human Rights (UDHR), 1948, article 15.

⁷⁸ International Covenant on Civil and Political Rights (ICCPR), 1966, article 24(3) (“Every child has the right to acquire a nationality.”).

Discrimination (CERD),⁷⁹ the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),⁸⁰ the Convention on the Rights of Persons with Disabilities (CRPD),⁸¹ the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW),⁸² the CRC,⁸³ and the American Convention on Human Rights (ACHR).⁸⁴

The Dominican Republic is a party to most of the aforementioned instruments, including the ICCPR, CERD, CEDAW, CRPD, and the CRC.⁸⁵ Notably, CERD provides in Article 5(d)(iii) that with regards to the right to nationality, among other rights, “States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law”⁸⁶ Moreover the Dominican Republic is a party to the ACHR,⁸⁷ in which Article 20 provides for the right to nationality, including that “[e]very person has the right to the nationality of the state in whose territory he was born if he does not have the right to any other nationality.”⁸⁸ As such, there is a robust international human rights law framework for the protection of the right to nationality in the Dominican Republic.

Unfortunately, the Dominican Republic has not signed or ratified the CMW, which, given the migrant worker population, would have particular resonance in the Dominican Republic. Indeed, Article 29 of the CMW provides that “[e]ach child of a migrant worker shall have the right to a name, to registration of birth and to a nationality.”⁸⁹ The Dominican Republic is urged to sign and ratify the CMW to provide the utmost in protection to migrant workers and their families.

In addition, the Dominican Republic is a signatory to the Convention on the Reduction of Statelessness.⁹⁰ Article 1 provides that “[a] Contracting State shall grant its nationality to a person born in its territory who would otherwise be stateless.”⁹¹ As a signatory to this convention, pursuant to the Vienna Convention on the Law of Treaties

⁷⁹ International Convention on the Elimination of All Forms of Racial Discrimination (CERD), 1965, article (5)(d)(iii).

⁸⁰ Convention on the Elimination of Discrimination against Women (CEDAW), 1979, article 9.

⁸¹ Convention on the Rights of Persons with Disabilities (CRPD), article 18.

⁸² International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, or the Migrant Workers Convention (CMW), adopted December 18, 1990 at the 45th session of the General Assembly of the United Nations, article 29.

⁸³ CRC, article 7(1).

⁸⁴ American Convention on Human Rights (ACHR), 1969, article 20.

⁸⁵ The Dominican Republic acceded to the ICCPR on January 4, 1978; acceded to CERD on May 25, 1983; ratified CEDAW on September 2, 1982; ratified the CRPD on August 18, 2009; and ratified the CRC on June 11, 1991. Please see the United Nations Office of the High Commissioner for Human Rights website, http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=52&Lang=EN for ratification status of the core international human rights treaties.

⁸⁶ CERD, article 5(d)(iii).

⁸⁷ The Dominican Republic ratified the ACHR on January 21, 1978. Please see the OAS website http://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights_sign.htm for ratification status of the ACHR.

⁸⁸ ACHR, article 20(2).

⁸⁹ CMW, article 29.

⁹⁰ Convention on the Reduction of Statelessness, 1961, G.A. Res. 896 (IX). The Convention was signed by the Dominican Republic on December 5, 1961, but not yet ratified.

⁹¹ *Ibid.*, article 1.

(VCLT), the Dominican Republic has an obligation “to refrain from acts which would defeat the object and purpose” of this convention.⁹² Clearly, Sentence 168-13, which effectively rendered many stateless, is contrary to the “object and purpose” of an instrument aimed at reducing statelessness. The Dominican Republic is urged to ratify the Convention on the Reduction of Statelessness to further demonstrate its commitment to reducing this vulnerable status.

The Dominican Republic and the Inter-American System

The Dominican Republic recognized the jurisdiction of the Inter-American Court of Human Rights (IACtHR) in February 1999.⁹³ Moreover, in November 2003, the Supreme Court of the Dominican Republic established that IACtHR judgments are “binding and of equal weight” with national laws,⁹⁴ holding domestic and international law as the two principal sources of Dominican constitutional law.⁹⁵ In a reversal of course, the newly formed Constitutional Tribunal of the Dominican Republic declared in Sentence 265-14 (November 2014) that the acceptance of the jurisdiction of the IACtHR was unconstitutional.⁹⁶

In October 2005, the IACtHR entered its first judgement against the Dominican Republic in the *Case of the Yean and Bosico Children v. The Dominican Republic*.⁹⁷ *Yean and Bosico* concerned two Dominican girls of Haitian descent who were denied birth certificates by the Registry Office. Both girls were born in the Dominican Republic.⁹⁸ The IACtHR found “that for discriminatory reasons, and contrary to the pertinent domestic norms, the State failed to grant nationality to the children, which constituted an arbitrary deprivation of their nationality . . . in violation of Articles 20 [right to nationality] and 24 [right to equal protection] of the American Convention, in relation to Article 19 [rights of the child] thereof, and also in relation to Article 1(1) [non-discrimination clause] of the Convention, to the detriment of the children Dilcia Yean and

⁹² Vienna Convention on the Law of Treaties (VCLT), May 23, 1969, United Nations, Treaty Series, vol. 1155, p. 336, article 18(a), accessed June 4, 2015, <http://www.refworld.org/docid/3ae6b3a10.html>. The Dominican Republic acceded to the VCLT on April 1, 2010.

⁹³ Please see the Inter-American Commission on Human Rights website for status regarding recognition of the jurisdiction of the IACtHR, accessed June 11, 2015.

<https://www.cidh.oas.org/Basicos/English/Basic4.Amer.Conv.Ratif.htm>.

⁹⁴ Open Society Justice Initiative, “Compromised Right to Nationality,” 9. (citing Supreme Court of the Dominican Republic, Resolution No. 1920-2003 (November 13, 2004)).

⁹⁵ United Nations Human Rights Council, *National report submitted in accordance with paragraph 15(a) of the annex to Human Rights Council resolution 5/1 : [Universal Periodic Review] : Dominican Republic*, U.N. Doc. A/HRC/WG.6/6/DOM/1, § 2.3, para 21, (August 27, 2009), accessed June 11, 2015.

http://www.univie.ac.at/bimtor/dateien/dominican_republic_upr_2009_report.pdf.

⁹⁶ Dominican Republic Constitutional Tribunal, *Sentencia TC/0256/14*, 2014, 51 available at <http://www.tribunalconstitucional.gob.do/sites/default/files/documentos/Sentencia%20TC%200256-14%20C.pdf>, accessed June 4, 2015 (“PRIMERO: DECLARAR la inconstitucionalidad del Instrumento de Aceptación de la Competencia de la CIDH suscrito por el presidente de la República Dominicana el diecinueve (19) de febrero de mil novecientos noventa y nueve (1999), por los motivos que figuran en el cuerpo de esta sentencia.”).

⁹⁷ David C. Baluarte, “An Island Shakes as Human Rights and Sovereignty Clash,” *Human Rights Brief* 13, no. 2 (2006): 25, accessed June 12, 2015, <https://www.wcl.american.edu/hrbrief/13/2baluarte.pdf>.

⁹⁸ *Yean and Bosico*, para 3.

Violeta Bosico.”⁹⁹

This case is of particular significance in that it represents the first time that the IACtHR established “that the right to nationality could not be limited based on discriminatory purposes, and that the migration status of parents could not be inherited by their children for purposes of denying nationality.”¹⁰⁰ Consequently, the Court ordered, *inter alia*, “the Dominican Republic to reform its birth registration system to eliminate its discriminatory elements, and to create an effective procedure to issue birth certificates to all children born on Dominican territory, regardless of their parents’ migratory status.”¹⁰¹ Unfortunately, the Court’s judgment was unwelcomed by the Dominican Republic.¹⁰² Even more troubling, as discussed *infra*, through legislative and constitutional changes the Dominican Republic further restricted the definition of who is a national, which had a disproportionate impact on Dominicans of Haitian descent.¹⁰³

The discriminatory practices described by the Court in *Yean and Bosico* did not cease. In 2010 the Open Society Justice Initiative and the Center for Justice and International Law (CEJIL) filed a petition with the Inter-American Commission on Human Rights in a case involving the denationalization of Emildo Bueno Oguís, who was born in the Dominican Republic to Haitian parents.¹⁰⁴ The case of *Bueno vs. Dominican Republic*¹⁰⁵ remains under consideration.¹⁰⁶

Meanwhile, on October 22, 2014, the Inter-American Court of Human Rights published its judgment in the *Case of Expelled Dominicans and Haitians v. Dominican Republic*.¹⁰⁷ This case concerned individuals who were expelled from the Dominican Republic to Haiti as well as difficulties in registering births and obtaining nationality for Dominicans of Haitian descent.¹⁰⁸

As Sentence 168-13 and Law 169-14 together with concomitant regulatory Decrees 327-13 and 250-14 were enacted during the proceedings, these were admitted as supervening facts.¹⁰⁹ Ruling against the Dominican Republic, the IACtHR noted the discriminatory and retroactive nature of both Sentence 168-13 and parts of Law 169-14.¹¹⁰ In the case of Law 169-14, which the Dominican state views as remedying the

⁹⁹ Ibid., para 174.

¹⁰⁰ Francisco Quintana, “Inter-American Court condemns unprecedented situation of statelessness in the Dominican Republic,” blog, *European Network on Statelessness*, October 27, 2014, accessed June 12, 2015, <http://www.statelessness.eu/blog/inter-american-court-condemns-unprecedented-situation-statelessness-dominican-republic>.

¹⁰¹ Open Society Justice Initiative, “Compromised Right to Nationality,” 7.

¹⁰² Baluarte, 28.

¹⁰³ See Open Society Justice Initiative, “Compromised Right to Nationality,” 7.

¹⁰⁴ Open Society Justice Initiative, *Bueno v. Dominican Republic*, last updated June 1, 2010, accessed June 12, 2015, <http://www.opensocietyfoundations.org/litigation/bueno-v-dominican-republic>. For a summary of the initial petition please see <http://www.opensocietyfoundations.org/sites/default/files/Petition%20Summary-20100601.pdf>.

¹⁰⁵ *Bueno v. Dominican Republic*, Inter-American Commission on Human Rights, *petition filed*, (June 2010).

¹⁰⁶ Open Society Justice Initiative, *Bueno v. Dominican Republic*.

¹⁰⁷ *Case of Expelled Dominicans and Haitians vs. The Dominican Republic*, Inter-American Court of Human Rights (IACtHR), August 28, 2014, accessed June 11, 2015, http://corteidh.or.cr/docs/casos/articulos/seriec_282_ing.pdf.

¹⁰⁸ Ibid., para 1.

¹⁰⁹ Ibid., para 126.

¹¹⁰ Ibid., paras 310-325.

shortcomings of Sentence 168-13, the Court found that articles 6, 8, and 11 “violated treaty-based obligations ... in relation to recognition of juridical personality, to a name, and to nationality, as well as --- the right to identity.”¹¹¹

Shortly following the publication of the decision, the Dominican Republic issued a statement rejecting the judgment, calling it “untimely, biased, and inopportune.”¹¹² Moreover, the Dominican Republic affirmed its sovereignty in decisions related to nationality.¹¹³ As mentioned previously, then in November 2014, the Constitutional Tribunal of the Dominican Republic found the acceptance of the jurisdiction of the IACtHR unconstitutional.¹¹⁴ Human rights groups have criticized the political nature of this ruling.¹¹⁵

The Dominican Republic must respect its international human rights obligations, including completely implementing the decisions of the IACtHR. As Amnesty International observed, withdrawing from the Court would be detrimental to rule of law development in the Dominican Republic, as it would foreclose an avenue to redress human rights violations.¹¹⁶ As such, it is imperative for the Dominican Republic to work with the IACtHR both to demonstrate its commitment to human rights and to protect those in the country.

The Evolution of Dominican Law Pertaining to Issues of Citizenship and Migratory Status

It is not surprising that Dominican domestic law pertaining to issues of citizenship and migration has been colored by the historically tenuous relationship between the Dominican Republic and its neighbor Haiti. Specifically, the Dominican Constitution (in

¹¹¹ Ibid., para 324.

¹¹² Presidencia República Dominicana, “Declaración. Gobierno dominicano rechaza la Sentencia de la Corte Interamericana de Derechos Humanos,” Presidencia República Dominicana, 1, October 24, 2014, accessed June 12, 2015, <http://www.scribd.com/doc/244178548/Declaracion-Gobierno-dominicano-rechaza-la-Sentencia-de-la-Corte-Interamericana-de-Derechos-Humanos>. (“extemporánea, sesgada e inoportuna.”).

¹¹³ Ibid. (“De la misma forma, sin que haya espacio a dudas, manifiesta su adhesión al artículo 1 del Convenio de la Haya, de 1930, que faculta a cada Estado para regular y determinar, de acuerdo a su legislación, quiénes son sus nacionales. Este principio, pilar del Derecho Internacional, es innegociable para el Estado dominicano. El Gobierno reitera su compromiso con el sistema interamericano, pero cualquier interpretación antojadiza del mismo en modo alguno puede afectar la soberanía dominicana ni la potestad del Estado para definir por sus normas internas el régimen de la nacionalidad.”)

¹¹⁴ *Sentencia* TC/0256/14, 51.

¹¹⁵ Associated Press, “Dominican Republic quits OAS’s human rights court,” *Daily Mail*, November 4, 2014, accessed June 12, 2015, <http://www.dailymail.co.uk/wires/ap/article-2821226/Dominican-Republic-quits-OASs-human-rights-court.html> (“Wade McMullen, a legal officer for the Robert F. Kennedy Center for Justice and Human Rights in Washington, accused the majority of the judges on the court of playing politics at the expense of the rights of all Dominicans.”); Amnesty International, “Dominican Republic: Withdrawal from top regional human rights court would put rights at risk,” November 6, 2014, accessed June 11, 2015, <https://www.amnesty.org/en/articles/news/2014/11/dominican-republic-withdrawal-top-regional-human-rights-court-would-put-rights-risk/> (“‘With this latest judgement, the Constitutional Court of the Dominican Republic has confirmed its lack of independence and impartiality, proving it to be politically biased by defending narrow interests,’ said Erika Guevara Rosas, Americas Director at Amnesty International.”).

¹¹⁶ Amnesty International, “Dominican Republic: Withdrawal from top regional human rights.

its numerous forms and through subsequent amendments) and additional laws on migration have sought to determine and delineate the parameters of Dominican citizenship, as well as the rights of migrants. Over time, there has been an increasing trend in the Dominican Republic of restricting citizenship rights with a disproportionate impact on Dominicans of Haitian descent and Haitian migrants.

The Evolution of Citizenship Law in the Dominican Republic

Historically, the Dominican Civil Code had established the principle of nondiscrimination regarding the enjoyment of civil rights between Dominican citizens and non-citizens alike¹¹⁷ and provided for the freedom of entry into the country to non-citizens “of good conduct and good health, subject to conditions and restrictions imposed by law” through the Migration Act No. 95 of April 17, 1939.¹¹⁸

Under the Dominican Constitution – from 1929¹¹⁹ ¹²⁰ until the constitutional revision of January 26, 2010 – Dominican citizenship had been granted to children born within the territorial boundaries of the Dominican Republic, regardless of their national origin, their skin color, or the social status of their parents,¹²¹ under the principle of *jus soli*, similar to other countries within the Americas.¹²² ¹²³ The only exceptions to *jus soli* citizenship related to children born to diplomats and consular officers and children born to foreign parents who were “in transit” at the time of birth. Again, the Dominican Constitution of 1966 established a regime of *jus soli* citizenship for all persons born within Dominican territory unless their parents fell under the above categories.¹²⁴ While the text of the “in transit” clause suggested its application to persons traveling through the country to another place (for a period of time no longer than ten days)¹²⁵ ¹²⁶ and to those “not habitually residing in the locality in question,”¹²⁷ over time, Dominican courts had increasingly interpreted the “in transit” clause and other Dominican authorities had

¹¹⁷ United Nations Human Rights Committee, “Consideration of reports submitted by states parties under article 40 of the Covenant – Addendum: Dominican Republic,” U.N. Doc. CCPR/C/DOM/99/3 (April 27, 2000), 1-17,

[http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/568b46bc085c6a1fc125696200505c12/\\$FILE/G0041664.pdf](http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/568b46bc085c6a1fc125696200505c12/$FILE/G0041664.pdf).

¹¹⁸ Hannam, “Soy Dominicano,” 1130 (see especially footnote 32).

¹¹⁹ 1929 Constitution of the Dominican Republic, article 8.2, *available at* <http://www.consultapopular.gov.do/documentos/revision.1929.06.20.pdf> (“Todas las personas que nacieren en el territorio de la República, con excepción de los hijos legítimos de los extranjeros residentes en la República en representación diplomática o que estén de tránsito en ella.”).

¹²⁰ Jillian Blake, “Constitutional Stability Through Citizenship in the Dominican Republic,” *Blog of the International Journal of Constitutional Law*, September 5, 2014, accessed May 27, 2015, <http://www.iconnectblog.com/2014/09/constitutional-stability-through-citizenship-in-the-dominican-republic/>.

¹²¹ Gonçalves, Varma, and Sarmiento, “Building a Dangerous Precedent in the Americas,” 10.

¹²² Open Society Justice Initiative, “Compromised Right to Nationality.”

¹²³ Hannam, “Soy Dominicano,” 1127, 1137-1138.

¹²⁴ *Ibid.*, 1125.

¹²⁵ National Legislative Bodies / National Authorities, “República Dominicana: Reglamento de migración No. 279 de 1939,” (May 12, 1939), <http://www.refworld.org/docid/3dbe9f374.html>. [in English: Immigration Regulation No. 279].

¹²⁶ Specifically, see Section 5 of Reglamento de migración No. 279 de 1939.

¹²⁷ Hannam, “Soy Dominicano,” 1130.

implemented it in such a way that citizenship rights were effectively denied to Dominicans born to parents of Haitian origin.¹²⁸ Beginning in the 1980s, officials within the offices of the Civil Registry began to curtail the ability of Dominicans of Haitian descent to access identity documentation necessary for the attainment of their civil rights, other publically provided benefits, and employment opportunities.^{129 130} A new migration law in August 2004 (General Migration Law 285-04)¹³¹ further defined and qualified the “in transit” clause, and a subsequent number of administrative measures that were issued by the JCE in 2007¹³² provided grounds under which officials within the Civil Registry could deny the issuance of identity documentation to children born to “foreign parents” who previously obtained Dominican birth certificates (which serve as the primary form of documentation for Dominicans under the age of 18)¹³³ under “irregular circumstances.”¹³⁴ The Dominican-born children of said irregular migrants would be provided with pink birth certificates in order to distinguish them as being non-citizens.^{135 136} However, some have noted that it is problematic that Circular No. 17 fails to provide the objective criteria by which such “irregularity” is to be determined by Civil Registry officials.¹³⁷ Nevertheless, perhaps it is not surprising that this *de facto* practice of systematically denying vital documentation to Dominicans of Haitian descent was ultimately codified into law in the January 26, 2010 amendment to the Dominican Constitution, adding that any person born to a foreign parent in transit or residing illegally in the Dominican territory was not entitled to Dominican nationality and was therefore an alien.¹³⁸ Specifically, Article 18 of the 2010 Dominican Constitution (as referring to nationality) states that Dominicans are:

1. The sons and daughters of a Dominican mother or father;

¹²⁸ United Nations, Human Rights Committee, “Concluding observations of the Human Rights Committee: Dominican Republic,” U.N. Doc., CCPR/CO/71/DOM (April 26, 2001): 4-6, <http://www.refworld.org/docid/3be11f544.html>.

¹²⁹ Gonçalves Margerin, Kalra Varma, and Sarmiento, “Building a Dangerous Precedent in the Americas,” 11.

¹³⁰ Open Society Justice Initiative, “Compromised Right to Nationality,” 5.

¹³¹ Ley General de Migración, No. 285-04 (2004), *available at* http://www.mip.gob.do/Portals/0/docs/Marco_Legal_Transparencia/2013Actualizacion/Ley%20No.285-04%20Migraci%C3%B3n.pdf. [in English: General Migration Law 285-04].

¹³² Namely, Circular No. 17 (March 29, 2007) and Resolution No. 12-2007 (December 10, 2007), see especially paragraph 1. These two directives were issued by the JCE in order to implement General Migration Law 285-04.

¹³³ Open Society Justice Initiative, “Compromised Right to Nationality,” 3-4.

¹³⁴ Stacie Kosinski, “State of Uncertainty: Citizenship, Statelessness, and Discrimination in the Dominican Republic,” *Boston College International and Comparative Law Review* 32, no. 2 (2009): 391.

¹³⁵ Georgetown Law Human Rights Institute, “Left Behind: How Statelessness in the Dominican Republic Limits Children’s Access to Education,” (Georgetown University Law Center, Washington, DC, 2014): 13, http://www.law.georgetown.edu/academics/centers-institutes/human-rights-institute/fact-finding/upload/Left-Behind_HRI_Report-2014_English_Final.pdf.

¹³⁶ Kosinski, “State of Uncertainty,” 390-391.

¹³⁷ *Ibid.*, 392.

¹³⁸ 2010 Constitution of the Dominican Republic. English language translation *available at* *Constitute*, “Dominican Republic’s Constitution of 2010,” (2012), https://www.constituteproject.org/constitution/Dominican_Republic_2010.pdf.

2. Those who enjoy Dominican nationality before the entry into force of this Constitution;
3. Persons born in national territory, with the exception of children of members of foreign diplomatic and consular missions or foreigners who are in transit or reside illegally in Dominican territory. All foreigners, defined as such by Dominican laws, are considered to be persons in transit.^{139 140}

However, some scholars have argued that it is difficult to accept the Dominican government's position that all persons arriving irregularly into the country are therefore "in transit,"¹⁴¹ especially considering that the Dominican government had previously conceded that children born within the territorial boundaries of its country were entitled to the Dominican nationality regardless of the migratory status of their parents.¹⁴²

The Evolution of Migration Law in the Dominican Republic

In comparison with the Dominican laws establishing the rights of citizenship, the laws establishing the rights of migrants are somewhat more convoluted as they come from a number of sources. Both the Migration Act No. 95 of April 17, 1939 and the Immigration Regulation No. 279 of May 12, 1939 made a distinction between foreign immigrants and nonimmigrants. Specifically, Article 3 of the Migration Act No. 95¹⁴³ and Section 8 of the Immigration Regulation No. 279 stated that all "foreigners admitted into the Dominican Republic are immigrants"¹⁴⁴ with the right to remain in the country indefinitely unless they fall under one of the following categories of "non-immigrants:"

1. Visitors traveling for business, educational or recreational purposes;
2. Persons who are passing through the Republic in transit to another exterior destination;
3. Persons who are employed on a boat or airplane; or
4. Temporary day labourers and their families.¹⁴⁵

The Civil Registry¹⁴⁶ was created in order to provide official recognition and proof of Dominican nationality in the form of birth certificates, national identity cards,

¹³⁹ Miguel Ceara-Hatton, "A critique of the ruling of the Dominican Republic Constitutional Court," *Stabroek News*, November 18, 2013, <http://www.stabroeknews.com/2013/features/in-the-diaspora/11/18/critique-ruling-dominican-republic-constitutional-court/>.

¹⁴⁰ Hannam, "Soy Dominicano," 1128-1129.

¹⁴¹ *Ibid.*

¹⁴² *Ibid.*, 1146.

¹⁴³ República Dominicana, Ley de Inmigración No. 95" (1939), *available at* http://poderjudicial.gob.do/documentos/PDF/leyes/LEY_ley_no._95.pdf. [in English : Immigration Law No. 95].

¹⁴⁴ Canada: Immigration and Refugee Board of Canada, "Dominican Republic: The process to obtain permanent resident status; loss of such status; proof of such status" (DOM36739.E, June 7, 2001), <http://www.refworld.org/docid/3df4be2a24.html>.

¹⁴⁵ *Ibid.*

¹⁴⁶ Which is to be administered by the Central Electoral Board (*Junta Central Electoral*, or "JCE").

and passports.¹⁴⁷ At a much later date, the Constitutional Tribunal ruling called for an audit of the registration books that were recording the births of foreigners, specifically dating from June 21, 1929 until April 18, 2007.^{148 149} With the JCE's implementation in April 2007 of the *Registration Book of Children of Non-Resident Foreign Mothers in the Dominican Republic* that had been created in 2004 under the General Migration Law 285-04,^{150 151} any other foreign births that were "improperly registered" in the Civil Registry would be transferred to this new registration book, affected individuals would be notified of their "improper" status, and they would be compelled to comply with Article 151 of the General Migration Law 285-04.^{152 153}

Constitutional Revision of 2010

The Dominican Republic has had no less than thirty-four constitutions since gaining independence from Haiti in 1844, which uniquely makes the Dominican Republic the source of the most constitutions in the world.^{154 155 156 157} In fact, a debate among scholars exists regarding the significance, if any, of the Dominican Republic's numerous constitutions. While some have argued that the number of constitutions reflect the unstable nature of the Dominican constitutional system, others have suggested that the seemingly high number of constitutions rather reflect the fact that Dominican constitutions since the 1930s have not made a distinction between the processes of constitutional amendment and replacement (i.e., Dominican practice dictates that a new constitution is created whenever an amendment is ratified, and most Dominican constitutions contain only minor modifications of previous constitutions).¹⁵⁸

The most recent constitution was adopted in 2010. The 2010 Constitution is particularly significant in that it consolidated earlier revisions to Dominican laws regarding issues of citizenship and migratory status, effectively ensuring that, going forward, only children of a Dominican national or legal resident could qualify for

¹⁴⁷ Open Society Justice Initiative, "Compromised Right to Nationality," 3-4.

¹⁴⁸ Jon Anderson, "Defining Citizenship in the Dominican Republic," *World Policy Blog* (October 10, 2013), <http://www.worldpolicy.org/blog/2013/10/10/defining-citizenship-dominican-republic>.

¹⁴⁹ Kosinski, "State of Uncertainty," 390-391.

¹⁵⁰ Also known as the "Book of Foreigners," which was created under the General Migration Law 285-04, article 28.

¹⁵¹ Robert F. Kennedy Center for Justice and Human Rights, "Memo: Constitutional Changes in the Dominican Republic," (February 5, 2010), <http://rfkcenter.org/memo-constitutional-changes-in-the-dominican-republic>.

¹⁵² This relates to the renewal of permanent residence status and the necessary documentation required in procuring that status.

¹⁵³ Anderson, "Defining Citizenship in the Dominican Republic."

¹⁵⁴ Leiv Marsteintredet, "Amendments, Replacements and Constitutional Instability? The Case of the Dominican Republic," *International Journal of Constitutional Law Blog* (October 3, 2014), <http://www.iconnectblog.com/2014/10/amendments-replacements-and-constitutional-instability-the-case-of-the-dominican-republic/>.

¹⁵⁵ Blake, "Constitutional Stability through Citizenship in the Dominican Republic."

¹⁵⁶ Richard A. Haggerty ed., "The System of Government: Constitutional Development," *Dominican Republic: A Country Study* (1989), <http://countrystudies.us/dominican-republic/56.htm>.

¹⁵⁷ Central Intelligence Agency (CIA), "Constitution," *The World Factbook*, <https://www.cia.gov/Library/publications/the-world-factbook/fields/2063.html>.

¹⁵⁸ Haggerty ed., "The System of Government."

Dominican nationality.¹⁵⁹ In addition, the 2010 constitutional changes codified the broadened “in transit” clause which prohibits the children of foreigners “in transit” or those residing illegally in the country from automatically gaining Dominican citizenship. The 2010 Constitution also led to the establishment of a Constitutional Tribunal, which has proven to be a key actor in shaping (and arguably reshaping) the definitions of citizenship and identity of many individuals within the Dominican Republic.

The Establishment of the Constitutional Tribunal

Title VII of the 2010 Constitution outlined the establishment of a Constitutional Tribunal whose mission is to guarantee the supremacy of the Constitution, to defend the constitutional order, and to protect fundamental rights.^{160 161} The decisions of the Constitutional Tribunal are binding upon all state institutions and actors within the Dominican Republic, and the Tribunal has administrative and budgetary autonomy.¹⁶² The Constitutional Tribunal has the authority to adjudicate on direct acts of unconstitutionality in violation of the laws, decrees, regulations, resolutions, and ordinances at the behest of a number of named figures (i.e., the President, the legislature, or “any person with a legitimate and juridically protected interest”), on international treaties before their ratification by the legislature, on conflicts of competence regarding public authorities, and on any other issues established by law.¹⁶³ Title VII of the 2010 Constitution also established eligibility guidelines for the selection of Tribunal judges,¹⁶⁴ term limits for judges who sit on the Tribunal and for the Tribunal itself (i.e., in order to ensure a system of gradual change for the composition of the Tribunal),¹⁶⁵ and provided the means by which the Tribunal could be regulated through law.¹⁶⁶

Law of the Dominican Republic (Post 2010)

Constitutional Tribunal Sentence 168-13

In 2008 Ms. Juliana Dequis Pierre went to the JCE in the municipality of Yamasá to obtain her first identity and voter card. With this simple act, Ms. Dequis catalyzed a series of events that would, after four years of appeals, lead the Constitutional Tribunal to release a binding judgment whose implementation would render countless Dominicans stripped of their citizenship. Indeed, Sentence 168-13 issued by the Constitutional Tribunal represents the culmination of several developments in Dominican law regulating the distribution of vital personal records, the definition of nationality, and most importantly the definition of what it means for a migrant to be “in transit.” Despite its significance as a catalyst for the events currently underway in the Dominican Republic,

¹⁵⁹ Georgetown Law Human Rights Institute, “*Left Behind*,” 13-14.

¹⁶⁰ 2010 Constitution of the Dominican Republic, article 184.

¹⁶¹ *Ibid.*

¹⁶² *Ibid.*, article 185.

¹⁶³ *Ibid.*, article 185.

¹⁶⁴ *Ibid.*, article 187.

¹⁶⁵ *Ibid.*, article 187, paragraph.

¹⁶⁶ *Ibid.*, article 189.

the eventual promulgation of the regularization and naturalization process from Juliana Dequis' appeal, was, as will be explained in this analysis, circumstantial.

The following section, which is an analysis and summary of Sentence 168-13, will begin by providing a background of the events surrounding Juliana Dequis' judgment and an analysis of the grounds for admissibility before the Constitutional Tribunal in the Dominican Republic. This will be followed by an exploration of the basis for nationality in the Dominican Republic, pursuant to Sentence 168-13 and Article 11 of the Dominican Constitution. Having established the basis for nationality in the Dominican Republic, this will be followed by an analysis of whether the Dominican Republic violated the rights of Juliana Dequis, as established in 168-13. This section will be concluded with an analysis of the Constitutional Tribunal's conclusions on the laws regulating the presence of foreigners in the Dominican Republic pursuant to the regularization plan of Act No. 285-40.

Background

In 2008 Ms. Juliana Dequis appeared at the Municipality Center of Yamasá, where she was born, to seek her first identity and voter card. However, officials at the Municipality Center told Juliana that she could not receive her cards because her name sounded Haitian. According to her records, Juliana Dequis was born in the town of Yamasá in the Province of Monte Plata on April 1, 1984 to Nelo Dissel Jean and Lucia Pierre.¹⁶⁷

Upon having her documents rejected by the Municipality of Yamasá, Juliana brought her complaint to the Civil, Labor and Commercial Chamber of the Court of First Instance of the Judicial District of Monte Plata. The Court of First Instance rejected the complaint filed by Juliana Dequis under the pretense that although Juliana Dequis did file her birth certificate with the Court of First Instance, the photocopies provided by Juliana were of no probative value before the Court. Pursuant to "*actori incumbit probatio*", which is a doctrine that allocates the burden of proof to the party being charged¹⁶⁸, the Court rejected Juliana's declaration of *amparo*¹⁶⁹ on July 10, 2012 in Judgment No. 473/2012.¹⁷⁰

Subsequently, on July 30, 2012 Juliana filed an appeal against Judgment No. 473/2012 with the Secretary of the Court of First Instance. In this appeal Juliana alleged that Judgment No. 473/2012 violated her fundamental rights since it left her in a "state of uncertainty"¹⁷¹ not only as a result of the actions committed by the JCE in failing to

¹⁶⁷ *Sentencia TC/0168/13*, para. 2.1.

¹⁶⁸ Mojtaba Kazazi, *Burden of Proof and Related Issues: A Study on Evidence before International Tribunals* (The Netherlands: Kluwer Law International: 1996), 220-222.

¹⁶⁹ *Amparo* or *recurso de amparo* is a legal action that can be invoked by a person who believes his rights, as delineated in the constitution or in international treaties, is being violated. *Amparo* is present mainly in the constitutions of Spanish speaking countries.

¹⁷⁰ *Sentencia TC/0168/13*, para. 2.1.

¹⁷¹ *Ibid.*, para. 3.1. ("El recurso de revisión contra la Sentencia núm. 473/2012 fue interpuesto por la señora Juliana Dequis (o Deguis) Pierre, según instancia depositada en la Secretaría de la Cámara Civil y Comercial del Juzgado de Primera Instancia del Distrito Judicial de Monte Plata, el treinta (30) de julio de dos mil doce (2012). Mediante este recurso, la recurrente alega violación a sus derechos fundamentales, porque la Sentencia núm. 473/2012 la dejó 'en un estado de indefinición' al no haber decidido sobre el fondo del asunto.").

accept her documents, but now because the Court of First Instance issued no definitive judgment on her status, thereby failing to protect her rights.^{172 173} The appeal did not focus on the issuance of the identity or voter cards *per se* but instead on the violation of Juliana's right to have an effective decision issued by the Court of First Instance.

The decision of the Court of First Instance is a critical component in understanding the roots of the crisis underway in the Dominican Republic as it lays the groundwork for the legal position maintained by the Constitutional Tribunal. According to the Court of First Instance, nationality is an aspect of sovereignty that cannot be defined by the will of an ordinary judge, a statement that justifies the need for the involvement of the Constitutional Tribunal. The Court of First Instance also contends that Dominican legislation clearly establishes that not everyone born in the territory of the Dominican Republic will be Dominican. This, the Court claims, is established in the Dominican Constitution of 1844 and is a principle that is maintained since the reform of 1999 (based on the Constitution of 1929). Finally, the Court of First Instance professes that the JCE has the legal competence to investigate and take any action deemed pertinent to purge the Electoral Register of fraudulent entries. The Court of First Instance bases its judgment against Juliana on these pronouncements and ruled that:

- (1) Juliana Dequis was registered irregularly before the Civil Registry Office of Yamasá [...] appearing as the daughter of Haitian Nationals
- (2) Juliana's parents are foreigners who unlawfully and irregularly enrolled their child in the register of civil status thereby violating the Constitution in force at the time of the declaration¹⁷⁴

As a result, Resolution No. 12-2007 issued by the Court of First Instance established regulations that allowed for the temporary suspension of the issuance of certificates of Civil Status for records that were registered fraudulently or irregularly and in violation of the Constitution. The Court's reasoning for adopting such a harsh stance was to shield the Civil Registry from fraud, forgery and impersonation. However, in doing so the Court blatantly disregarded Juliana's rights as a Dominican citizen and the rights of all Dominicans of Haitian descent in the Dominican Republic.

Implications of the Court of First Instance's Judgment before the Constitutional Court

The Constitutional Tribunal of the Dominican Republic, created in 2010, hears cases that are of special constitutional significance, of importance for the interpretation,

¹⁷² Ibid., para 4.1(a) ("Que en virtud del principio de efectividad contenido en el artículo 7.4 de la Ley núm. 137-11, la juez no ha rendido una decisión efectiva [...]", puesto que 'la accionante se encuentra en un estado de indefinición, ya no solo frente a las acciones cometidas por la Junta Central Electoral, sino que ahora se suma la decisión del tribunal que debió de tutelar sus derechos conculcados.').

¹⁷³ Ibid., para 3.1. ("Mediante este recurso, la recurrente alega violación a sus derechos fundamentales, porque la Sentencia núm. 473/2012 la dejó 'en un estado de indefinición' al no haber decidido sobre el fondo del asunto.").

¹⁷⁴ Ibid., para 5.1(a) ("Que la recurrente Juliana Deguis Pierre fue inscrita de manera irregular ante la Oficialía del Estado Civil de Yamasá '[...] figurando como hija de NACIONALES HAITIANOS'"); Ibid., para 5(b) ("Que los padres de la recurrente son extranjeros 'que de manera ilícita e irregular han inscrito a sus hijos en los libros de Registro del estado civil, en franca violación del texto constitucional vigente al momento de la declaración.' ").

application and overall effectiveness of the Constitution, or for determining the context, extent and protection of fundamental rights.¹⁷⁵ The Constitutional Tribunal found Juliana Dequis' case to be of universal constitutional significance since it presented a conflict on the fundamental right to nationality and citizenship, the right to employment, the right to free movement and the right to vote. By undertaking the appeal of Juliana's case the Constitutional Tribunal's aim was to analyze:

- (1) The seizure of the appeals court by the plaintiff and the judgment issued by the court of appeals
- (2) The determination of jurisdiction for regulating the regime of nationality
- (3) Juliana Dequis' breach of the legal requirement for the identity and voter cards; and
- (4) the legal viability of Dominican migration policy and the institutional and bureaucratic shortcomings of the Civil Registry

The Constitutional Tribunal's first erroneous claim set forth in Sentence 168-13 is that Juliana Dequis and other Dominicans of Haitian descent will not be stateless as a consequence of the ruling. In an argument rooted entirely in the Court of First Instance's judgment in Resolution No. 12-2007, the Tribunal postulates that pursuant to Article 11 of the 1987 Constitution of the Republic of Haiti, every individual born of a Haitian father or Haitian mother is entitled to Haitian citizenship. The Court rationalizes that although Juliana is not entitled to Dominican nationality, given that she is (according to the Court's interpretation of the Haitian Constitution) entitled to Haitian nationality she will not be in a condition of statelessness. Since Juliana Dequis' parents are foreigners "in transit" and not naturalized in the Dominican Republic, the loss of Haitian citizenship does not apply to them as outlined in Article 13 of the Haitian Constitution of 1987. As such, pursuant to the Haitian Legislation on the Duties of the Embassy, the Constitutional Tribunal claims that Juliana's parents had a responsibility to register her birth with the Embassy, the failure to do so was an attempt to defraud the Civil Registry.

The Tribunal underscores that the obligation to regularize the stay of Haitian workers in the Dominican Republic, to avoid having them fall into an illegal status, is regulated by the *Modus Operandi* that was signed between the Dominican Republic and Haiti on November 21, 1939. Articles 10 and 11 of the *Modus Operandi* state that nationals of either State who are on the territory of the other may continue their stay in the state provided that these nationals conform to the provisions of relevant immigration laws. According to Sentence 168-13, the *Modus Operandi* provided a grace period of three months for those individuals in violation of the relevant immigration laws to regularize their status.

Despite the claims of the Dominican Republic, a consequence of Sentence 168-13 is that Dominicans of Haitian descent will be left stateless and in a condition of extreme

¹⁷⁵ República Dominicana, Ley No. 137-11 (2011), article 100, *available at*, http://www.tribunalconstitucional.gob.do/sites/default/files/documentos/Ley_137-11.pdf [in English: Law No. 137-11] ("La admisibilidad del recurso esta sujeta a la especial trascendencia o relevancia constitucional de la cuestión planteada, que se apreciará atendiendo a su importancia para la interpretación, aplicación y general eficacia de la Constitución, o para la determinación del contenido, alcance y la concreta protección de los derechos fundamentales. ").

vulnerability considering that the judgment, “disproportionately affects individuals who are already subject to multiple forms of discrimination, in particular based on race and poverty.”¹⁷⁶

The next confounding issue is that despite regional custom and general law surrounding nationality, as discussed previously, the Constitutional Tribunal provides a narrow interpretation of nationality and asserts that,

In general, nationality is considered a legal and political bond between a person and a State; but, more precisely it is not only a legal bond but also a sociological and political bond whose conditions are defined and established by the State. This is a legal bond, due to the multiple rights and obligations of a civil nature that arise from it; it is a sociological bond because it implies the existence of a set of historical, linguistic, racial and geopolitical features, among others, that make and sustain particular idiosyncrasies and collective aspirations; and political because it essentially gives access to the powers inherent in citizenship, that is the possibility to elect and be elected to public office in the State Government.¹⁷⁷

The Constitutional Tribunal adopts this conception of nationality to demonstrate that the legal conditions for the acquisition of nationality are based entirely in domestic law. However, the definition adopted by the Tribunal is inundated with racial overtones that point to the nefarious nature of Sentence 168-13. The Open Society Justice Initiative expressed concern in a press release in October 2013 that the judgment issued by the Tribunal “employs a definition of citizenship that is impermissibly discriminatory, referencing racial and linguistics features in demarcating citizenship.”¹⁷⁸ As a State Party to CERD, the Dominican Republic has a responsibility to ensure “equal protection before the law in granting nationality.”¹⁷⁹

Having narrowly demonstrated that the standard for defining nationality is based on domestic law, the Constitutional Tribunal introduces additional reasons that Juliana Dequis does not meet the conditions of a judgment in favor of the issuance of an electoral identity card:

- (1) her birth certificate is under investigation pursuant to ruling 285-07

¹⁷⁶ Inter-American Commission on Human Rights, *IACHR Wraps Up Visit To the Dominican Republic*, press release No.97/13, December 6, 2013, http://www.oas.org/en/iachr/media_center/PReleases/2013/097.asp.

¹⁷⁷ *Sentencia TC/0168/13*, § 1.1.4. (“De manera general, la nacionalidad se considera como un lazo jurídico y político que une a una persona a un Estado; pero, de manera más técnica y precisa, no es solo un vínculo jurídico, sino también sociológico y político, cuyas condiciones son definidas y establecidas por el propio Estado. Se trata de un vínculo jurídico, porque de él se desprenden múltiples derechos y obligaciones de naturaleza civil; sociológico, porque entraña la existencia de un conjunto de rasgos históricos, lingüísticos, raciales y geopolíticos, entre otros, que conforman y sustentan una idiosincrasia particular y aspiraciones colectivas; y político, porque, esencialmente, da acceso a las potestades inherentes a la ciudadanía, o sea, la posibilidad de elegir y ser elegido para ejercer cargos públicos en el Gobierno del Estado.”).

¹⁷⁸ Open Society Justice Initiative, “Dominican Republic Court Ruling Raises Mass Statelessness Threat,” press release, October 2, 2013, <http://www.opensocietyfoundations.org/press-releases/dominican-republic-court-ruling-raises-mass-statelessness-threat>.

¹⁷⁹ Ibid.

- (2) she does not meet the conditions envisaged in the Constitution for acquiring Dominican nationality for children born in the country to foreign parents in transit

The second reason enumerated above has had significant repercussions on the community of Dominicans of Haitian descent born and raised in the Dominican Republic. The Constitutional Tribunal maintains that Juliana's parents are foreigners and that they illegally and irregularly enrolled Juliana in the civil registry. Juliana's father Mr. Nelo Dequis is a Haitian national in the Dominican Republic who worked in agricultural and industrial labor. According to an investigation conducted by the Tribunal, Mr. Nelo Dequis did not provide his national identity card when he went to register Juliana. The Court claims that Juliana's parents did not provide the required documents to legally register Juliana, which means her status and the legality of her birth certificate are dubious at best. Since Juliana's parents did not have the necessary documents when registering her birth, the Tribunal rules that they must be considered seasonal workers. This placed Juliana's family into the fourth group of nonimmigrant foreign workers pursuant to Dominican Law No. 95. According to Law No. 95 Article 3, foreigners can be admitted to the country as immigrants unless they fall into one of the following classes of nonimmigrants:

- (1) Visitors traveling on business, study, pleasure or curiosity;
- (2) Persons transiting through the territory of the republic traveling abroad;
- (3) Persons who are serving employed on ships or aircraft;
- (4) Seasonal workers and their families

The law clarifies that nonimmigrants are only granted temporary status in the country unless they change their status by fulfilling the requirements for immigrants. Sentence 168-13 explains that the law links the transience of a foreigner to the lack of a fixed legal residence in the country or the lack of ownership of a residence permit issued by the Dominican authorities.¹⁸⁰ As a consequence, the Tribunal asserts that children born in the country of parents who come from these four groups of people are excluded from the acquisition of Dominican nationality.

The Tribunal continues to state that foreigners in the country lacking a legal residence permit or who have illegally entered the country are in an irregular situation and therefore violate national laws and international treaties. As such, the parents of foreign children cannot declare that their children born in the country have rights to invoke *amparo* given that it is legally inadmissible to establish the existence of a right based on an illegal situation.¹⁸¹

¹⁸⁰ *Sentencia TC/0168/13*, para 1.1.12 (“[...] y, en todos esos fallos ha siempre vinculado la **transitoriedad** de la estancia del extranjero en el territorio nacional a la inexistencia de fijación legal de su domicilio en el país o a la falta de titularidad de un permiso de residencia otorgado por las autoridades dominicanas; o sea, que la jurisprudencia tradicional dominicana reconoce como **extranjeros en tránsito** a los que no tienen domicilio legal en la República (personas jurídicas) o a los que carecen de permiso legal de residencia (personas físicas) [...]”).

¹⁸¹ *Ibid.*, para 1.1.14.3 (“En ese sentido, estas personas no podrían invocar que sus hijos nacidos en el país tienen derecho a obtener la nacionalidad dominicana al amparo del precitado artículo 11.1 de la Constitución de 1966, en vista de que resulta jurídicamente inadmissible fundar el nacimiento de un derecho a partir de una situación ilícita de hecho.”).

The Tribunal goes on to reference the case of Dilicia Yean and Violeta Bosico. In particular, the Tribunal looks to Section V of the Dominican Republic's Law regulating migration (No. 279 of May 1939), which underscores that to consider a person as a resident or "in transit," the country must respect reasonable time limits and be consistent with its ruling especially with the judgment that a foreigner who develops connections in a State cannot be likened to a bystander or a person "in transit."¹⁸² The Tribunal contends that the decision in the *Yean and Bosico* case was served in error and that the idea of a time limit is not relevant to non-resident aliens in the country.

According to the Open Society Justice Initiative, the Inter-American Court of Human Rights' decision in the *Yean and Bosico* case upheld the notion that the "migratory status of the parents can never constitute justification for the deprivation of nationality and that children cannot inherit the migratory status of their parents."¹⁸³ Furthermore, the time limit condition must be respected regardless of the status of the individual in question. Despite this, the ruling in 168-13 would be applied to about three generations of Dominicans by effectively denationalizing them with the intent of sending them to a country with which they have no roots or connections.

One immediate red flag raised by the judgment of the Tribunal is the *ex-post facto* nature of the law. Most Western societies ban retroactive application of the law and this is even reflected in Article 47 of the Dominican Constitution of 1966,¹⁸⁴ which was the Constitution in force when Juliana Dequis was born. In fact, non-retroactivity of the law is maintained in the 2010 Constitution of the Dominican Republic in Article 110.¹⁸⁵ In order to circumvent this constitutional requirement that would restrict the impact of the Tribunal's ruling only to current Haitian migrants residing in the Dominican Republic, the Tribunal claims that its judgment is based on Dominican Constitutions regulating such matters before the birth of Juliana Dequis. However, it was not until the 2010 Constitution that being a child of parents "in transit" (under the more restrictive interpretation of "in transit") was established as a restriction in obtaining Dominican citizenship. Article 18(2) of the Dominican Constitution of 2010 also clearly states, "those who enjoy the Dominican nationality before the entry into effect of this Constitution", are citizens.¹⁸⁶ As such, the Constitutional Tribunal's justification of retroactively applying the law is in direct conflict with the Constitution of the Dominican Republic. The retroactive application of the law, "... is an abusive and arbitrary action to strip nationality from three generations of Dominicans, by applying the law retroactively to 1929 as established by the Constitutional [Tribunal's] ruling."¹⁸⁷ Although the Constitutional Tribunal has created its own questionable legal interpretation, "the

¹⁸² Ibid., para 2.2 (citing Sentencia del 8 de septiembre de 2005, para 157) ("*Además de lo anterior, el Tribunal considera oportuno remitirse a la Sección V del Reglamento de Migración de la República Dominicana No. 279 de 12 mayo de 1939, vigente [...], la cual es clara al establecer que el transeúnte tiene solamente la finalidad de pasar por el territorio, para lo cual se fija un límite temporal de diez días. La Corte observa que, para considerar a una persona como transeúnte o en tránsito, independientemente de la clasificación que se utilice, el Estado debe respetar un límite temporal razonable, y ser coherente con el hecho de que un extranjero que desarrolla vínculos en un Estado no puede ser equiparado a un transeúnte o a una persona en tránsito.*").

¹⁸³ Open Society Justice Initiative, "Dominican Republic Court Ruling Raises Mass Statelessness Threat."

¹⁸⁴ Sentencia TC/0168/13, para 1.1.4.

¹⁸⁵ 2010 Constitution of the Dominican Republic, article 110.

¹⁸⁶ Ibid., article 18(2).

¹⁸⁷ Ceara-Hatton, "A critique of the ruling."

consequence is to place in limbo thousands of people who will not be able to cash a check, attend school, work, or do anything. It is civil death and since it applies to thousands of people, it is civil genocide.”¹⁸⁸

The Tribunal justifies the retroactive application of the law by emphasizing that the most significant change to the acquisition of nationality by *jus soli* was introduced in the Constitution of 1929 wherein the concept of foreigners “in transit” was first mentioned. The idea of foreigners “in transit,” according to the Constitutional Tribunal, represents an exception to the general rule of the application of *jus soli* in all subsequent Dominican Constitutions:

- June 20, 1929
- Article 8.2 of the Constitutional reforms of 1934, 1942 and 1947
- Article 12.2 of the Constitutions of 1955, 1959, 1960, 1961 and 1962
- Article 89.2 of the Constitution of 1963
- Article 11.1 of the Constitutions of 1966, 1994 and 2002
- And, Article 18.3 of the Constitutional reform of January 26, 2010

The Tribunal concludes that the JCE’s decision to refuse issuing an identity and voter card to Juliana was legally sound in light of Constitutional and legal regulations in the Dominican Republic. According to the Tribunal, the Court of First Instance’s decision therefore did not constitute a violation of the fundamental rights of Juliana Dequis and that the issue of statelessness does not apply to this particular case. Despite the legal terminology used by the Tribunal to justify its actions, the reality is that Dominicans of Haitian descent would be left stateless under the ruling in 168-13. In a statement made before the Secretary of CARICOM, President Michel Martelly asserted that Sentence 168-13 posed an immediate threat of violating the human rights of an entire community of vulnerable persons, Dominicans of Haitian descent. According to President Martelly, one of the major implications of the law was the potential mass statelessness it would create that would expound a loss of civil rights, including the right to vote and the loss of employment.¹⁸⁹

Although the Tribunal concluded that no persons living on its territory would be left insecure (stateless or otherwise) as a consequence of its ruling in 168-13, the Tribunal did rule that the vulnerabilities in the Dominican immigration system must be fixed in order to protect the integrity of the Dominican State. According to the Tribunal, the shortcomings in regulating how documents were provided after the proclamation of the Constitution of 1929 were rampant and allowed many migrants to defraud the Civil Registry. The Tribunal therefore revived General Migration Law 285-04 as the means to re-shaping immigration in the Dominican Republic. Article 151 of Law 285-04 discusses the creation of a national plan that will regularize illegal aliens residing in the country.¹⁹⁰

¹⁸⁸ Ibid.

¹⁸⁹ “Haiti President Speech on Dominican Republic to Caricom,” *Haiti Sentinel*, November 30, 2013, accessed May 5, 2015, <http://www.sentinel.ht/politics/articles/5231-haiti-president-speech-on-dominican-republic-to-caricom>.

¹⁹⁰ *Sentencia TC/0168/13*, para. 2.7.

Decision of 168-13

The Tribunal mandated that within 10 working days the JCE must provide Juliana Dequis with her birth certificate so that she could submit it to the appropriate court to determine if the birth certificate was valid or invalid. The Tribunal also ruled that all individuals in a situation similar to Juliana must submit their documents to the appropriate court for validation. The JCE was also required to:

- (i) conduct a thorough audit of the Civil Registry of the Dominican Republic from June 21, 1929 to January 26, 2010 to identify and create a document of all foreigners registered in the Civil Registry of the Dominican Republic
- (ii) create a list of foreigners illegally enrolled in the Civil Registry based on the conditions required by the Dominican Constitution. Those individuals would be called aliens illegally registered in the Civil Registry of the Dominican Republic
- (iii) create a book of all special foreign births from June 21, 1929 to April 18, 2007
 - a. of non-resident foreign mothers pursuant to resolution 02-2008; and then transfer these names to the Foreign Ministry and make the relevant notification to consulates, embassies or diplomatic missions as appropriate for legal purposes.¹⁹¹

The JCE is also required to submit a list of foreigners irregularly registered with the Civil Registry of the Dominican Republic to the Minister of the Interior and Police who chairs the National Immigration Council.

The ruling mandates highly discriminatory procedures that according to the Open Society Justice Initiative would constitute a breach of international prohibitions against racial and ethnic discrimination.¹⁹² According to the Open Society Justice Initiative, state sovereignty is legally restricted by prohibitions against racial and ethnic discrimination, a principle that is integral to all international and regional human rights instruments.¹⁹³ Although the Constitutional Tribunal maintains that the ruling of 168-13 is not racist in nature, it disproportionately targets a very narrow group, Dominicans of Haitian descent, which as mentioned goes against human rights obligations to ensure equal protection before the law.

327-13 (Regularization Plan)

On November 22, 2013, the National Council of Migration published a *Proposal for a Project on a Regularizing Decree Relative to the National Plan to Regularize Foreigners in an Irregular Migratory Situation in the Dominican Republic*.¹⁹⁴ This

¹⁹¹ Ibid., p. 98-101.

¹⁹² Open Society Justice Initiative, “Dominican Republic Court Ruling Raises Mass Statelessness Threat.”

¹⁹³ Ibid.

¹⁹⁴ *Propuesta De Proyecto De Decreto Reglamentario Relativo Al Plan Nacional De Regularización De Extranjeros En Situación Migratoria Irregular*, (2013), [in English: Project proposal for a regulatory decree concerning the national plan of regularization of foreigners in an irregular migratory situation], <http://www.mip.gob.do/Portals/0/docs/PublicacionRegularizacion.pdf>.

Proposal, which laid the legal foundation for the ensuing law known as Decree 327-13 or the National Plan for the Regularization of foreigners in an irregular migratory situation in the Dominican Republic, was created by the National Council of Migration to facilitate the implementation of the general rules envisioned by the Constitutional Tribunal in Sentence 168-13. The spirit behind 327-13 is that in order to ensure the creation of a cogent plan to regularize foreigners in an irregular migratory situation in the Dominican Republic, it is necessary to establish a regulatory framework that empowers the institutions tasked with implementing migration law in the Dominican Republic.

The following section will highlight the most important Articles of the regularization plan in addition to providing analysis on the major legal themes arising from this decree.

Pursuant to Article 1 of the Decree, the purpose of this regularization plan is to implement the PNRE, which establishes the terms and conditions for the regularization of a migrant that is illegally based in the Dominican Republic. Ultimately if the regulations in the PNRE are followed an irregular migrant in the Dominican Republic will be able to acquire a legal status in the country under one of the categories established in the General Migration Law 285-04.¹⁹⁵

Article 8 of the PNRE establishes who is subject to the regularization plan. Pursuant to Article 8, there are two umbrella groups that fall under the jurisdiction of the PNRE:

1. Those who irregularly entered Dominican national territory in violation of the norms established in the laws and regulations on migration in the Dominican Republic and that remained in the country under the terms and conditions outlined in the PNRE
2. Those who entered the country in a regular manner by adhering to the migration regulations and whose irregular condition arises from:
 - a. Exceeding the time authorized for remaining in the country as a migrant
 - b. Violating the conditions of entry¹⁹⁶

Having established which migrants fall under the provisions of Decree 327-13, Articles 10-12 emphasizes the kinds of document that will be needed by migrants to successfully undergo the regularization process.¹⁹⁷ According to Article 12, an irregular migrant may present any of the following documents:

1. Passport or equivalent travel document;
2. Identity document provided by consular authorities or any other authority in the country of origin;
3. Birth certificate from the country of origin;

¹⁹⁵ *Decreto 327-13: Plan Nacional de Regularización de los extranjeros en Situación Migratoria Irregular en la República Dominicana*, (2013), available at <http://mip.gob.do/Portals/0/docs/PlanRegularizacion/Decreto%20327-13%20Plan%20Nacional%20de%20Regularizaci%C3%B3n%20de%20Extranjeros.pdf>. [in English: Decree 327-13: National Plan for the Regularization of foreigners in an irregular migratory situation in the Dominican Republic], article 1.

¹⁹⁶ *Ibid.*, article 8(1-2).

¹⁹⁷ *Ibid.*, articles (10-12).

4. For an applicant that is part of a family group, marriage license, document of “spinsterhood/bachelorhood” or proof of cohabitation
5. A document that can be verified as legitimate by authorities and that serves as a form of identification for the migrant applicant.¹⁹⁸

Article 12 provides that if an applicant is unable to obtain the necessary documents, they may submit an application. However if the missing documents are not filed prior to the plan’s deadline on February 28, 2015 then the application for regularization will not be considered.¹⁹⁹

The remaining articles in the regularization plan are dedicated to expanding on the criteria for registering as envisioned by the regularization plan pursuant to Article 14. The following conditions were established as the basic criteria of the plan:

1. The time of filing and length of residence in the Dominican Republic;
2. Ties to Dominican society;
3. Labor and socio-economic conditions; and
4. Regularization as an individual or family unit²⁰⁰

Law 169-14 (Naturalization Plan)

In May 2014, President Medina issued Law 169-14 in response to the international outcry generated by Sentence 168-13, which effectively left a large swath of Dominicans of Haitian descent stateless. The following section will provide an overview of the provisions mandated by Law 169-14.

Law 169-14 begins by acknowledging the creation of the Constitutional Tribunal on January 26, 2010. It further affirms the binding power of the decisions made by the Constitutional Tribunal. However, the limits of the Constitutional Tribunal are also acknowledged with regards to its role in issuing judgment 168-13 on September 23, 2013. Law 169-14, in the tone it adopts, represents a stark transition from Sentence 168-13. In fact, it acknowledges not only the role the Dominican State has in creating the current situation, but also the role the state has in resolving the status of Dominicans of Haitian descent.

That guided by these principles, the Dominican State, through its representative bodies, is called upon to find a solution to the problem faced by people who, although irregularly registered in the Civil Registry by the State itself, have acted throughout their lives under the premise that they benefit from the Dominican nationality and have had, on that basis, an undeniable attachment to our society.²⁰¹

¹⁹⁸ Ibid., article 12(a-e).

¹⁹⁹ Ibid., article 12.

²⁰⁰ Ibid., article 14 (1-4).

²⁰¹ *República Dominicana: Ley No. 169-14 de 2014 que establece un régimen especial para personas nacidas en el territorio nacional inscritas irregularmente en el Registro Civil dominicano y sobre naturalización* [Dominican Republic], May 2014, available at <http://www.refworld.org/docid/53882dea4.html>. [in English: Law No. 169-14 of 2014 which establishes a special regime for people born on national territory registered irregularly in the Dominican Civil Registry]

Law 169-14 identifies two populations in the Dominican Republic subject to regulation:

- a) the descendants of foreign parents in irregular immigration status whose birth records were registered by the State by the Officials of Civil Status [Group A]
- b) foreigners born in the Dominican Republic but that were not registered in the Civil Registry [Group B]

Article 1 of Law 169-14 explains that the scope of the law is twofold in establishing:

- a) a special regime for the benefit of children of foreign non-resident fathers and mothers that were born in the country between the period of June 16, 1929 to April 18, 2007 and registered in the Dominican Civil Registry records based on documents not recognized by the regulations in force for such purposed at the time of registration;
- b) the registration of children of foreign parents that were born in the Dominican Republic and are not registered in the Civil Registry²⁰²

Article 2 declares that the JCE will regularize or transcribe all the persons in Group A listed above to the Civil Registry. This process will be free of charge to these beneficiaries and at the end of the process they will be Dominican nationals. The *cédula* will be provided to all members of Group A.²⁰³

The members of Group B (person who is the child of irregular foreign parents that were born in the Dominican Republic but were not registered in the Dominican Civil Registry) are required to register in the registry for foreigners pursuant to the guidelines set forth in the General Migration Law 285-04. Article 6 however, mandates that an application for registry must be submitted to the Ministry of Interior and Police no later than 90 days from the effective date of Law 169-14 to be considered valid.²⁰⁴ The Ministry of Interior and Police subsequently have a period of 30 days to process the application given no objection from the JCE.²⁰⁵ After the application is processed the beneficiary of the regularization process has sixty days to comply with the provisions of Decree 327-13, which establishes the National Plan of Regularization of Foreigners in irregular immigration status (PNRE).²⁰⁶

Pursuant to Article 8 of Law 169-14 the members of Group B regularized according to the PNRE may be naturalized after two years have passed since obtaining one of the immigration categories established in the General Migration Law 285-04.²⁰⁷

and on Naturalization]. English translation of the Law No. 169-14 was provided by the Embassy of the Dominican Republic in Washington, DC [on file with research team].

²⁰² Ibid., article 1.

²⁰³ Ibid., article 2.

²⁰⁴ Ibid., article 6(1).

²⁰⁵ Ibid., article 6(2).

²⁰⁶ Ibid., article 7.

²⁰⁷ Ibid., article 8.

Implementation

Regularization: The National Plan to Regularize Foreigners (PNRE)

Following the 168-13 ruling, the immediate next step for the Dominican government was to develop and implement the “national plan to regularize illegal foreigners located in the country” called for in the sentence.²⁰⁸ In theory, a plan to grant documentation and consequently safeguard basic human rights for migrants is a laudable undertaking and demonstrates the government’s recognition that irregular migration is a significant and longstanding issue in the country. However, from the outset, implementation of the national regularization plan (or as it is commonly referenced, the PNRE) has been fraught with problems including insufficient bandwidth to meet the number of applicants, unreasonably short timelines, confusing and poorly publicized information, and disregard for the specific needs of Haitian migrants, by far the largest migrant group in the country. The PNRE has only regularized a few hundred migrants since June 2013,²⁰⁹ failing to meet the government’s goal of regularizing all irregular migrants in the Dominican Republic. Moreover, the government’s initial attempt to use the PNRE to treat Dominicans of Haitian descent, who should be pursuing naturalization, as migrants in need of regularization is deeply concerning and was condemned by the Inter-American Court of Human Rights and the international community.²¹⁰

After clarifying the legal implementation of the Regularization Plan, this section of the report will discuss the problems with the practical implementation of PNRE and end with recommendations to the Dominican Government for how to proceed following the June 17, 2015 deadline.

Legal Implementation & Requirements of the PNRE

Implementation of the regularization requirement in Sentence 168-13 commenced immediately in November 2013 with the creation of additional legal texts outlining the process and specifying the exact requirements for applicants. On November 22, 2013, the National Council of Migration published a *Proposal for a Project on a Regularizing Decree Relative to the National Plan to Regularize Foreigners in an Irregular Migratory Situation in the Dominican Republic*.²¹¹ This proposal emphasized the urgency of creating such a migration plan, referenced earlier laws calling for similar plans, highlighted specific statistics on migrants in the country, and, most importantly, outlined the Plan’s specific implementation phases. Then, on November 29, 2013, President Medina signed Decree 327-13, which created the official “National Plan to Regularize Foreigners in an Irregular Migratory Situation in the Dominican Republic,” the PNRE.²¹²

²⁰⁸ *Sentencia TC/0168/13*, 97.

²⁰⁹ “Haiti - Politic: A Joint Bilateral Meeting ‘Successful and promising,’” *Haiti Libre*, March 28, 2015, accessed May 14, 2015, <http://www.haitilibre.com/en/news-13488-haiti-politic-a-joint-bilateral-meeting-successful-and-promising.html>.

²¹⁰ Organization of American States (OAS), “IACHR Condemns Judgment of the Constitutional Court of the Dominican Republic,” press release No. 130/14, November 6, 2014, accessed April 13, 2015, http://www.oas.org/en/iachr/media_center/PReleases/2014/130.asp.

²¹¹ *Propuesta De Proyecto De Decreto Reglamentario*.

²¹² *Decreto 327-13*.

The Decree established the Ministry of the Interior and Police as the principal agency responsible for implementation. The process is specifically implemented through the Office of the General Directorate of Migration, which falls under the purview of the Ministry of the Interior and Police.²¹³ Although there are relatively robust legal documents indicating the objectives, processes, and timeline for the regularization of migrants, the implementation of the PNRE has been stymied by too aggressive timelines and complex bureaucracy.

The aim of the PNRE is to regularize the large number of migrants with an “irregular migratory status” in the Dominican Republic by giving them a pathway to a regularized status. Based on numbers from a 2012 study by the National Office of Statistics (*Oficina Nacional de Estadísticas*), the Dominican government estimates that there are a total of 524,632 migrants in the country who were born outside the Dominican Republic, 502,297 (95.78%) of whom have identification documentation from their country of origin and 22,135 (4.22%) who do not. Of those numbers, the government estimates that 458,233 (87.34%) are originally from Haiti.²¹⁴ However, the government admits in the *Proposal* that it has been unable to establish the total number of migrants in an irregular status.²¹⁵ Moreover, the accuracy of those statistics is dubious for two main reasons: 1) those numbers likely do not capture migrants unwilling to share their migratory status for fear of deportation; and 2) those numbers likely do not accurately capture predominantly Haitian migrant populations living and working in rural areas like the bateyes. Despite the inherent difficulty of accurate projections, the Dominican government estimated receiving 200,000 applications to the PNRE upon the launch of the program; by late March 2015 only 3,000 had been analyzed and 300 regularization documents issued. Meanwhile, over 175,000 applications had been submitted, indicating that the 200,000 number will likely be met or exceeded.²¹⁶

From the outset, the PNRE was designed to be a separate and temporary process, creating a specific residency and work permit for “irregular” migrants independent from any other immigration document. By the term “irregular” the government means migrants who do not have the necessary documentation to reside or work in the country, i.e. visas or permits.²¹⁷ Yet, under the scope of Sentence 168-13, “regularization” does not mean the issuance of immigration or residency documents in the form of visas or *cédulas*. The regularization documents issued under the PNRE will allow registered migrants to remain in the country legally, but the PNRE does not specify for how long this residency and work permit will be effective.²¹⁸ Since the PNRE is implemented via presidential decree, the validity of such regularization documents could be revoked once President Medina leaves office in 2016. Civil society organizations, like MUDHA, are concerned that documents granted under the PNRE could be nullified in the future, as happened during similar documentation initiatives in the 1990s.²¹⁹ The PNRE is a window of opportunity for migrants to become regularized, but as a temporary process, also involves uncertainty regarding the future validity of its unique regularization documents.

²¹³ Ibid., 4.

²¹⁴ *Propuesta de Proyecto De Decreto Reglamentario*, 3.

²¹⁵ Ibid., 4.

²¹⁶ “Haiti - Politic: A Joint Bilateral Meeting ‘successful and promising.’”

²¹⁷ *Decreto 327-13*, 4.

²¹⁸ Ibid.

²¹⁹ Dolis, interview.

Implementing the requirements of Sentence 168-13 necessarily involved creating new immigration processes in a matter of months within existing government institutions. On paper, the PNRE requires applicants to confirm their identity via one of the following documents, even if the document is expired:

- 1) Passport or travel document
- 2) Personal identity documentation issued by consular authority or any other authority in the country of origin
- 3) Birth certificate from the country of origin
- 4) For an applicant that is part of a family group, marriage license, document of “spinsterhood/bachelorhood” or proof of cohabitation
- 5) A document that can be verified as coming from a legitimate authority and that serves for the identification of the foreign applicant²²⁰

The PNRE then requires that applicants satisfy four requirements in addition to confirming their identity:

- 1) The time the foreign person has been residing in the country
- 2) Ties to Dominican society
- 3) Work and socio-economic conditions
- 4) Regularization of persons individual or by the family (information regarding the nuclear family)²²¹

The Ministry of the Interior and Police outlined the specific documents that could be provided to satisfy the above four requirements in a comprehensive though lengthy brochure published in Spanish and Haitian Creole.²²² While it is positive that the government will accept a wide-ranging number of documents, the sheer scale of permissible documents is extremely confusing, particularly for migrants who must then obtain those documents from other government offices and their employers.

In cases where an applicant did not have the above documentation prior to February 28, 2015, the Decree granted them a grace period during which they could apply to the PNRE and then follow up with the necessary documents.²²³ This grace period was particularly valuable for Haitian migrants who had to obtain identity documents from the Haitian government. However, the deadline for the grace period expired on February 28, 2015, which in practice gave applicants an insufficient 10 months to undergo the lengthy process of receiving documents from Haiti.

Implementation in Practice

Beyond the grace period, the overall 18 month timeline specified in the PNRE has proved far too short for government offices to create robust mechanisms for efficiently receiving and reviewing applications. Rather than specifying a future start date for

²²⁰ *Decreto 327-13*, 7.

²²¹ *Ibid.*, 8.

²²² See Appendix 2 of this report for a copy of the brochure. More information about the *PNRE* can also be accessed on the Ministry of the Interior and Police website: <http://mip.gob.do>.

²²³ *Decreto 327-13*, 7.

implementation, the PNRE became immediately active on November 22, 2013,²²⁴ which did not allow an organization period for government offices to develop appropriate policies and prepare for the influx of applications. However, while the PNRE has been in effect on paper from November 22 2013 through June 16, 2015, the application only opened in June 2014,²²⁵ which gave offices a short 6 months to organize themselves but leaving applicants 12 months, not 18, to register. Along with the short timeline, the capacity of government offices is woefully insufficient: the government initially projected that 200,000 migrants would register,²²⁶ but there are just 25 government offices statewide to process these applications.²²⁷ Meanwhile, from June 2014 - February 2015, those same government offices were also charged with implementing the parallel naturalization process under Law 169-14. It is consequently disappointing, but unsurprising that by the spring of 2015 the government had only analyzed 3,000 cases out of 175,000 total applications and had only issued 300 regularization documents.²²⁸ The short timeline along with lack of office capacity has hamstrung the PNRE in issuing regularization documents.

As William Charpantier of MENAMIRD has stressed, the vast majority of migrants in the Dominican Republic are Haitian, so developing migration policies should necessarily involve considering the needs of Haitians and people of Haitian descent in the country.²²⁹ Although the official PNRE brochure was published in Spanish and Haitian Creole, ostensibly to reach a Haitian audience, the requirements of the PNRE do not sufficiently address the unique needs of Haitian migrants. Firstly, the application timeline is unreasonably short for Haitian migrants who have to undertake nebulous and highly bureaucratic processes to gain documents from the Haitian government, Dominican government offices, and their employers. Secondly, Haitian migrants are generally marginalized into low-income positions in society where they have limited access to information to understand the processes and funds to pay for the various documents they have to secure. Thirdly, on paper the Decree is relatively flexible and expansive on the five types of documents applicants can provide to establish their identity. However, in practice many Haitian migrants lack such documents either because they never received them from the Haitian government or because their documents were taken from them while crossing the border or beginning work in the bateyes.²³⁰ Finally, and of significant concern to human rights groups, Haitian applicants are being directed to secure an official and current passport from the Haitian government, even though expired documents are legally acceptable according to the law.²³¹ For Haitian applicants, the PNRE's requirements have proven to be cumbersome, costly, and near impossible to complete within the allotted timeframe.

²²⁴ Ibid., 4.

²²⁵ Alicia Sangro Blasco, "IOM Supports Haitians Applying for Regularization in Dominican Republic," November 21, 2014, accessed February 26, 2015, <http://www.iom.int/news/iom-supports-haitians-applying-regularization-dominican-republic>.

²²⁶ "Haiti - Politic: A Joint Bilateral Meeting 'successful and promising.'"

²²⁷ See map of government offices in Appendix 3.

²²⁸ "Haiti - Politic: A Joint Bilateral Meeting 'successful and promising.'"

²²⁹ Charpantier, interview.

²³⁰ Ibid.

²³¹ Ibid.

For Haitian migrants, a compounding problem has been navigating the Haitian Government's Identification and Documentation Program for Haitian Immigrants (PIDIH).²³² When initially implemented, the PIDIH committed to deliver Haitian identification documents such as passports and identification cards, within 15-20 days of application. In actuality, anecdotal reports indicate that the process can take upwards of five months, if not longer.²³³ In a January 2015 interview with journalist Juan Bolivar Diaz on Tele Antillas, the then Haitian Ambassador to the Dominican Republic, Fritz Cineas,²³⁴ recognized the delay, stating, "We initially thought that the documents could be delivered within 15 to 20 days, but we were unable to meet demand. It was a miscalculation on our part to believe that we could provide these documents in such a short time." According to statistics gathered by *Haiti Libre*, in October 2014, 120,000 people had applied to the PNRE, of which fewer than 75,000 Haitian applicants had the required documents from the Haitian government, and fewer than 500 applicants had met all of the documentation requirements.²³⁵ By May 2015, only 52,000 Haitian migrants had applied to the PIDIH process and only 17,000 had received a passport or identity document.²³⁶ Meanwhile, the PNRE's application window is set to close on June 17, 2015, which means that Haitian migrants requiring documents from the Haitian government are unlikely to receive them in time to apply to the PNRE.²³⁷

Despite the government's characterization of the PNRE as "free and personal,"²³⁸ in practice the process carries significant economic costs for Haitian applicants who have to navigate multiple requirements involving different government offices as well as seeking documents from their employers. Because migrants generally must travel significant distances to secure documents and pay at least 1,000 Pesos (or approximately \$22 USD²³⁹) to the Haitian government, both the direct and indirect costs may be prohibitive for many applicants. During a January 2015 meeting with MENAMIRD, representatives from civil society and religious organizations emphasized cost as the biggest barrier to entry for Haitian migrants. Coupled with cost, they cited lack of legal support to help applicants navigate the complicated regularization process.²⁴⁰ The Dominican Republic's attempt to regularize thousands of migrants may be a missed

²³² *Programme d'identification et de documentation des immigrants Haïtiens* in French.

²³³ Charpentier, interview.

²³⁴ Ambassador Cineas resigned in February 2015. "Dimite embajador haitiano en la R.Dominicana y designan a Daniel Supplice." *7 Dias.com.do*, February 25, 2015, accessed May 15, 2015, http://www.7dias.com.do/portada/2015/02/25/i183183_dimite-embajador-haitiano-dominicana-designan-daniel-supplice.html#.VWnWfU9Viko.

²³⁵ "Haiti - Dominican Republic: Demonstration Front the Consulate of Haiti," *Haiti Libre*, January 29, 2015, accessed April 2015, <http://www.haitilibre.com/en/news-13063-haiti-dominican-republic-demonstration-front-the-consulate-of-haiti.html>.

²³⁶ Danio Darius, "Le PIDIH un échec, le gouvernement haïtien envisage de solliciter la prorogation du PNRE, selon Daniel Supplice," *Le Nouvelliste National*, May 8, 2015, accessed May 14, 2015, <http://lenouvelliste.com/lenouvelliste/article/144582/Le-PIDIH-un-echec-le-gouvernement-haitien-envisage-de-solliciter-la-prorogation-du-PNRE-selon-Daniel-Supplice>.

²³⁷ Charpentier, interview.

²³⁸ *Requisitos para el plan nacional de regularización de extranjeros* 2014. [Requirements for the National Plan for the Regularization of Foreigners]. República Dominicana: Ministerio de Interior y Policía República Dominicana.

²³⁹ XE Currency Converter: USD to Dominican Peso, April 13, 2015, accessed April 13, 2015.

²⁴⁰ Charpentier, interview.

opportunity, due to monetary and legal barriers that prevent a large segment of the migrant populations from applying.

An additional aim of the PNRE was initially to provide an avenue for Dominicans of Haitian descent under Group B– persons without documentation proving their Dominican nationality – a pathway to regularization.²⁴¹ Law 168-13 specifically referenced the descendants of migrants born in the period between 1929-2007 as being a unique group, specifically referencing the case of Juliana Dequis Pierre discussed in detail earlier.²⁴² The PNRE was consequently designed to meet Law 168-13’s dual requirements: 1) that the Dominican Government create a national migration plan as specified under the Migration Law 285-2004; and 2) address the problem of people in an irregular migratory status by virtue of the Constitutional Tribunal’s ruling on “in transit.” Sentence 168-13 estimates the total number of Haitian migrants, including the population of Dominicans of Haitian descent, as 668,145.²⁴³ That number is likely grossly underestimated and near impossible to calculate, considering it should contain all the descendants (children, grandchildren, great-grandchildren spanning generations) of Haitian migrants born in the period between 1929-2007 who have rightly considered themselves Dominicans. With the issues of Dominicans of Haitian descent in mind, the PNRE appears less as a forward-thinking plan to address irregular migration and more as a politicized attempt by the government to push Dominicans of Haitian descent to register as foreigners.

Following international outrage over the issue of statelessness for Dominicans of Haitian descent, the Dominican government created the parallel naturalization process under Law 169-14, which will be discussed in greater detail in the subsequent section. However, now that the February 1 application deadline for Law 169-14 has passed, Dominicans of Haitian descent under Group B are again being directed to apply for regularization under the PNRE.²⁴⁴ As civil society organization MUDHA has emphasized, people in Group B simply do not have the home country identity documents required under the PNRE for several reasons: 1) they were not born in Haiti, are not Haitian citizens, and as such, do not have Haitian identification documents, 2) their parents or grandparents do not have identification documents because such documents were never issued or were confiscated at some point in the tumultuous period between 1929 to 2007 where documentation requirements were lax.²⁴⁵ As such, the PNRE is truly an inappropriate mechanism for addressing the threat of statelessness facing Dominicans of Haitian descent under Group B.

While Law 169-14 somewhat mollified international concerns over statelessness, implementation of the naturalization plan alongside the PNRE created deep confusion for applicants and exacerbated capacity problems at the 25 government offices charged with implementing both plans. Already stretched thin by the PNRE, from June 2014 until February 1, 2015, government offices were also processing up to 40 applications a day to Law 169-14. The PNRE became entangled with the efforts under Law 169-14 to

²⁴¹ See section *infra* on Law 169-14 for a definition of Group B.

²⁴² *Sentencia TC/0168/13*, 23.

²⁴³ *Ibid.*

²⁴⁴ “Deadline to Naturalize Foreigners’ Offspring Expires,” *Dominican Today*, February 2, 2015, accessed April 2015, <http://www.dominicantoday.com/dr/local/2015/2/2/54091/Deadline-to-naturalize-foreigners-offspring-expires>.

²⁴⁵ Dolis, interview.

naturalize Dominicans of Haitian descent with applicants being directed into the wrong processes both passively and actively by lack of clarification and by confused to negligent civil servants.²⁴⁶ The two processes also became intermingled as many families have both Haitian-born migrants and Dominican-born citizens. Consequently, civil society organizations had the dual task of assisting families with both processes during the application window for Law 169-14.²⁴⁷ Now that the February 1 deadline for Law 169-14 has passed, such organizations have the continued task of making sure families understand the processes. Undocumented parents originally from Haiti fall under the PNRE as migrants, meaning that their children fell under Group B of the Naturalization Plan but as of February 1, must also apply under the PNRE. Despite being born in the Dominican Republic, these Dominican children with Haitian parents are considered “in transit” and consequently migrants by the government. Finally, it is crucial to underscore that running through all the government bureaucracy, capacity problems, and confusing processes is a pernicious, pervasive institutional racism that views all people with Haitian features as “other.” Beyond treating Dominicans of Haitian descent as second-class citizens, Dominican society has historically and under Laws 168-13 and 169-14, sent a message that all people of Haitian descent are migrants. As such, it is disappointing but unsurprising that Haitian migrants and Dominicans of Haitian descent have consistently been lumped together first under the PNRE and then in government offices where Law 169-14 was ostensibly designed to give Dominicans of Group B a pathway to reclaim their rightful citizenship.

Civil society within the Dominican Republic is divided on the merits of having Group B apply for regularization under the PNRE. MUDHA is deeply concerned that registering for the PNRE will make Group B a target for future ill treatment and expulsion from the country as happened in the 1990’s.²⁴⁸ That said, some civil society organizations like MENAMIRD have been encouraging and assisting Group B with registering under the PNRE, because at least such registration gives people a pathway to documentation. Only through holding appropriate documentation can individuals access basic rights to government services and reduce the risk of deportation once the PNRE application window closes. Yet, during the fact-finding trip for this Report, there was general consensus among the organizations interviewed that the PNRE and Law 169-14 inadequately meet the needs of Haitian migrants and Dominicans of Haitian descent. However, while both processes are flawed, it is recognized that the government has attempted to address the migration and statelessness issue within the Dominican Republic rather than immediately undertaking deportation of irregular migrants and expulsion of stateless Dominicans.

During the application process, there is a moratorium on deportations for migrants applying to the PNRE; migrants are given a confirmation document after submitting their documents that indicates that they have applied.²⁴⁹ However, this moratorium will end for all migrants, regardless of their application to the PNRE, on June 17, 2015. The

²⁴⁶ Ana Belique, Centro Bonó, interview by Johns Hopkins University-SAIS International Human Rights Clinic, Santo Domingo, Dominican Republic, January 20, 2015.

²⁴⁷ Dolis, interview.

²⁴⁸ Ibid.

²⁴⁹ Alicia Sangro, International Organization for Migration (IOM), interview by Johns Hopkins University-SAIS International Human Rights Clinic, Santo Domingo, Dominican Republic, January 19, 2015.

Dominican government has made it clear that it will undertake deportations at that time and has begun talks with the Haitian government in preparation for the projected increase in repatriations of Haitian migrants to Haiti.²⁵⁰ Despite the moratorium, racial profiling of people of Haitian descent has led to ad-hoc, unofficial deportations of Haitian migrants and Dominicans of Haitian descent, even of those who hold documents.²⁵¹ Moreover, there are reports from civil society organizations such as MUDHA that many people who qualify for the PNRE are afraid to apply for fear of being identified for future deportation. A pattern of deporting people trying to apply for regularization has been occurring since the 1990's and affects Dominicans of Haitian descent as well as Haitian migrants.²⁵²

Amnesty International has been active in protecting Haitian migrants and Dominicans of Haitian descent. In an Urgent Action published on January 28, 2015, Amnesty denounced a "mass deportation" on January 27, 2015 of 51 people en route to enroll in the Naturalization Plan under Law 169-14. The group included 30 children, all born in the Dominican Republic before 2007, their 7 Haitian mothers, and 14 other Haitian migrants traveling to enroll in the PNRE. On their way to the enroll office in San Juan de la Maguana, their two buses were stopped at a military checkpoint and redirected to the border town Elias Piña to obtain official permission to proceed from the Migration Directorate office there. At that point, they were accused of being "illegal wanderers" and immediately deported (expulsed in the case of the Dominican children) to Haiti without time for legal recourse or appeal. Following pressure (not attributed to any one actor in the report by Amnesty International), the group was authorized to return, though according to Amnesty such permission did not result in immediate return.²⁵³

Despite the Dominican Government's lofty aspirations to regularize the thousands of undocumented migrants in the country, the temporary regularization policy under the PNRE has only regularized .1% of applicants as of spring 2015²⁵⁴ and even fewer of the total number of migrants in general. The PNRE's performance becomes even more grim considering the barriers that preclude Haitian migrants from applying, when they are by far the largest population of migrants in the country. Additionally, the use of the PNRE to register Group B Dominicans of Haitian descent is deeply concerning, because such people are Dominican by birth. Not to mention the arbitrary deportations of migrants and expulsions of citizens that are already occurring in the Dominican Republic despite the official moratorium under the PNRE. On paper, the Dominican Republic's attempt to regularize and consequently grant fundamental rights to migrants, particularly the large population of Haitian migrants, is exemplary. In practice, implementation of the PNRE

²⁵⁰ "Haiti - Politic: A Joint Bilateral Meeting 'successful and promising.'"

²⁵¹ Louis-Joseph Olivier, "Déportation Massive, Assassinat, Chasse aux Haïtiens en République Dominicaine," *Le Nouvelliste*, February 12, 2015, accessed April 5, 2015, <http://lenouvelliste.com/lenouvelliste/article/141472/Deportation-massive-assassinat-chasse-aux-Haitiens-en-Republique-dominicaine>.

²⁵² Dolis, interview; "Dominican Republic Convicted of Inhumane Treatment of Haitians," *PanAm Post*, October 27, 2014, accessed May 15, 2015, <http://panampost.com/panam-staff/2014/10/27/dominican-republic-convicted-of-inhumane-treatment-of-haitians/>.

²⁵³ Amnesty International, "Urgent Action: Mass Deportation in the Dominican Republic," UA: 20/15 Index: AMR 27/002/2014 Dominican Republic, *Amnesty International*, January 28, 2015, accessed April 5, 2015.

²⁵⁴ "Haiti - Politic: A Joint Bilateral Meeting 'successful and promising.'"

has been a shamefully politicized process that, as of the publication of this report, has not delivered benefits to migrants and has further muddled the statelessness issue for Dominicans of Haitian descent by having them apply for status as foreigners in their own country.

Restoration and Naturalization

International criticism followed in the wake of Sentence 168-13 and its restrictive *jus soli* definition that turned hundreds of thousands of Dominicans of Haitian descent into migrants in their own country. Responding to the criticism, the Dominican government passed Law 169-14 on May 23, 2014 in order to provide the people negatively affected by Sentence 168-13 a pathway back to citizenship. Dominican authorities did not, however, change their rhetoric, rather they maintained that a part of the affected population had been granted citizenship by mistake even though they would now have their documents restored. For those Dominicans of foreign descent whose births had not been recorded, the new law envisioned the creation of a naturalization process through existing regularization mechanisms.

Three Affected Groups

Law 169-14 effectively created three tiers among those persons affected by the retroactive application of Sentence 168-13 on the issue of “in transit.” Two of these groups, the so-called Group A and Group B, were explicitly addressed in the law. The third group falls outside the purview of Law 169-14 and Dominican authorities considers the members of this group to be migrants.

Group A

Group A constitutes individuals with Dominican birth certificates, or otherwise recorded in the civil registry, who were born to undocumented, foreign parents. Initial numbers from Dominican authorities indicated that 24,392 people fell within this group.²⁵⁵ Other estimates indicate that some 200,000 people could be included in Group A.²⁵⁶ Many of the people who were included under this definition did not know that they were defined as such because they held documents, and had no reason to question the validity of those documents. Some only found out when they attempted to renew their identification cards as part of the Dominican authorities’ effort to introduce a biometric system.

Under Law 169-14, these individuals were to have their citizenship restored.²⁵⁷ Unlike the regularization process and the naturalization program for members of Group B, there is no formal process, or set application deadline, for individuals in Group A. This absence of a formal process termination carries certain risks; while the restoration is

²⁵⁵ Junta Central Electoral, “Inventario Extranjeros Registro Del Estado Civil 1929-2007,” November 1, 2013, accessed May 17, 2015, [http://jce.gob.do/web/docs/Inventario Extranjeros Registro Civil RD 1929 - 2007.pdf](http://jce.gob.do/web/docs/Inventario%20Extranjeros%20Registro%20Civil%20RD%201929-2007.pdf).

²⁵⁶ Cherubin, interview.

²⁵⁷ *Ley No. 169-14*, article 2.

supposed to be automatic, in practice, members of Group A have been subjected to a prolonged audit process.²⁵⁸ This audit is a legacy of Sentence 168-13 which mandated the JCE to transcribe birth certificates into a “transcription book” (*libro de transcripciones*). Birth certificates in this book look different from the old birth certificates and carry different numbers from the originals. The separate nature of these documents constitutes another element of uncertainty for the affected individuals.

Group B

Group B comprises around 110,000 Dominican-born individuals of foreign parentage whose births were never registered.^{259 260} Without documents they were ineligible for the restoration envisaged for Group A under Law 169-14. Instead they were encouraged to enter a naturalization process in three steps. First, it requires them to register as “foreigners,” and subsequently apply for regularization through the General Law on Migration (or Law 285-04).²⁶¹ Completing the second step, applying for regularization, requires presenting documentation different from that of applicants to the PNRE. Following Presidential Decree 250-14, which establishes the procedures for implementing Law 169-14, applicants were required to present one or more of the following documents:

- i. Live birth record issued by a public hospital or private health center, indicating the name of the mother, the baby’s gender, and date of birth;
- ii. Statements made before notary public by seven Dominican witnesses indicating the date and place of birth, the name of the child, and the names of the parents;
- iii. Sworn affidavit before notary public by the midwife who delivered the child, indicating the date and place of birth as well as the name of the mother;
- iv. Sworn affidavit before notary public by first- or second-degree family members who possess Dominican national documentation.²⁶²

Actual naturalization of citizenship, the third step, would be possible only after a two-year period under the regularized migrant status, subject to a review of the applicant’s criminal record. During this two-year period, members of Group B only have

²⁵⁸ Bridget Wooding, Observatorio de Migrantes del Caribe (OBMICA), interview by Johns Hopkins University-SAIS International Human Rights Clinic, Santo Domingo, Dominican Republic, January 24, 2015.

²⁵⁹ Amnesty International, “Urgent Action - Mass Statelessness Crisis Continues,” January 30, 2015, accessed May 17, 2015, http://www.amnestyusa.org/sites/default/files/uaa28913_2.pdf.

²⁶⁰ It is unclear if this figure only refers to first generation Dominicans of Haitian descent. Including grandchildren of Haitian migrants whose births were also not registered would then make the number even greater.

²⁶¹ *Ley No. 169-14*, article 6.

²⁶² *Decreto 250-14: Reglamento de aplicación de la Ley 169-14*, July 23, 2014, article 11. [in English: Decree 250-14: Regulations for the application of Law 169-14].

recourse to a residence permit. As the process closed on February 1, 2015, some sources put the official government figure of applicants to the naturalization program at 6,937,²⁶³ whereas other sources put that figure at 8,755.²⁶⁴ Regardless, of the precise figure, the number of applicants is still very low compared to the affected population. In March, Washington Gonzalez, Vice-Minister of Interior said that only 40 percent of applicants (using the 8,755 figure) for naturalization met the requirements as stipulated in Law 169-14.²⁶⁵ Using the above numbers, even if applicants were to meet the requirements, the number of potential beneficiaries reached by the Dominican state's program is at best limited to 8 percent of the total affected population, and at worst 6.3 percent. Following Vice-Minister Gonzalez's caution regarding 40 percent of applicants, these figures would drop to 3 and 2.5 percent respectively. As of late January 2015, no members of Group B had received their papers.²⁶⁶

*"Group C"*²⁶⁷

In addressing Groups A and B, Law 169-14 left out any individuals born between 2007 and 2010. This period corresponds to that between adopting the new view on what constitutes "in-transit" (the Dominican Republic's definition of a migrant) and the passing of the 2010 Constitution, after which migrants were unequivocally under the new definition. According to JCE figures, there are 21,449 individuals in this group who have been registered in the civil registry for foreigners (*libro de extranjeros*) and are referred to the regularization plan.²⁶⁸

²⁶³ Robert F. Kennedy Center for Justice and Human Rights, "Robert F. Kennedy Human Rights expresses concern over massive expulsions from the Dominican Republic; urges government to reform failed Naturalization Law," Robert F. Kennedy Center for Justice and Human Rights, February 2, 2015, accessed June 2, 2015, <http://rfkcenter.org/robert-f-kennedy-human-rights-expresses-concern-over-massive-expulsions-from-the-dominican-republic-urges-government-to-reform-failed-naturalization-law>; see also "Interior y Policía advierte no habrá prórroga del plazo Ley de naturalización," Noticias Sin, January 30, 2015, accessed June 2, 2015, <http://www.noticiassin.com/2015/01/interior-y-policia-advierte-no-habra-prorroga-del-plazo-ley-de-naturalizacion/>.

²⁶⁴ Ali Núñez, "Advierte Plan Regularización es para extranjeros están en RD desde 2011," *Al Momento*, March 23, 2015, accessed May 17, 2015, <http://almomento.net/advierde-plan-regularizacion-es-para-extranjeros-entraron-a-rd-antes-de-octubre-2011/>; see also Natalia Cote-Muñoz and Verónica Alma Rosario, "Human Rights Under Threat: Denationalization and Dominicans of Haitian Ancestry," *The SAIS Review of International Affairs*, February 20, 2015, accessed June 2, 2015, <http://www.saisreview.org/2015/02/20/human-rights-under-threat-denationalization-and-dominicans-of-haitian-ancestry/> (citing Viviano de León, "Suman 8,755 Los Extranjeros Inscritos Para Naturalización," *Listín Diario*, February 3, 2015, <http://www.listindiario.com/la-republica/2015/2/3/354846/Suman-8755-los-extranjeros-inscritos-para-naturalizacion>).

²⁶⁵ Núñez, "Advierte Plan Regularización" (noting that "González reveló que en el Plan de Naturalización hay 8,755 expedientes revisados y de esa cifra un 40% cumplen con todos los requisitos de ley.").

²⁶⁶ Foreign official, interview by Johns Hopkins University-SAIS International Human Rights Clinic, Santo Domingo, Dominican Republic, January 22, 2015.

²⁶⁷ This term is borrowed from an analysis by the Robert F. Kennedy Center for Justice and Human Rights and it does not appear in Law 169-14.

²⁶⁸ Carmen Gómez, "Junta Central Electoral Informa Inventario Extranjeros en Registro Civil," *Junta Central Electoral*, November 7, 2013, accessed May 17, 2015, <http://beta.jce.gob.do/Noticias/category/comision-de-oficialias/junta-central-electoral-informa-inventario-extranjeros-en-registro-civil>.

Implementation of the Naturalization Program

According to Presidential Decree 250-14, issued on July 23, 2014, any affected persons were to apply for naturalization within 90 days. The Decree thus left little room for planning the process and disseminating information to affected persons. Following international criticism, in late October the Dominican government extended the period by another three months, and on February 1 the application window closed. However, the implementation of Law 169-14 remained *ad hoc* and consequently resulted in many problems. Moreover, the official discourse surrounding the naturalization process and the barriers faced by applicants effectively questioned the government's intent. Taken together, the deficiencies apparent in the implementation process ran counter to effectively remedying the situation created by Sentence 168-13 and thus upholding the Dominican Republic's human rights obligations.

The Government's Mixed Messages

Though the naturalization process is separate from the regularization process (PNRE) directed at migrants, several factors muddle this distinction. Dominican authorities for example conflate the different groups in official discourse. This includes their view that restoring citizenship to members of Group A is only necessary because of past administrative mistakes. In his Independence Day speech on February 27, 2015 President Danilo Medina reiterated that Law 169-14 established a special process for those whose births were registered "irregularly."²⁶⁹ In the same speech, President Medina made clear that there would be no further extension of the process for Group B and pointed out that the PNRE would remain open until June 16.²⁷⁰ The PNRE of course requires applicants to present identification documents from a foreign country, access to which Group B members do not have. In intimating that they can simply avail themselves of a regularization plan designed for migrants, President Medina displayed a disregard for the plight of members of Group B that permeated the naturalization process.

In response to international criticism of the effects of Sentence 168-13, Dominican authorities have maintained that their regularization process is more than the United States has done for its migrant community.²⁷¹ This remains an undisputed fact, but does not address the situation of those Dominicans who lost their citizenship as a result of the sentence. That the naturalization process required members of Group B to register as foreigners did little to create a distinction between migrants and nationals stripped of their citizenship. As mentioned previously, these "former" nationals then had to enter the regularization process, further adding to the confusion. The procedural difference between the PNRE and the naturalization plan boils down to the documentation that applicants need to apply and that Group B members can apply for

²⁶⁹ Danilo Medina, "Discurso de Rendición de Cuentas del Presidente Danilo Medina-27 de Febrero de 2015," Presidencia República Dominicana. Independence Day speech before National Assembly, February 27, 2015, 41, accessed May 17, 2015, <http://es.scribd.com/doc/257129851/Discurso-de-Rendicion-de-Cuentas-del-Presidente-Danilo-Medina-27-de-Febrero-de-2015>.

²⁷⁰ *Ibid.*, 43.

²⁷¹ Wade McMullen, "The Right to Nationality in the Dominican Republic Six Months after TC Ruling 168/13: Where Are We Now?" (panel, Georgetown Law Center, Washington, DC, March 26, 2014), *webcast at* <http://apps.law.georgetown.edu/webcasts/eventDetail.cfm?eventID=2303>.

naturalization after two years. Naturalization is thus not guaranteed and the uncertainty permeating the procedures has kept people from entering the process. Moreover, as stipulated by Decree 250-14, the offices established under the regularization scheme were to handle applications from Group B members as well.²⁷² That there was no separation of physical space between the naturalization and regularization processes gave applicants more reason to question the authorities' intent.

Lack of Information

A lack of public information about the naturalization program compounded the situation. Following Decree 250-14, an official information campaign was to be implemented by the Executive Directorate of the National Regularization Plan.²⁷³ This campaign included radio advertisements, brochures, and informational meetings.²⁷⁴ Civil society representatives questioned its timing as the campaign only started in October, weeks before the initial deadline.²⁷⁵ Delays notwithstanding, it is unclear whether affected persons actually received information and whether those who did trusted it. This lack of trust or "culture of disbelief" stems in part from historical mistreatment, such as the regularization process in the 1990s, which ended in mass deportations.²⁷⁶

Bottlenecks

Throughout the naturalization process, three distinct bottlenecks constrained those interested in availing themselves of the plan: time, the number of registration offices, and the capacity of these offices. Dominican authorities anticipated some 55,000 applicants and initially opened a three-month application window. Taking into account the dearth of information regarding the process and the time needed to acquire the necessary documents, this initial period was far too short. After domestic and international criticism, it was extended by another three months in late October.

Considering the tight timeframe that the Dominican authorities had set for themselves and how many possible applicants they expected,²⁷⁷ the number of registration offices was insufficient. As per Decree 250-14, the offices set up for the PNRE were designated to handle Group B applicants as well. Using conservative estimates of the target populations, the total number of individuals that had to be served by the PNRE offices exceeded 300,000. Because only about one thousand individuals from Group B successfully registered during the initial 90-day period, registering the remaining population in an additional 90 days can barely be deemed feasible even without factoring in the PNRE applicants.²⁷⁸

²⁷² *Decreto 250-14*, article 6.

²⁷³ *Ibid.*, article 7(k).

²⁷⁴ Inter-American Commission on Human Rights, *Progress and Challenges posed by Law 169/14 in the Dominican Republic*: Public Hearing of the Inter-American Commission on Human Rights (IACHR), 153rd sess., October 31, 2014.

²⁷⁵ *Ibid.*

²⁷⁶ Wooding, interview.

²⁷⁷ Many observers considered this to underestimate the actual number.

²⁷⁸ If all 31 offices were open, fully operational seven days a week, and servicing 40 individuals per day, the total number of registrations over three months would be 111,600.

Dominican authorities list 31 office locations on the Ministry of Interior's website, at least one for every province.²⁷⁹ However, the Ministry of Interior's own online news section refers to 21 such offices throughout the country.²⁸⁰ Currently, the Dominican Republic has 31 provinces in addition to Distrito Nacional, where the capital Santo Domingo is located. Thus, not every province had a local office. Moreover, even in September and October of 2014, a number of offices remained closed. Others were open but still awaited the installation of the electronic registration system needed to process applicants.²⁸¹ Even in fully operational facilities applicants reported offices being unstaffed during regular hours of operation and that electricity outages also disrupted the process.²⁸²

Another bottleneck was the limited capacity of the existing offices, capable of only servicing around 40 people per day.²⁸³ Some offices did not reach even this figure, sometimes registering as few as ten individuals in one day.²⁸⁴ Prospective applicants were thus told to return on another day. These shortcomings should be viewed together with the financial burden that many applicants shouldered simply by traveling to the office in question.

Indirect Costs

In some instances, applicants faced high travel expenditures and long travel times. Concomitant losses of income and additional costs for accompanying children added to the financial burden, as did notarization of documents. Thus, while applying for naturalization is ostensibly free,²⁸⁵ similarly to the situation under the PNRE, the hidden costs of applying were in some cases prohibitively high. One estimate put the effective cost of applying at around 300 USD, which for many members of Group B who tend to work in low-paying jobs was a significant barrier.²⁸⁶

Institutional Shortcomings and a Lack of Capacity

Many problems that caused the lack of documentation among Dominicans of Haitian descent in the first place recurred in the implementation process and complicated the process for already burdened applicants. Problems with public records are endemic to Dominican society. According to one estimate, 60 percent of all records have errors in

²⁷⁹ Ministerio de Interior y Policía, "Centros de Atención para el (PNRE)," accessed May 17, 2015, <http://mip.gob.do/CentrosdeAtenci%C3%B3nparaelPNRE/tabid/423/Default.aspx>.

²⁸⁰ See for example "Oficinas de Regularización trabajarán este fin de semana," Ministerio de Interior y Policía, January 29, 2015, accessed May 17, 2015, <http://www.mip.gob.do/tabid/92/itemid/594/Oficinas-de-Regularizacin-trabajarn-este-fin-de.aspx>.

²⁸¹ Plataforma 169. *Informe No. 6: Estado del proceso de inscripción, según los actos Notariales*. 2014. On file with research team.

²⁸² Ibid.

²⁸³ CEFASA, "El Plan de Regularización y la Ley de Naturalización," Info CEFASA, December 2014, 6, accessed May 17, 2015, http://issuu.com/cefasa/docs/boletin_diciembre_2014.

²⁸⁴ Plataforma 169. *Informe No. 6*.

²⁸⁵ *Decreto 250-14*, article 4.

²⁸⁶ Wooding, interview.

them.²⁸⁷ This made for a situation where poorly trained or maliciously inclined officials could turn away applicants with a rightful claim to naturalization.²⁸⁸ Similarly, whether due to discrimination or poor training, some officials wrongly told applicants for naturalization to enter the regularization process.²⁸⁹ Other applicants were turned away with the explanation that registering required making an appointment for a specific day and time.²⁹⁰ Applicants looking to acquire the documentation necessary to apply for naturalization faced obstacles in dealing with hospitals. There were reports of hospitals refusing to hand over live birth certificates or demanding payment to do so.²⁹¹

Extralegal Requirements

Additional documentation requirements not envisaged by the law were also instituted during the implementation process. Applicants were in some cases told to provide their mother's birth certificate. This extralegal requirement posed yet another barrier for members of Group B whose mothers were no longer alive or for other reasons did not have access to this documentation. Even some of the applicants who did have access to this documentation faced problems if documents were not notarized or translated.²⁹² In other instances, offices refused to accept applications that were incomplete despite Law 169-14 providing for 30 days to supply complementary documentation.²⁹³ There were also cases in which applicants were denied the opportunity to register because they were residents of regions other than that in which the office in question was located.²⁹⁴

Expulsions

As previously mentioned, for the duration of the regularization and naturalization plans, Dominican authorities instituted a moratorium on deportations. This moratorium was violated on several occasions in 2015 and in some cases members of both Group A and Group B were victims of what effectively then became expulsions. The January 27 incident where Dominicans of Haitian descent and Haitian migrants were both affected is described in the preceding section.²⁹⁵ In another flagrant violation of its own policy, military personnel expelled Wilson Sentimo to Haiti on February 19 for not having identity documents. Even when rights groups secured his return to the Dominican Republic the next day, Sentimo faced additional problems in the military checkpoints between the border town Dajabón and his hometown Libertad. It was only when Sentimo's sister arrived with his birth certificate that he was able to return home but not

²⁸⁷ Ibid.

²⁸⁸ Cote-Muñoz and Rosario, "Human Rights under Threat."

²⁸⁹ Inter-American Commission on Human Rights, *Progress and Challenges*.

²⁹⁰ *Plataforma 169. Informe No. 7: Informe de situaciones observadas en las Unidades del Ministerio de Interior y Policía, durante el proceso de aplicación de la Ley 169-14 para las personas del Grupo B*. October 3, 2014. [On file with research team].

²⁹¹ Ibid.

²⁹² Ibid.

²⁹³ Ibid.

²⁹⁴ Ibid.

²⁹⁵ Amnesty International, "Urgent Action - Mass Deportation in the Dominican Republic."

without being stopped at three checkpoints for not having identity documents beyond his birth certificate.²⁹⁶

Sentimo's case demonstrates the arbitrary risk of expulsion that faces Dominicans of Haitian descent, as despite having a birth certificate, he was still detained. Once the PNRE process closes, Dominican authorities are likely to repatriate the remaining undocumented migrants and because ethnic considerations appear to trump documentation, both members of Group A and Group B will be at risk of expulsion.

Haitian Constitution

Haitian Constitution of 1987

Since Haiti's founding in 1802, there have been approximately twenty-three versions of the Haitian Constitution. In accordance with prevailing regional custom in the Americas, Haiti has historically granted citizenship based on *jus soli*. Additionally, Haiti allowed its nationals to hold dual citizenship. However in a dramatic shift from custom, the Constitution of 1987, adopted after the reign of Dictator Jean-Claude Duvalier, banned dual citizenship and adopted a strict interpretation of *jus sanguinis*. Nationality rooted in *jus soli* was removed from the Constitution as a political maneuver designed to restrict certain individuals from political office. However, the transition from *jus soli* to strict *jus sanguinis* has implications that have reverberated through all sectors of society and as demonstrated by the current crisis in the Dominican Republic, through time. The provisions for Haitian Nationality are enumerated under Title II Articles 10-15 of the Haitian Constitution of 1987.²⁹⁷

Migration on the island of Hispaniola is, as demonstrated by the current crisis in the Dominican Republic, a fact of life. Embedded in conversations on Haitian migrants and Dominicans of Haitian descent is the question of their ability to return to Haiti and claim Haitian nationality. Understanding the provisions for nationality in Haiti is of paramount importance for Dominicans of Haitian descent who fall under Group B of Law 169-14. Although the members of Group B were born in the Dominican Republic, the law in the Dominican Republic not only views these individuals as foreigners but the prevailing belief within the Dominican government is that these individuals are Haitian citizens. In order to be regularized under the regularization plan Group B would have had to obtain documents from the Haitian government. The following section explores both the legal reality and the practical procedural implications of Dominicans of Haitian descent obtaining citizenship in the Dominican Republic.

Article 11 of the Haitian Constitution of 1987 states that "any person born of a Haitian father or mother who are themselves native-born Haitians and have never renounced their nationality possesses Haitian nationality at the time of birth." The

²⁹⁶ Amnesty International, "Urgent Action: Deported Dominican Man Able to Return Home," UA: 415/15 Index: AMR 27/1046/2015 Dominican Republic, *Amnesty International* Amnesty USA, February 23, 2015, accessed May 17, 2015, https://www.amnestyusa.org/sites/default/files/uaa04115_2.pdf.

²⁹⁷ 1987 Constitution of Haiti, articles 10-15. English language version available at Political Database of the Americas, Georgetown University, (last updated July 9, 2011), <http://pdba.georgetown.edu/Constitutions/Haiti/haiti1987.html>.

declaration “any person born of a Haitian father and mother [...]”²⁹⁸ signifies that Haitian nationality was based in *jus sanguinis* as opposed to the *jus soli* previously granted by the Haitian government. The *jus sanguinis* granted under the 1987 Constitution is restricted as it could only flow from parents that were native born Haitians. Furthermore, the parents must not have lost or renounced their nationality as enumerated by Article 13 of the Constitution. This means that citizenship would not apply to those children born to parents belonging to a diaspora community - essentially renunciation of Haitian nationality was tantamount to holding citizenship in another country. Finally, Article 15 of the 1987 Haitian Constitution declares that “dual Haitian and foreign nationality is in no case permitted.”²⁹⁹ Article 15 serves to reinforce the provision in Article 13 underscoring that Haitian nationality is lost by naturalization in a foreign country.

Although the Constitution of 1987 is no longer the prevailing law as of June 19, 2012, it is important to note that the Dominican Republic’s Constitution of 2010 (ratified in September 2010) coincided with the Haitian Constitution of 1987 to create a stateless population in the Dominican Republic despite the claims of the Constitutional Tribunal in Sentence 168-13. Pursuant to Article 15, which declares that no dual nationality is permitted, Dominicans of Haitian descent could not be eligible for Haitian nationality since they are Dominican citizens. The children of second or third generation Dominicans of Haitian descent would also have no recourse to obtaining nationality since Article 10 of the Constitution specified that Haitian nationality could only be passed on from parents who are native born Haitians. As such, under the Constitution of 1987, no Dominican of Haitian decent could obtain Haitian nationality.

Changes to the Haitian Constitution of 1987

Before addressing the specific amendments made to the Haitian Constitution, it is important to emphasize that Haiti is under no obligation to provide citizenship to Dominicans of Haitian descent since, “international law recognizes, in principle, the freedom of states to regulate access to nationality as an exercise of sovereignty.”³⁰⁰ Embarking on an analysis of nationality in Haiti does not imply that Haiti is responsible for the decisions of the Constitutional Tribunal of the Dominican Republic to arbitrarily deny citizenship to Dominicans of Haitian Descent. The purpose of this analysis is to clarify discussions surrounding Haitian nationality and the legal ability of Dominicans of Haitian descent to obtain Haitian citizenship.

On June 19, 2012, President Michel Martelly announced amendments to the 1987 Constitution approved by the National Parliament.³⁰¹ After the 2010 earthquake, the steadily declining economic infrastructure in Haiti and billions of dollars in remittances from the diaspora community, 21.1 % of GDP in 2013,³⁰² conversations were pursued in earnest exploring the value of having a diaspora community that could actively engage in

²⁹⁸ Ibid., article 11.

²⁹⁹ Ibid., article 15.

³⁰⁰ *Oxford Bibliographies*, online ed., s.v. “Nationality and Statelessness.”

³⁰¹ Council on Hemispheric Affairs, “Haiti Amends Constitution” *Council on Hemispheric Affairs*, July 25, 2012, accessed March 28, 2015, <http://www.coha.org/haiti-amends-constitution/>.

³⁰² The World Bank Remittance Data, Annual Remittances Data, Haiti, <http://econ.worldbank.org/WBSITE/EXTERNAL/EXTDEC/EXTDECPROSPECTS/0,,contentMDK:22759429~pagePK:64165401~piPK:64165026~theSitePK:476883,00.html>.

Haitian politics. With nearly 3 million Haitians living abroad the political salience of this community could no longer be ignored. The 2012 amendment of the Haitian Constitution represents the culmination of increasing pressure by the diaspora community with regards to the question of nationality.

The amended Haitian Constitution abrogates Articles 12(1) through Article 15. This means that naturalization in a foreign country does not bar one from Haitian nationality. In fact, the provision banning dual nationality is removed from the Constitution, effectively allowing any Haitian to gain nationality at the discretion of the Haitian Government. Although the act of granting nationality is solely at the discretion of the Haitian government, the new Constitution would technically allow Dominicans of Haitian descent to obtain Haitian nationality. Group B, who although born in the Dominican Republic would be required to go through the regularization process, could, if they so desire, apply for Haitian nationality since their parents are Haitian. However this technicality could only apply to first generation Dominicans of Haitian descent. Second and third generations of Dominicans of Haitian descent would not be covered by the change in the Haitian Constitution. Instead, second and third generation Dominicans of Haitian descent would have to be naturalized in Haiti by residing in Haiti for a continuous period of five years.

Despite the legal reality, there are glaring shortcomings in the feasibility of Dominicans of Haitian descent obtaining Haitian nationality. First, the procedure for obtaining citizenship will be just as arduous if not more so than the process in the Dominican Republic considering the state of disarray of the Haitian government. In an analysis completed by the Immigration and Refugee board of Canada, the Canadian government confirms that children born abroad to a Haitian parent can apply for Haitian citizenship.³⁰³ However the report continues to assert that, “Haiti’s dysfunctional civil registry system and weak consular capacity throughout the Caribbean made obtaining documentation extremely difficult for individuals living inside or outside the country.”³⁰⁴ The process for obtaining citizenship for children born abroad to Haitian citizens requires two pieces of identification for the person applying for citizenship, a foreign birth record and an application fee. Group B will find it nearly impossible to fulfill these requirements since by definition if they are members of Group B they have no proof of their birth in the Dominican Civil Registry. The inability to obtain a foreign birth record from the Dominican Republic would bar most Dominicans of Haitian descent from obtaining Haitian citizenship. Two other major problems that underlie the route of Haitian citizenship for most Dominicans are first the language barrier, since most Dominicans of Haitian descent speak only Spanish (languages spoken in Haiti are French and Haitian Creole) and second, it is at the discretion of the Haitian government to provide citizenship to anyone living abroad. Since the Haitian government is under no obligation to provide citizenship, Dominicans of Haitian descent are in no way protected from statelessness by the recent changes in the Haitian constitution.

³⁰³ Immigration and Refugee Board of Canada, “Haiti: Dual citizenship, including legislation; requirements and procedures for former Haitian citizens to re-acquire citizenship,” February 8, 2013, accessed May 30, 2015, http://www.ecoi.net/local_link/250646/374731_de.html.

³⁰⁴ Ibid.

Haitian Citizenship as an Option to Reduce Statelessness?

It is a violation of the human rights of Dominicans of Haitian descent in Group B for the Dominican government to retroactively deny their Dominican citizenship because of a lack of documentation. In some instances, documents have been denied to Dominicans of Haitian descent based on the “presumed residency status of the bearers parents” or because they are considered Haitian.³⁰⁵ The idea that Dominicans of Haitian descent in Group B will be able to obtain Haitian citizenship in order to undergo the regularization process pursuant to Law 169-14 is false and a dangerous misinterpretation of Haitian law. As explained, the task of obtaining citizenship from the Haitian government will not prove to be easy for an already marginalized contingent of thousands (consider cost of travel, logistics, politics, burden of proof). Haitian citizenship is not an option to reduce stateless for those impacted by Law 169-14 or the laws stemming from Sentence 168-13. Not only is the onus on Haiti to increase efficiency in the provision of records in this process, there are requirements that may not be possible to fulfill for Dominicans of Haitian descent—most glaringly is the requirement of a foreign birth record. Finally, it must be underscored that even if the option to obtain Haitian citizenship does exist, it does not mean that Dominicans of Haitian descent will not be left stateless as result of Sentence 168-13.

The Role of Intergovernmental Organizations

Intergovernmental organizations in the Dominican Republic have worked both to facilitate dialogue between the governments of the Dominican Republic and Haiti and to educate prospective applicants on the laws. Below is a description of the work of the International Organization for Migration (IOM), the United Nations High Commissioner for Refugees (UNHCR), and the Organization of American States (OAS).

International Organization for Migration (IOM)

The IOM has 157 member states, including the Dominican Republic and Haiti, and works with the mission of “migration for the benefit of all.”³⁰⁶ The IOM’s mission in the Dominican Republic is relatively small, with fewer than 20 employees, whereas the mission in Haiti has upwards of 400 employees. As the IOM works specifically on migration, its focus is centered on the regularization process, i.e. the process that affects Haitian migrants.

Following Sentence 168-13, the IOM called for a dialogue among all parties and organized a series of sit-downs with authorities and the international community. They have also provided recommendations to the Dominican government on how the law can be improved, including building capacity at centers to close the gap between applications received and applications granted. Lastly, through partner NGOs, they provide information to migrants on the documentation needed to apply for regularization.³⁰⁷

³⁰⁵ Open Society Justice Initiative, “Compromised Right to Nationality,” 11.

³⁰⁶ International Organization for Migration (IOM), “About IOM,” IOM, accessed May 29, 2015, <http://www.iom.int/about-iom>.

³⁰⁷ Sangro Blasco, “IOM Supports Haitians Applying for Regularization in Dominican Republic.”

In 2009, the IOM worked with the Dominican government to help build a proposal for regularization, but after the 2010 earthquake in Haiti, implementation of such a plan was no longer a priority. By October of 2011, the proposal was revived and approved. Specific to the PNRE the IOM submitted a series of recommendations, and some, but not all, were incorporated. One recommendation that was incorporated is the allowance of more forms of identification to prove residence in the Dominican Republic.

Concerning educating the public on the processes for regularization application, the IOM has assisted the government in radio campaigns, providing brochures, and traveling to various provinces giving informational talks. Despite educational efforts, the IOM recognizes that few migrants have the resources, financial or otherwise, to obtain these documents.

An additional barrier identified by the IOM is the low capacity of the regularization offices, which process 40 or less people a day. Furthermore, the offices are not present throughout the country, requiring migrants to travel, few of which have the resources to do such. In order to remedy this, the IOM hopes to work towards closing the gap between applications and approvals, noting that of the 120,000 migrant applications, only 200 have been approved.³⁰⁸

United Nations Higher Commission on Refugees (UNHCR)

In 2013, UNHCR pressed the Dominican Republic to restore the nationality of Dominicans of Haitian descent who lost their citizenship following the ruling of the Constitutional Tribunal. The Head of the UNHCR office in Santo Domingo, Gonzalo Vargas Llosa, expressed deep concern that the decision of the Constitutional Tribunal could leave numerous Dominicans of Haitian decent stateless, stating "It's difficult to imagine the devastating effect of being told that you are no longer a citizen of the country where you were born and lived your entire life,"³⁰⁹ a statement unwelcome by the Dominican Republic.

In November of 2013, Deputy Minister of Foreign Relations Cesar Dargam Espaillet responded stating that "UNHCR is an agency of the United Nations System and the Dominican Republic is a part of the system, and it recognizes the agency, nevertheless what is now under revision is the extent of the operations that have been carrying out in the Dominican Republic."

In 2014, when the Dominican Republic ushered in Law 169-14 to create a path to citizenship for those impacted by the previous ruling, UNHCR welcomed the legislation.³¹⁰ However, UNHCR cites that gaps in the implementation for Law 169-14 have created a situation that leaves many with undetermined nationality and at risk of statelessness. In response, UNHCR is working with at-risk populations to assure they can access asylum procedures in the immediate-term, and advocate for sustainable solutions

³⁰⁸ IOM, interview by Johns Hopkins University-SAIS International Human Rights Clinic, Santo Domingo, Dominican Republic, January 19, 2015.

³⁰⁹ United Nations High Commissioner for Refugees (UNHCR), "UNHCR concerned by potential impact of Dominican court decision on persons of Haitian descent," press release, *UNHCR*, October 1, 2013, accessed May 29, 2015, <http://www.unhcr.org/524c0c929.html>.

³¹⁰ United Nations High Commissioner for Refugees (UNHCR), "UNHCR Urges Dominican Republic to Restore Nationality," press release, *UNHCR*, December 5, 2013, accessed April 15, 2015, <http://www.unhcr.org/52a0a59b9.html>.

on the issue of statelessness, in the long-term (for more information on affected populations see section *supra* on the implementation of the Naturalization Plan).³¹¹

Organization of American States (OAS)

The Santo Domingo office of the OAS works as a liaison between the Dominican government and its 34 other member states. The organization works to promote human rights, multinational security, development and democracy.

In addition to working as a liaison, the OAS has attempted to assist the Haitian government to provide identification cards to Haitians living in the Dominican Republic.³¹² Unfortunately, the Haitian government did not provide a definitive response to the offer of assistance, only indicating that the offer was under review.³¹³ The OAS feels that this program could have assisted greatly in providing Haitian migrants with the documentation necessary for the regularization process.³¹⁴ While the window of opportunity for OAS assistance with this identification project has closed, the OAS is currently developing a new offer of assistance to help the Haitian government strengthen its National Identity Office and procedures.³¹⁵ Both the Haitian and Dominican governments should involve the OAS in future identification programs due to its wealth of expertise and capacity to provide targeted resources.

According to Araceli Azuara Ferreiro, the Organization of the American States (OAS) Representative in the Dominican Republic, the most important obstacle to managing migration issues, in general, is the inaccurate public perception of migrants.³¹⁶ Given this general principle, it is unlikely that the Dominican Republic will find a good solution on the issue of migration until there is a societal change in how migrants, especially Haitian migrants, are perceived.³¹⁷

Civil Society Stakeholders

Civil Society

Freedom of assembly is generally respected in the Dominican Republic, with the right to form civic groups upheld by the government. Many civil society organizations in the Dominican Republic are considered well organized and efficient.³¹⁸ Throughout the implementation of the PNRE and Law 169-14 various civil society organizations have

³¹¹ United Nations High Commissioner for Refugees (UNHCR), “UNHCR welcomes Dominican Republic President’s bill as positive step in easing statelessness situation,” *UNHCR*, May 16, 2014, <http://www.unhcrwashington.org/media-news/press-releases/unhcr-welcomes-dominican-republic-president%E2%80%99s-bill-positive-step-easing>.

³¹² Araceli Azuara Ferreiro, interview by Johns Hopkins University-SAIS International Human Rights Clinic, Santo Domingo, Dominican Republic, January 20, 2015.

³¹³ Azuara Ferreiro, e-mail message to research team member, June 1, 2015.

³¹⁴ Azuara Ferreiro, interview.

³¹⁵ Azuara Ferreiro, e-mail.

³¹⁶ Ibid.

³¹⁷ Azuara Ferreiro, interview.

³¹⁸ Freedom House, *Freedom in the World 2014*, “Dominican Republic,” *Freedom House* (2014), accessed June 7, 2015, <https://freedomhouse.org/report/freedom-world/2014/dominican-republic#.VXTVbs9Viko>.

worked to assist applicants in understanding and navigating the regularization and naturalization processes. Many organizations have expressed concern, and noted difficulties regarding the wording and implementation of the laws. Below are two noteworthy organizations, the Batey Relief Alliance and MENAMIRD that are working to assist both Dominicans of Haitian descent and Haitian migrants in the regularization and naturalization processes.

Batey Relief Alliance

The Batey Relief Alliance, located in Santo Domingo, is a non-political, non-profit organization working to provide humanitarian assistance to people living in bateyes.³¹⁹ The alliance works to help meet the needs of both Haitians and Dominicans living in poverty, but the implementation of the PNRE and Law 169-14 has increased the need to focus on documentation issues, as many of their beneficiaries of Haitian descent are being denied services.

The Batey Relief Alliance has since worked to assist many of their beneficiaries reclaim citizenship. Specifically they have partnered with UNICEF to help educate people on the law. Initially they identified who was at risk for deportation, and who among that group had the ability to gain the required documents. They have assisted roughly 500 people from 6 bateyes.³²⁰

During the course of meeting with the Batey Relief Alliance, the organization identified several obstacles that they have encountered in assisting beneficiaries in the naturalization process. First, documentation of birth from Dominican hospitals is often misplaced or lost. Secondly, the offices responsible for processing documentation claims have been slow to process applications. Thirdly, transportation to and from the offices is difficult and expensive, creating high costs for individuals to collect required documents. Lastly, the Batey Relief Alliance pointed to the fact that several generations have since been born on the bateyes and, similar to their parents, were never provided documentation of birth despite being born in the Dominican Republic.³²¹

Mesa Nacional para las Migraciones y Refugiados en República Dominicana (MENAMIRD)

MENAMIRD is a coordination-focused organization located in Santo Domingo, with 36 member-institutions and 47 member-churches. Their main purpose is to defend the human rights of migrants. During the course of a meeting with members of MENAMIRD, several workers told both personal and cliental experiences of applying for documentation. One individual, who works with a local church, stated that 80% of the people there have been unable to register for the regularization process, mainly due to transportation costs to travel to an application center. Additionally he cited corruption and a lack of available lawyers as barriers to application. Several others present at this

³¹⁹ Batey Relief Alliance, interview by Johns Hopkins University-SAIS International Human Rights Clinic, Santo Domingo, Dominican Republic, January 20, 2015.

³²⁰ Ibid.

³²¹ M. Berroa, interview by Johns Hopkins University-SAIS International Human Rights Clinic, Santo Domingo, Dominican Republic, January 22, 2015.

meeting agreed that both corruption and a lack of legal assistance were barriers to citizens trying to access documentation.

Another issue cited is the fact that the law often requires documentation from Haiti. Given structural issues in Haiti, obtaining such documentation has proven extremely difficult. According to MENAMIRD, in January 2015 36,000 people had requested documents from the Haitian government but only 3,000 had received them.

Additionally, one speaker pointed to the elderly living on bateyes, estimated to be roughly 22,000 people, who have now lost access to pensions as a result of their citizenship being rescinded. MENAMIRD is petitioning the government for an exception to stringent rules requiring documents such as birth certificates, which many of the aging batey residents do not possess.

Furthermore, MENAMIRD pointed to the systematic lack of documentation provided by both the Dominican Republic and Haiti governments as a main problem underlying migration and citizenship in the two countries. MENAMIRD supports the PNRE because it addresses this underlying problem by providing people a pathway to some type of documentation. Lastly, MENAMIRD claims that deportation has already begun, pointing to one specific example, which included 22 people being sent across the border in the town of Neiba.

MENAMIRD has been undertaking several tasks to assist beneficiaries throughout the implementation of the PNRE and Law 169-14. First, they have provided translators at different registration centers; second, they have explained the laws to people looking to register; and third, they have advocated for European notaries to accompany people to and from offices. Furthermore, they have helped to create a network of community activists and served as an intermediary between the governments of Haiti and the Dominican Republic.³²²

Legal Community

Jorge Prats, a constitutional scholar and co-author of the most recent Dominican Constitution, asserts that Law 169-14 is strong in writing, but has been implemented poorly. Currently there are many citizens in the Dominican Republic who are not able to access their rights as a result of this poor implementation, including low capacity of the centers and a lack of legal assistance.³²³ Although the legal community is less active on this issue than civil society, there are a few organizations working to legally assist those that have lost their citizenship. Documented below are the efforts of Centro Bonó.

Centro Bonó

Centro Bonó is a Jesuit organization that advocates for minorities and the oppressed in coordination with the Catholic Church. Specifically they accompany affected individuals through the legal system, acting as an advocate and providing legal assistance. In working to advocate around the PNRE and Law 169-14, Centro Bonó

³²² MENAMIRD, interview by Johns Hopkins University-SAIS International Human Rights Clinic, Santo Domingo, Dominican Republic, January 22, 2015.

³²³ Lic. Eduardo Jorge Prats, interview by Johns Hopkins University-SAIS International Human Rights Clinic, Santo Domingo, Dominican Republic, January 22, 2015.

identifies key test cases that are most likely to succeed in tribunals. From 2010-2012 they won all of their tribunals, however, the federal government refused to implement any of these rulings. Centro Bonó has also supported peaceful demonstrations and marches, which works towards their goal of raising awareness of the issue. They also feel their efforts are humanizing the controversy by showing the public the faces of those impacted. Through the combination of lawyers' efforts and victims' stories, Centro Bonó hopes their efforts will help to transform society.

Concerning recommendations that could be made to the law, Centro Bonó points to the fact that application of Law 169-14 is very different from the text of the law, specifically implementation is a more rigorous process. Additionally there is a problem with capacity; government offices are only able to process roughly 40 people a day as discussed in the previous implementation section on the PNRE. Lastly, Centro Bonó believes the issue is one of race and anti-racism campaigns need to take place to spur change.³²⁴

Improving Access to Legal Assistance

The American Bar Association – Rule of Law Initiative (ABA ROLI) received a grant by the U.S. Department of State's Bureau of Population, Refugees, and Migration, in September 2014 to “boost legal assistance and protection for stateless persons in the Dominican Republic.”³²⁵ Through the program, ABA ROLI, has partnered with two civil society organization in the Dominican Republic, the *Red de Jesuitas con Migrantes* and *Centro de Formación y Acción Social y Agraria* (CEFASA), to “enhance legal professionals' and local organizations' capacity to provide legal assistance, conduct outreach activities to inform stateless persons of their rights and help to expand access to free legal services.”³²⁶

There is limited access to legal assistance for individuals applying to the naturalization or regularization processes. Completion of either process will be extremely difficult without legal guidance to applicants, given the complexity of the laws and requirements. Therefore, it is important that more legal services extend *pro bono* guidance to those pursuing documentation. The assistance of service oriented legal clinics conducted by Dominican law students would be one option that provides invaluable assistance to applicants, legal experience to students, and promotes a culture of *pro bono* activity within the legal community. Without this, and additional forms of assistance, the number of individuals able to successfully complete the application process will remain low.

³²⁴ Belique, interview.

³²⁵ American Bar Association Rule of Law Initiative (ABA ROLI), American Bar Association Rule of Law Program Book (2015): 91, accessed May 29, 2015, http://www.americanbar.org/content/dam/aba/directories/roli/misc/aba_rol_i_2015_program_book_web_email_authcheckdam.pdf.

³²⁶ Ibid.

The Media

Freedom of the Press

Amongst the sources of media available in the Dominican Republic, there are over 50 newspapers³²⁷ and more than 200 radio stations that are mostly commercial, as well as many local and cable television stations.³²⁸ There are also three daily newspapers – El Caribe, Hoy and Dario Libre, and Dominican Today – that publish Dominican news in English. Concerning public ownership of media outlets, the Dominican government owns a state TV and radio that is frequently broadcasted through the state TV channel, Corporación Estatal de Radio y Televisión (CERTV).³²⁹ However, although freedom of press is guaranteed, according to Freedom House,³³⁰ the Dominican Republic scored a press status “Partly Free” meaning that civil liberties are moderately protected. Even though Dominican law allows for freedom of speech, both public and private actors can and do ignore this guarantee by intimidating the press.³³¹ The biggest concern expressed by Freedom House is the extensive defamation law in the Dominican Republic that hinders press freedom. If journalists, editors, or vendors are found guilty of defamation, they can be punished with fines or jail time.³³² This hinders freedom of the press.

Anti-Haitian sentiment has created a dangerous environment for human rights defenders. Journalists have been threatened in public places for advocating for Dominicans of Haitian descent. Four journalists in the Dominican Republic have filed lawsuits against an outspoken nationalist who threatened them for covering the citizenship and immigration debate.³³³ Amnesty International has called for urgent action on this issue.³³⁴ Dominican officials are investigating the allegations regarding the four journalists that were threatened. However, they released the man accused of threatening the journalists. The Robert F. Kennedy Center for Justice and Human Rights, and the Caribbean Institute for Human Rights will file a petition on behalf of these four journalists with the Inter-American Commission on Human Rights.³³⁵ When journalists fear for their lives, freedom of speech is impeded because journalists cannot continue to inform the public.³³⁶ The Dominican government should take these allegations seriously in order for journalists to feel safe enough to continue reporting on the rights of Haitian migrants and Dominicans of Haitian descent.

³²⁷ Online Newspapers, “Dominican Republic Newspapers,”

<http://www.onlinenewspapers.com/domrep.htm>, accessed May 6, 2015.

³²⁸ UHY International Ltd., “Doing Business in the Dominican Republic,” October 2012, accessed April 6, 2015, <http://www.uhy.com/wp-content/uploads/Doing-Business-in-Dominican-Republic.pdf>.

³²⁹ Ibid.

³³⁰ Freedom House, *Freedom of the Press 2012*, “Dominican Republic,” *Freedom House*, (2012), accessed April 6, 2015, <https://freedomhouse.org/report/freedom-press/2012/dominican-republic>.

³³¹ Ibid.

³³² Ibid.

³³³ Roque Planas, “Dominican Journalists Claim Death Threats for Covering Citizenship Debate,” *The Huffington Post*, February 12, 2015, accessed February 20, 2015, http://www.huffingtonpost.com/2015/02/12/dominican-journalists-death-threats_n_6674160.html.

³³⁴ Amnesty International, “Urgent Action: Journalists Threatened and Harassed,” accessed May 6, 2015, <https://www.amnestyusa.org/sites/default/files/uua02715.pdf>.

³³⁵ Planas, “Dominican Journalists Claim Death Threats.”

³³⁶ Ibid.

Media Campaign to Advertise the Processes

The Dominican Republic's media campaign on the PNRE and Law 169-14 was not robust enough in informing and educating the public on the different processes. On May 15, 2014, José Ramón Fadul, the Minister of Interior and Police and the National Immigration Council (CNM) president announced that there would be a media campaign “so that people are informed as to where they should go and have guarantees that it's not a call to regularize to produce irregular or abusive deportations or disrespect to of the dignity of human beings.”³³⁷ The PNRE, however, was already well underway before this media campaign was even announced by Minister Fadul.

As stated above, media campaigns to advertise the naturalization process were not successful. In October 2014, the State Representative for the Dominican Republic at the Inter-American Commission on Human Rights hearing on the *Progress and Challenges posed by Law 169-14 in the Dominican Republic* spoke of the advertising campaigns that the Dominican government had developed to present the naturalization plans to the public.³³⁸ This awareness campaign included using the radio, newspapers, brochures, working groups, and megaphone announcements in areas with a high concentration of immigrants. However, these media campaigns were delayed and their effectiveness questionable.

The IOM in the Dominican Republic, which provides information on the government's plans and translation services for migrants to apply for the processes, believe that the Dominican government's efforts to increase public awareness were not as effective as they could be and that the radio campaign had little effect in accessing information on these programs.³³⁹ The Batey Relief Alliance stated that “the government did not do a massive promotion of the new law, they made some pamphlets and such but the majority of the publication was done by UNHCR who had the program that we participated in. Outside of that there wasn't that much information for the general public.”³⁴⁰ The lack of clear and transparent information on these procedures due to the weak use of media in promoting the process could have contributed to the low numbers of people successfully applying. Many people have to travel far to reach an office handling regularization before they are turned away because of missing documents and have to make the costly trip back home.³⁴¹

There are many ways in which the Dominican Republic's media could have helped the citizens in clarifying the two different processes for regularization and naturalization. The media could have disseminated the correct information on the government's regularization and naturalization processes and reported on news stories to the domestic and international media. In order to portray accurate information, the media should check the credibility of sources. The media outlets could have joined forces with civil society in order to educate the public on these laws and application processes.

³³⁷ “Dominican Republic starts to regularize foreigners on June 1,” *Dominican Today*, May 15, 2014, accessed February 17, 2015, <http://www.dominicantoday.com/dr/local/2014/5/15/51467/Dominican-Republic-starts-to-regularize-foreigners-on-June-1>.

³³⁸ Inter-American Commission on Human Rights, *Progress and Challenges*. (Statement of Representative for the Dominican Republic).

³³⁹ Sangro, interview.

³⁴⁰ Ashley Allison, Batey Relief Alliance, e-mail message to research team member, February 19, 2015.

³⁴¹ MENAMIRD, interview.

All media outlets should continue to report on all issues regarding the processes of regularization and naturalization in the Dominican Republic as well as the effects of these new processes and laws. Domestic media outlets should also reach out to international media and collaborate on reporting to share news with the international community regarding the implementation of these laws in the Dominican Republic. The media will also obtain more information to report on by collaborating with civil society and will be a stronger advocate for the community. The Dominican Republic's media sector has an obligation to the people who read, watch, and listen to their information. The media is essential to help spread awareness on the implementation and impacts of these processes.

Private Sector

The criteria of the regularization and naturalization plans make it difficult for Haitian migrants to obtain documentation and effectively strips Dominicans of Haitian descent of citizenship, which in turn creates a large population of undocumented workers. Haitian migrants comprise a large percentage of workers in the Dominican Republic's key industries – construction, agriculture and tourism³⁴² – and many Haitian migrants work informally in these sectors. Undocumented workers are vulnerable to labor exploitation, amongst other things, as a result of the lack of documentation. The private sector cannot turn a blind eye on issues that affect their supply chain.³⁴³ This section aims to illustrate the problems that undocumented workers face in the private sector.

Dominicans of Haitian Descent and Haitian migrant workers are mostly in low-skilled occupations that are physically demanding and dangerous.³⁴⁴ Eighty percent of workers in major agricultural sectors in the Dominican Republic are Haitian migrants affected by the regularization law.³⁴⁵ Many Haitian migrants and Dominicans of Haitian descent lack national identification cards and some have no proof of their birthplace. Specifically, this lack of identification makes them vulnerable to exploitation and impedes their access to social services such as health and education while also making it difficult for them to work in the formal sector. Some Dominicans of Haitian descent with proper documentation have been able to work in the formal sectors as low-paying nurses, construction workers, and household cleaners; however, until most recently, Dominicans of Haitian descent have had increased difficulty accessing updated documents.

The Dominican Labor Code illustrates certain labor laws that affect undocumented workers in the Dominican Republic. According to the Dominican Labor

³⁴² Dustin Volz, "Illegal Haitian Workers in Demand," *Stateless in the Dominican Republic*, *Walter Cronkite School of Journalism and Mass Communication*, accessed February 12, 2015, <http://cronkite.asu.edu/buffett/dr/labor.html>.

³⁴³ Allison J. Petrozziello, "Haitian Construction Workers in the Dominican Republic: An Exploratory Study on Indicators of Forced Labor" report prepared by the *Observatorio Migrantes del Caribe (OBMICA)* for ICF International, Santo Domingo, Dominican Republic (September 2012): 63, accessed March 29, 2015, <http://www.obmica.org/index.php/publicaciones/informes/24-haitian-construction-workers-in-the-dominican-republic-an-exploratory-study-on-indicators-of-forced-labor?tmpl=print>.

³⁴⁴ *Ibid*, 10.

³⁴⁵ "Dominican Republic to require migrant work permits," *Associated Press*, June 1, 2012, accessed February 13, 2015, <http://bigstory.ap.org/article/dominican-republic-require-migrant-work-permits>.

Code,³⁴⁶ every worker who is performing paid work within the boundaries of the Dominican Republic has rights regardless of their nationality.³⁴⁷ Thus, undocumented persons still retain rights, which extend to their rights as workers.

The Dominican Labor Code has regulations that are linked to how businesses regard the regularization and naturalization plans.³⁴⁸ Businesses in the Dominican Republic need to adhere to the 80/20 law. Article 138 of the Dominican Labor Code states that at least 80% of a company's employees must be Dominican, thus at least 80% of the payroll (aside from technical and executive salaries) must be wages earned by Dominicans (Art. 136).³⁴⁹ Contracts are an important tool for Haitian migrant workers applying for the PNRE, as such paperwork could prove the duration of their residency in the Dominican Republic. However, the Dominican Labor Code (Art. 19) does not state that the contract has to be written; while written agreements are recommended, verbal contracts are technically valid.³⁵⁰ Haitian migrant workers are at a particular disadvantage because their contracts can legally be verbal contracts, and companies may not have kept a record of these agreements. Therefore, their petition to prove the duration of their residence in the Dominican Republic and to obtain legal status is even more difficult.³⁵¹

In addition, verbal contracts give employers the power to abuse undocumented workers. In particular, there have been allegations that if the Haitian migrants complain, the employers take a defensive posture and accuse the workers of causing problems; even though the employers are exploiting the undocumented worker's labor to start.³⁵² Given the above, employers should provide written labor contracts to protect workers' rights and ensure that there is documentation in place to apply for processes such as the PNRE.

The 80/20 law brings the issue of nationality into the workplace. Businesses need to make sure that their workforce comprises of at least 80% Dominican citizens. Since the citizenship rights of Dominicans of Haitian descent are at risk, businesses may need to reevaluate the percentage of Dominicans their companies actually employ under the Dominican Labor Code. This may result in further problems for Dominicans of Haitian descent because they will not be seen as Dominicans and will possibly be fired from their jobs in order for companies to adhere to the 80/20 law. As for Haitian migrants, this population is usually also undocumented and they are not formally calculated into the 80/20 ratio of workers in businesses.³⁵³ In some industries, the reality is that undocumented workers account for 80% of the business.³⁵⁴ Thus, businesses that employ a majority of undocumented workers who qualify for the regularization plan may not be willing to provide documentation to assist those workers, since it would categorize those

³⁴⁶ *Código de Trabajo de la República Dominicana* (Labor Code of the Dominican Republic), 2007, accessed March 17, 2015, http://codigodetrabajo.do/wp-content/uploads/2013/09/Codigo_Trabajo_Republica_Dominicana.pdf.

³⁴⁷ Petrozziello, "Haitian Construction Workers in the Dominican Republic," 16.

³⁴⁸ Ibid.

³⁴⁹ Ibid.

³⁵⁰ Guzmán Ariza Attorneys at Law, "An Overview of Dominican Labor Law," accessed February 12, 2015, <http://www.drlawyer.com/publication/labor-law/>.

³⁵¹ Sangro, interview.

³⁵² Petrozziello, "Haitian Construction Workers in the Dominican Republic," 63.

³⁵³ Sangro, interview.

³⁵⁴ Azuara Ferreiro, interview.

workers as foreigners and not be calculated as part of the required 80% of Dominican citizens in the workforce.

Considering the Dominican Labor Code, Dominican businesses may take advantage of the vulnerable situation of undocumented workers. Although every paid worker in the Dominican Republic has rights regardless of their nationality, in reality, undocumented people either do not know they have employment rights or are not offered these employment rights and can be easily exploited and abused in the work place.³⁵⁵ This problem is also created by undocumented workers inability to join a union. It is a requirement for union participants to have a Dominican identity card in order to be a member.³⁵⁶ Thus, undocumented workers do not have a way to voice their grievances in a union or to access the resources a union has available to educate members on their rights. As a result, in practice, undocumented workers have fewer rights and can be employed for lower wages than allowed by the Dominican Labor Law. For example, Dominican construction contractors prefer hiring Haitian workers because “their precarious legal status makes them more flexible and willing to accept exploitative conditions and less likely to know their rights and be able to claim them.”³⁵⁷ Employers deliberately hire undocumented workers; these workers are easier to control and will work under harsher conditions because it is harder to find a job in the formal sector without the documentation to apply for a work permit.³⁵⁸

In addition to an undocumented worker’s inability to join a union without a *cédula*, undocumented workers also face obstacles when they wish to cash their paycheck.³⁵⁹ Without documents, it takes these laborers longer to cash a check. In addition, the amount that an undocumented worker receives on a paycheck may also be less than expected since they have difficulty in accessing social benefits. Employers withhold a percentage of an employee’s check for health insurance.³⁶⁰ However, undocumented workers cannot access the insurance system without a Dominican identity card, and therefore, they are paying into a fund without receiving the benefits.³⁶¹ It is possible that their employers deduct a percentage from undocumented workers’ paychecks because they are not formally on a payroll and employers keep this percentage for themselves since the undocumented workers cannot access these funds.³⁶²

Without documents, workers do not have a sense of job security. The undocumented workers are threatened and abused by employers,³⁶³ and they also feel uncertain about their future with a lingering fear of deportation. In one case, a nurse who was born in the Dominican Republic but has Haitian parents was fired from her job because she was born at home and lacked official paperwork.³⁶⁴ She has lived in the Dominican Republic her entire life and may be expelled to Haiti because she does not have a Dominican birth certificate. This is an example where a Dominican of Haitian

³⁵⁵ Petrozziello, “Haitian Construction Workers in the Dominican Republic,” 64.

³⁵⁶ Ibid.

³⁵⁷ Ibid.

³⁵⁸ Ibid., 62.

³⁵⁹ Ibid., 63.

³⁶⁰ Ibid., 53.

³⁶¹ Ibid.

³⁶² Ibid., 54.

³⁶³ Ibid., 62.

³⁶⁴ Fieser, “Dominican Nurse Fired.”

descent will not be able to make a living in the country in which he or she was born and possibly be expelled to a country that they have no connection to. In the case of Juliana Dequis, discussed previously, she could not obtain documentation to apply for a national identification. She believes she was subsequently fired by her employers as a maid because she brought her case forward and thus notoriety to the attention of the community.³⁶⁵

A Haitian migrant's livelihood is dependent on their employer's goodwill. New regulation requires Dominican employers to obtain temporary visas for migrants workers; however, whether the employer actually does so is uncertain.³⁶⁶ The employer has the power to grant undocumented employees their pay, medical services, and legal assistance. It is up to the employer's discretion whether or not they wish to certify who their employees are in order to prove residence in the Dominican Republic to gain a regular status. Thus, employers should comply with the laws themselves, by assisting applicants with the naturalization and regularization processes, and operating in a lawful business manner in the Dominican Republic in legally accounting for employees.

According to Araceli Azuara Ferreiro, Dominican businessmen support Sentence 168-13 for two reasons. First, labor is even cheaper if workers are not regularized and there is no need to pay for healthcare or social security benefits;³⁶⁷ and second, as mentioned previously, according to Dominican labor law, eighty percent of the workers in a given company need to be Dominican. However, in reality the opposite is true. Thus, Dominican employers refuse to give Haitian migrants a certificate validating their work in the country for fear of being penalized with fines.³⁶⁸

While undocumented workers may benefit businesses in certain circumstances, businesses also face certain disadvantages by operating in such unpredictable environments. Undocumented workers affect the productivity and profits of a business because governments can deport a business' undocumented workers and fine noncompliant businesses for hiring workers without valid work permits.³⁶⁹ In addition, the company will incur further costs considering the risk and unpredictability of the number of workers that are able to work; since the Dominican government will use deportation to regulate the problem of undocumented people, businesses risk the sudden loss of their employees.³⁷⁰ There is an incentive for companies to have a consistent and reliable work force, and thus, they should help their undocumented employees gain a regular status. However, if that benefit does not exceed the cost of having to pay for their social benefits, for the cost of possible penalization for not following the 80/20 rule, or for hiring undocumented workers, the company may not wish to help their employees by providing them with proper documentation.

³⁶⁵ Allyn Gaestel, "Stateless in the Dominican Republic: Residents stripped of citizenship," *Aljazeera*, May 4, 2014, accessed April 3, 2015, <http://america.aljazeera.com/articles/2014/5/4/stateless-in-the-dominican-republic-residents-stripped-of-citizenship.html>.

³⁶⁶ Blanca Antonini, "Relations between Haiti and the Dominican Republic" *Norwegian Peacebuilding Resource Centre: NOREF Report* (February 2012): 4, accessed February 13, 2015, http://www.peacebuilding.no/var/ezflow_site/storage/original/application/26f1be85a4d2270c401bd6dce69afec3.pdf.

³⁶⁷ Azuara Ferreiro, interview.

³⁶⁸ Ibid.

³⁶⁹ Associated Press, "Dominican Republic to require migrant work permits."

³⁷⁰ Volz, "Illegal Haitian Workers in Demand."

The lack of documentation also has a tremendous negative impact on child labor. Although Article 56 of the 2010 Constitution declares the fight against child labor as a national priority,³⁷¹ the lack of documentation creates potential child labor problems for businesses. Thirteen percent of all children younger than 15 years of age have no birth documents.³⁷² This lack of documentation also means that employers have no formal method to verify a child's age in order to adhere to Article 17 of the Labor Code.³⁷³

In the United Nations Guiding Principles on Business and Human Rights – a voluntary set of principles – Pillar 2 states that there is a corporate responsibility to respect human rights.³⁷⁴ Although the UN Guiding Principles are voluntary, consumers and NGOs expect corporate social responsibility progress reports from businesses. This means that all businesses in the Dominican Republic should ensure that their workers have the protection of contracts and that their working conditions meet the standards of international law.

The Dominican government is pressured by such entities as the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) to improve its Labor Code. The Public Report of Review of U.S. Submission 2011-03³⁷⁵ submitted by the Office of Trade and Labor Affairs of the U.S. Department of Labor's Bureau of International Affairs recommends that the Dominican government enforce the Dominican Republic's Labor Code according to CAFTA-DR. The Public Report also recommends that the Dominican government strengthen laws that allow workers who are eligible to have social security benefits deducted from their paychecks. This would eliminate the issue of workers involuntarily paying into a fund that they cannot access. Furthermore, the Public Report recommends a better grievance mechanism to enable workers to formally voice their opinions to the authorities regarding workplace issues without fear of deportation.³⁷⁶

This Public Report is one of many that illustrate the business environment in the Dominican Republic. There are many "Doing Business in the Dominican Republic" reports published by a variety of entities, such as The World Bank Group,³⁷⁷ PricewaterhouseCoopers,³⁷⁸ consulting groups,³⁷⁹ and law firms.³⁸⁰ The Public Report

³⁷¹ United States Department of Labor, "2013 Findings on the Worst Forms of Child Labor: Dominican Republic," 2013, accessed February 12, 2015, http://www.dol.gov/ilab/reports/child-labor/dom_republic.htm; 2010 Constitution, article 56.

³⁷² Ibid.

³⁷³ Labor Code of the Dominican Republic, article 17.

³⁷⁴ United Nations Office of the High Commissioner on Human Rights, "Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework," *United Nations*, HR/PUB/11/04 (2011), http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf.

³⁷⁵ Office of Trade and Labor Affairs, Bureau of International Labor Affairs, U.S. Department of Labor "Public Report of Review of U.S. Submission 2011-03 (Dominican Republic)," September 27, 2013, i, <http://www.dol.gov/ilab/reports/pdf/20130926DR.pdf>.

³⁷⁶ Ibid., v.

³⁷⁷ See The World Bank Group, "Ease of Doing Business in the Dominican Republic," data from *Doing Business 2015*, The World Bank Group, <http://www.doingbusiness.org/data/exploreeconomies/dominican-republic/>.

³⁷⁸ See PricewaterhouseCoopers, "Doing Business: A Guide for the Dominican Republic," *PricewaterhouseCoopers* (January 2014), <https://www.pwc.com/ia/es/publicaciones/assets/doing-business/doing-business-2013-4-rep-dominicana.pdf>.

³⁷⁹ See UHY, "Doing Business in the Dominican Republic."

affirms the Dominican Republic's government's failure to enforce labor laws under the CAFTA-DR trade agreement. Although the Public Report's recommendations are directed at the Dominican government regarding a trade agreement, businesses need to be aware of all the risks that their companies could face if the Dominican government chooses to investigate these violations to the CAFTA-DR labor issues.

The Dominican Republic is taking multiple steps in promoting economic growth in the country, which includes engaging with the private sector to improve the investment climate in the Dominican Republic.³⁸¹ Given this emphasis, the Dominican Republic government and the private sector share an interest in promoting a business-friendly environment. However, the current situation regarding Haitian migrants and Dominicans of Haitian descent conflicts with that interest. The uncertainty regarding the status of Dominicans of Haitian descent and Haitian migrants, as well as human rights concerns about these populations, will not make the Dominican Republic a business-friendly environment.

Large businesses that have a brand reputation to protect prefer to invest in countries that have clear and transparent rules regarding labor. The Dominican Republic, like many developing nations, wants to attract foreign investors, and the Dominican business community has the opportunity to make a difference by showing the public how Haitians contribute to the economic development of the Dominican Republic.³⁸² *Fundación Zile* is an organization that capitalizes on the substantial contribution of Haitian migrants to the Dominican economy as a means to preserve peace between the two nationalities living within and outside of the island.³⁸³ In addition, *Fundación Zile* is working on a project to promote social responsibility within Dominican companies.³⁸⁴ This demonstrates that there is a case for businesses to make a conscientious effort to help undocumented workers obtain identification documents. Unfortunately, as discussed above, Dominican businesses also have motivations not to help undocumented workers.

Businesses should understand that they are not immune to the problems of undocumented people in the Dominican Republic. Although businesses are not obligated to implement the government regulations protecting undocumented workers, they can assist these workers in gaining the necessary certifications such as proof of residency in the Dominican Republic in order to proceed with the regularization process. In addition to easing both naturalization and regularization processes and providing the necessary documentation to undocumented workers, businesses can partner with non-profit organizations, government organizations, and other civil society actors to collaborate and ease those processes for them to obtain national identification documents.

Businesses have the corporate responsibility to respect human rights. The international corporations' headquarters of companies operating in the Dominican Republic should publically take a human rights stance against Sentence 168-13. International businesses should ensure that their suppliers and partners in the Dominican

³⁸⁰ See Pellerano & Herrera, "Doing Business in the Dominican Republic" (last updated September 2011), <http://www.phlaw.com/imagen?file=articulos/196/196>.

³⁸¹ The World Bank, "Dominican Republic Takes Important Steps to Promote more Inclusive Growth," October 23, 2014, accessed April 6, 2015, <http://www.worldbank.org/en/news/press-release/2014/10/23/dominican-republic-takes-steps-to-promote-inclusive-growth>.

³⁸² Azuara Ferreiro, interview.

³⁸³ Paraison, Skype interview.

³⁸⁴ Edwin Paraison, e-mail message to research team member, March 12, 2015.

Republic have the proper mechanisms in place to respect human rights, especially those of the undocumented population.

Bilateral Relations

Dominican Republic – Haiti Relations

While Haiti has continued to rebuild infrastructure and institutions following the January 12, 2010 earthquake, the government does not possess the institutional capacity to fulfill the requests for passports coming in from Haitian migrants in the Dominican Republic. Since 2010, agricultural production has been negatively impacted by droughts, pests and multiple hurricanes that have hit Haiti. Additionally, international donor financing has decreased in the last three years, a trend that is forecasted to continue in the future. This lack of financing limits Haiti's capital investments, making institution-building efforts more difficult. The poorest country in the Western Hemisphere, 59% of Haitians live below the national poverty line, and there is a large gap in wealth between the rich and poor.³⁸⁵ With mounting internal problems, the Haitian government lacks the time, labor force, and infrastructure to respond in a timely manner to the needs of Haitian migrants and Dominicans of Haitian descent.

Due to these obstacles faced by the Haitian government, requests for documents from Haiti have not been processed in a timely manner. According to MENAMIRD, the Haitian Embassy in the Dominican Republic requires roughly five months and up to one year to process requests. MENAMIRD has been working with the Haitian government to reduce the cost of documents to 1,000 Pesos (approximately 22 USD) for the necessary PNRE documents, but the organization emphasizes the difficulty caused by structural issues in Haiti. They assert that out of 36,000 people who have requested documents from the Haitian government, only 3,000 have received the necessary papers to apply for regularization. This delayed turn-around time has prohibited many Haitian migrants and Dominicans of Haitian descent from applying to the PNRE.³⁸⁶

In order to assist with documentation requests, the OAS offered to aid the Haitian government by providing free identification cards to Haitians in the Dominican Republic so that they could proceed with the regularization process.³⁸⁷ Since the Haitian government charges for documents, in addition to the costs incurred by migrants traveling from the Dominican Republic to Haiti, this plan would have assisted many Haitian migrants in attaining their documents. Unfortunately, the Haitian government did not provide a definitive answer to the OAS offer of assistance, only indicating that the project was under review.³⁸⁸ However, the situation may change with a new Haitian government.³⁸⁹ Indeed, a new OAS project is under development to assist the Haitian government to strengthen the National Identity Office and its procedures.³⁹⁰ These offers of technical assistance present great opportunities to cure the lack of documentation. As

³⁸⁵ The World Bank, "Haiti Overview."

³⁸⁶ Charpantier, interview.

³⁸⁷ Azuara Ferreiro, interview.

³⁸⁸ Azuara Ferreiro, e-mail.

³⁸⁹ Azuara Ferreiro, interview.

³⁹⁰ Azuara Ferreiro, e-mail.

such, the Haitian government should collaborate with the OAS on such opportunities to provide documentation to Haitian citizens. Yet it should be emphasized that, in the interim, a timely resolution to providing documentation to Haitian citizens is essential given the short timeframe to regularize in the Dominican Republic.

According to the IOM, the burden of regularization is shared between both Haiti and the Dominican Republic after years of unregulated migration. The IOM recommends that the countries should work together through the government, civil society, and the international community for a solution. They also emphasize the complexity of citizenship laws and how states recognize nationality.³⁹¹ Haiti's Constitution of 2012, Title II, Article 11 does not allow *jus soli* but instead requires that a Haitian citizen must be Haitian born while also having at least one Haitian parent.³⁹² Because the Haitian Constitution requires aspects of both *jus soli* and *jus sanguinis*, Dominicans of Haitian descent who do not have the documents for naturalization in the Dominican Republic, are at risk of statelessness. In order to resolve these multifaceted challenges, a united bilateral stance between Haiti and the Dominican Republic is required.

Compounding already difficult bilateral relations, on June 8, 2013, Haiti instituted an import ban on Dominican poultry and eggs. The Haitian government, normally possessing the most liberal tariff regime in the region, claimed that there was a risk of bird flu. Since the Haitian economy relies heavily on agriculture, this policy proved popular with farmers.³⁹³ However, this ban on Dominican poultry and eggs contributed to weakening bilateral relations. On January 16, 2014, Haiti lifted the ban, but residual damage still exists between the two countries, exacerbating the current situation.³⁹⁴

Bilateral relations would be further impacted by deportations that occur due to the implementation of the PNRE and Law 169-14. In addition to Amnesty International reports, human rights groups such as the Robert F. Kennedy Center for Justice and Human Rights have reported that some Dominicans of Haitian descent, as well as Haitian migrants were already expelled to Haiti while they were attempting to obtain documentation in the Dominican Republic. As discussed earlier in this report, victims include both children and adults who are being deported from their country of birth to one they may have never before visited.³⁹⁵ Dominican authorities have said they will recommence deportations in June for anyone who has not yet completed the naturalization or regularization processes.³⁹⁶ Due to Haiti's constitutional citizenship requirements, thousands of Dominicans of Haitian descent risk statelessness if they are expelled to their country of ancestral origin with which they may have no cultural or current familial ties.

In addition to the human rights concern, an influx of repatriated persons to Haiti, including many stateless refugees, would have a destabilizing effect on Haiti's uncertain

³⁹¹ Sangro, interview.

³⁹² 2012 Constitution of Haiti, title II, article 11.

³⁹³ "Chickens and Eggs," *The Economist*, August 24, 2013, accessed February 25, 2015, <http://www.economist.com/news/americas/21584012-haitis-government-tries-risky-experiment-industrial-policy-chickens-and-eggs>.

³⁹⁴ Agyapong, "Troubled Haitian-Dominican Bilateral Relations Await Progress."

³⁹⁵ Fieser, "Dominican Nurse Fired."

³⁹⁶ Jacqueline Charles, "Thousands March in Haiti over Dominican Racism," *Miami Herald*, February 25, 2015, accessed April 5, 2015, <http://www.miamiherald.com/news/nationworld/world/americas/haiti/article11180039.html>.

economy. With the lowest income *per capita* in the Western hemisphere at 852 USD, Haiti would have difficulty absorbing so many refugees and former migrants.³⁹⁷ This abject poverty, intensified by an unemployment rate of 40.6%, would be exacerbated by an incoming vulnerable population. Presently, more than two-thirds of Haiti's labor force does not have formal work; the country is unable to aid its own citizens and is particularly ill-equipped to assist arriving refugees.³⁹⁸

Haiti and the Dominican Republic have been holding high-level talks on immigration since 2013 in an effort to resolve the dissent and conflict that emerged after Sentence 168-13. Recognizing that the causes of immigration are shared between both countries, the governments created a high-level, bilateral commission to discuss migration, commerce, and the environment. Despite numerous disagreements that led to the breakdown of multiple rounds of talks, the commission has endured through 2015. The latest round of talks, in March 2015, included representatives from the EU and the UN peacekeeping mission in Haiti, MINUSTAH. In order to make constructive progress toward a resolution that respects the human rights of all parties, continued discussion in search of a bilateral solution is essential.³⁹⁹

Both Haiti and the Dominican Republic play an important role in remedying the current immigration situation. Improved bilateral relations and communication between countries would significantly aid the Haitian government in providing documents while pushing the Dominican government to allow an extended timeframe for regularization. Moving forward from historical clashes and current disputes will prove difficult, but it is an important step to improve human rights for the many Haitian migrants and Dominicans of Haitian descent living in the Dominican Republic.

The Role of the United States

The United States is in a particularly strong position to influence the Dominican Republic's immigration law and policy through sanctions and diplomatic pressure because of its strong soft, economic, and political power in the Dominican Republic. For example, a 2012 Gallup Poll showed Dominicans overwhelmingly approve of U.S. global leadership with 57% of Dominicans approving, 8% disapproving and 35% uncertain—this represents the third highest rating for any surveyed country in the Americas.⁴⁰⁰ In addition to the positive perception the U.S. enjoys in the Dominican Republic, the U.S. Embassy estimates that 100,000 U.S. citizens live in the Dominican Republic (many of

³⁹⁷ Fieser, "Dominican Nurse Fired."

³⁹⁸ Central Intelligence Agency (CIA), "Haiti" in The World Factbook (Washington, DC: CIA, last updated May 15, 2015), accessed June 5, 2015, <https://www.cia.gov/library/publications/the-world-factbook/geos/ha.html>.

³⁹⁹ "All Eyes on Dominican Republic, Haiti High Level Talks Friday: EFE," *Dominican Today*, March 12, 2015, accessed May 17, 2015, <http://www.dominicantoday.com/dr/local/2015/3/12/54494/All-eyes-on-Dominican-Republic-Haiti-high-level-talks-Friday-EFE>; "Dominican Republic and Haiti to Resume Talks About Citizenship," *Atlanta Blackstar*, December 18, 2013, accessed May 17, 2015, <https://atlantablackstar.com/2013/12/18/dominican-republic-haiti-resume-talks-citizenship/>.

⁴⁰⁰ Gallup and Meridian International Center, "U.S.-Global Leadership Project Report," *Gallup.com*, April 12, 2012, accessed April 14, 2015, <http://www.gallup.com/poll/153998/global-leadership-project-report.aspx>.

them dual nationals) and more than 1.5 million individuals of Dominican origin reside in the United States, most of them in the metropolitan Northeast and Florida.⁴⁰¹

Similarly, the U.S. also enjoys a strong economic linkage with the Dominican Republic. The United States is one of the Dominican Republic's most important trading partners, 48.8% of all Dominican exports are sent to the United States and 43.6% of all imports to Dominican Republic come from the United States.⁴⁰² In 2013, bilateral trade between the two countries was estimated at \$11.42 billion, and 70% of the share of consumer goods imported to the Dominican Republic is from the U.S.⁴⁰³ In addition, the Official Development Assistance (ODA) to the Dominican Republic was estimated at \$148.1 million in 2013, roughly \$60 million of which came from the United States.⁴⁰⁴ These economic linkages are only poised to grow as the free trade agreement, CAFTA-DR, which facilitates trade and investment among the seven member-countries, is better implemented.⁴⁰⁵

The U.S. has two major security initiatives with the Dominican Republic: the Caribbean Basin Security Initiative (CBSI) and the Merida Initiative. Under the CBSI, which provides assistance for law enforcement, citizen safety, and rule of law programs throughout the hemisphere, the U.S. has committed \$263 million in funding since 2010.⁴⁰⁶ The Merida Initiative is a multi-year security agreement between the governments of the United States, Mexico, the nations of Central America, the Dominican Republic, and Haiti to combat violence and organized crime within these countries. Under this initiative, the U.S. Congress allocated \$2.5 million to the Dominican Republic and Haiti each.⁴⁰⁷

All these investments in trade, humanitarian aid, and security partnerships, indicate that a democratic, stable, and economically healthy Dominican Republic is in the U.S.' best interest.⁴⁰⁸ The State Department and USAID, in their Joint Strategic Goal Framework FY2014-2017, concluded that one of their five strategic goals through 2017 is to "Protect core U.S. interests by advancing democracy and human rights and strengthening civil society."⁴⁰⁹ Unfortunately, the U.S. response to the Constitutional Tribunal ruling, 168-13, which threatens human rights, economic, and democratic

⁴⁰¹ Chiamaka Nwosu and Jeanne Batalova "Immigrants from the Dominican Republic in the United States," *Migration Policy Institute*, July 18, 2014, accessed April 28, 2015, <http://www.migrationpolicy.org/article/foreign-born-dominican-republic-united-states>.

⁴⁰² Office of the United States Trade Representative, "CAFTA-DR (Dominican Republic-Central America FTA)," Office of the United States Trade Representative, accessed April 14, 2015, <https://ustr.gov/trade-agreements/free-trade-agreements/cafta-dr-dominican-republic-central-america-fta>.

⁴⁰³ Ibid.

⁴⁰⁴ Organization for Economic Co-operation and Development (OECD), "Development Data - United States," *OECD*, accessed April 14, 2015, <https://data.oecd.org/united-states.htm#profile-development>.

⁴⁰⁵ CAFTA-DR is a free trade agreement between the U.S. five Central American countries (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua) and the Dominican Republic. The agreement went into force in the Dominican Republic in March 2007.

⁴⁰⁶ "Caribbean Basin Security Initiative," U.S. Department of State, accessed April 14, 2015, <http://www.state.gov/p/wha/rt/cbsi/>.

⁴⁰⁷ "Status of Funds for the Mérida Initiative," United States Government Accountability Office, accessed April 14, 2015, <http://www.gao.gov/new.items/d10253r.pdf>.

⁴⁰⁸ "U.S. Relations with the Dominican Republic," U.S. Department of State, November 18, 2013, accessed April 14, 2015, <http://www.state.gov/r/pa/ei/bgn/35639.htm>.

⁴⁰⁹ "State-USAID Joint Strategic Goal Framework," U.S. Department of State, April 2, 2014, accessed April 28, 2015, <http://www.state.gov/s/d/rm/rls/dosstrat/2014/html/225783.htm>.

development in the Dominican Republic, has consisted mainly of *quiet diplomacy*, or meetings behind closed doors to express its disapproval and concerns. Despite international outcry, the U.S. did not make an official condemnation or public statement against the September ruling until 3 months later on December 18th. In response to a question, a U.S. State Department spokesperson issued the following statement:

“We’ve conveyed our deep concern to the Government of the Dominican Republic regarding the ruling’s impact on the citizenship status of persons in the Dominican Republic, the majority of which, as you mentioned, are of Haitian descent. We’ve urged the government to continue close consultation with international partners and civil society to identify and expeditiously address in a humane way concerns regarding the plan’s scope and reach to affected persons. So we’ll continue the dialogue, but we have expressed our concerns over it.”⁴¹⁰

Another way the U.S. assists and contributes to improving the situation of Haitian migrants and Dominicans of Haitian descent in the Dominican Republic is by funding the leading international migration organizations, UNHCR and the IOM. In fact, the U.S. is the single largest donor to both UNHCR and the IOM. This is pivotal because the IOM played an important advisory role to the Dominican government on the implementation of the PNRE and, in the case of the sentence, IOM called for dialogue. The IOM has also given recommendations, in coordination with United Nations Country team, to Law 169-14, in addition to the PNRE.

While the U.S. goals are wide and diverse ranging from combatting human trafficking and government capacity building to better prevent and protect irregular migrants, border management and anti-forgery, to support voluntary return of Haitian migrants,⁴¹¹ the U.S. has nonetheless provided funding to the IOM to help with technical support and to accompany applicants.

The Department of State also supports UNHCR and its efforts to assist the Dominican Republic and other Caribbean countries in developing a better system for determining the refugee status of asylum seekers, of which Haitians are a large percentage.⁴¹² However, resistance from the Dominican government has undercut UNHCR’s efforts and only a few resettlement cases have been adjudicated since the Dominican Republic’s refugee eligibility committee (CONARE) first met in June 2012.⁴¹³ As of yet, all cases to come before the committee have been rejected.⁴¹⁴

The U.S. State Department has two additional projects to build capacity and provide technical and legal support to both the Dominican government and applicants needing assistance—one with the Heartland Alliance and another with ABA ROLI.

⁴¹⁰ “U.S. State Department Spokesperson Statement on Recent Dominican Republic Citizenship Ruling,” Embassy of the U.S., Port Au Prince, Haiti, December 19, 2013, accessed April 14, 2015, <http://haiti.usembassy.gov/pr-state-spx-dr-ruling-dec-19-2013.html>.

⁴¹¹ Sangro, interview.

⁴¹² “Congressional Presentation Document for Fiscal Year 2015,” U.S. Department of State, June 26, 2014, accessed April 14, 2015, <http://www.state.gov/j/prm/releases/docsforcongress/228594.htm>.

⁴¹³ “Proposed Refugee Admissions for Fiscal Year 2015,” U.S. Department of State, September 18, 2014, accessed April 14, 2015, <http://www.state.gov/j/prm/releases/docsforcongress/231817.htm>.

⁴¹⁴ “Congressional Presentation Document.”

Despite these efforts and especially considering the tremendous U.S. potential for effecting positive change in the Dominican Republic, the U.S. could and should do more. Therefore, the U.S. should place economic sanctions on the Dominican Republic in order to improve its dismal human rights track record and address the issue of potential statelessness.

Economic sanctions from the U.S. would send a clear and strong message to the Dominican Republic that its actions are unacceptable, would warn potential future offenders that sanctions are on the table, and would demonstrate that the U.S. stands ready to protect its core values and interests.⁴¹⁵ And the precedent is there, from 1914-2000, the U.S. imposed sanctions 28 different times with the goal of forcing a target country to improve its human rights violations. Studies show that these sanctions are effective and achievable because of their relatively small and more narrowly defined foreign policy objectives.⁴¹⁶

Furthermore, results of past sanctions indicate that the odds for a successful outcome are higher when exactly the same conditions in the case of the Dominican Republic are present: the sender country is larger than the target country in economic terms; trade and financial flows between the sender and target are high; the sender is able to attract international cooperation; and the economic costs of defiance are higher to the target country than compliance with the what the sender country is requesting.⁴¹⁷ The Peterson Institute concluded that among all economic sanctions imposed for modest policy changes, including human rights corrections, 50% made progress in achieving its goals and that greater trade linkages increased the likelihood of success in the case of modest changes like human rights. Thus, imposing economic sanctions to promote human rights is a policy that should not be dismissed as out of hand and needs to be thoroughly explored. One case worth recounting is that of U.S. sanctions on Chile.

From 1975-1990 the U.S. placed sanctions on Chile to improve human rights and restore democracy. According to the Peterson Institute this policy was successful, meaning that the goal of improved human rights and democracy was achieved and that sanctions contributed either modestly or decisively to this improvement.⁴¹⁸ The present conditions in the Dominican Republic are similar to the conditions Chile faced at the time sanctions were imposed i.e. stronger economic linkage and a more favorable U.S.-to-DR GDP ratio. It is likely that sanctions imposed on the Dominican Republic would lead to results even more successful.⁴¹⁹

Placing economic sanctions on the Dominican Republic would not be a first. The U.S. placed economic sanctions on the Dominican Republic from 1960-1962—in the form of a limited trade embargo and a 2-cents per pound of sugar import tariff—to promote regime change during the Trujillo dictatorship.⁴²⁰ In addition to the case of

⁴¹⁵ Gary Clyde Hufbauer et al., *Economic Sanctions Reconsidered*, 3rd ed., Expanded ed. (Washington, DC: Peterson Institute for International Economics, 2007), 7.

⁴¹⁶ In a series of analyses done by the *Peterson Institute for Economics*, of the 43 cases of sanctions for modest policy changes, under which they categorize human rights corrections, 24 cases were deemed successful, meaning both the goal was somewhat to completely achieved and sanctions contributed either modestly or decisively.

⁴¹⁷ Hufbauer, et al., *Economic Sanctions Reconsidered*, 51.

⁴¹⁸ *Ibid.*, 66.

⁴¹⁹ *Ibid.*, 25.

⁴²⁰ *Ibid.*, 104.

Chile, there are additional examples of human rights improvements as a result of U.S. sanctions—according to the Peterson Institute, 24 out of the 43 cases of U.S. sanctions with the goal of modest policy changes, were deemed successful. This indicates both that the goal was either somewhat or completely achieved and that sanctions contributed either modestly or decisively to this outcomes.⁴²¹

This is not to say, however, that U.S. economic sanctions are without negative consequences. Besides the obvious effect of forgone revenue to both countries, the most important, and perhaps most significant, consequence of U.S. sanctions on the Dominican Republic would be the worsening of diplomatic relations between the two countries. The Dominican government may accuse the U.S. of interfering in its domestic affairs and of bullying a small, developing country into trying to solve a situation overnight that the U.S. has not been able to address within its own borders. These accusations would be likely to diminish U.S. standing in the region. The U.S. must therefore evaluate the overall ramifications on bilateral relations that sanctions may carry.

In sum, economic sanctions imposed on the Dominican Republic would promote greater adherence to human rights principles, namely the restoration of nationality to many Dominicans. It is an important economic tool the U.S. should consider in its quest to effect significant and positive change in the Dominican Republic. In fact, it is plausible, given economic conditions and current bilateral relations that U.S. sanctions on the Dominican Republic could succeed.

The Role of the Caribbean Community

The Caribbean Community, or CARICOM, is a regional organization composed of 15 Caribbean nations and dependencies established by Barbados, Jamaica, Guyana and Trinidad & Tobago in 1973 with the hope of achieving regional integration.⁴²² Today, CARICOM enjoys a combined GDP of over \$100 billion,⁴²³ a single market economy,⁴²⁴ a common passport,⁴²⁵ and an Economic Partnership Agreement (EPA) with the European Union.⁴²⁶ Its major activities involve coordinating economic policies and development planning; devising and instituting special projects for the less-developed countries within its jurisdiction; operating as a regional single market for many of its members (CARICOM Single Market); and handling regional trade disputes.⁴²⁷

Since its inception, other Caribbean nations have realized the economic and developmental benefits of CARICOM, evidenced by its expansion from the four original

⁴²¹ Ibid., 66.

⁴²² "History of The Caribbean Community," Caribbean Community Secretariat, accessed April 14, 2015, <http://www.caricom.org/jsp/community/history.jsp?menu=community>.

⁴²³ The Regional Statistics Programme, ed., *CARICOM's Trade: A Quick Reference to Some Summary Data*. 5th ed. Guyana: CARICOM Secretariat, 2013.

⁴²⁴ "CARICOM Single Market (CSM) Ratified! - Caribbean Leaders Sign Formal Document" *Jamaica Gleaner*, January 31, 2006, accessed April 14, 2015, <http://old.jamaica-gleaner.com/gleaner/20060131/lead/lead1.htm>.

⁴²⁵ "More Member States Using the New CARICOM Passport," Caribbean Community Secretariat, January 25, 2007, accessed April 14, 2015, http://www.caricom.org/jsp/pressreleases/pres22_07.jsp.

⁴²⁶ "Economic Partnerships," European Commission Directorate-General for Trade, accessed April 14, 2015, <http://ec.europa.eu/trade/policy/countries-and-regions/development/economic-partnerships/>.

⁴²⁷ "Objectives of the Community," Caribbean Community Secretariat, accessed April 14, 2015, <http://www.caricom.org/jsp/community/objectives.jsp?menu=community>.

signatories to the now 15 nations and dependencies that encompass it. The most recent full-fledged member is Haiti, which joined as a provisional member in July 1998 and attained full membership in 2002.⁴²⁸ The Dominican Republic has also sought membership in CARICOM several times. It became an "Observer of CARICOM" in 1982 and almost ten years later, in 1991, presented CARICOM with a request for full membership.⁴²⁹

The Dominican Republic made two additional requests for membership into the Caribbean bloc in 2005 and later in 2013. Each time the requests were met with ambivalence and fear that the larger Dominican economy with its higher productivity levels would threaten the trade and development of smaller and less developed CARICOM member-countries.⁴³⁰ Any hopes of joining the Caribbean Community, however, were shattered in November 2013 when the Constitutional Tribunal made its 168-13 ruling.

In response to the ruling, CARICOM convened a special meeting attended by the heads of government of Trinidad and Tobago (then chair of grouping), St. Vincent and the Grenadines (present chair), and Haiti, as well as CARICOM's Secretary General.⁴³¹ At this meeting, the CARICOM leaders heard from members of civil society who denounced the measures and presented a Caribbean-wide petition condemning the decision.⁴³² Among the points made during the discussions was that the Court's ruling violated the Dominican Republic's international human rights obligations. "It is especially repugnant that the ruling ignores the 2005 judgment made by the Inter-American Court on Human Rights (IACHR) that the Dominican Republic adapt its immigration laws and practices in accordance with the provisions of the American Convention on Human Rights," said Trinidad and Tobago Prime Minister Kamla Persad-Bissessar, chairwoman of CARICOM.⁴³³

At the conclusion of the meeting, the leaders declared in a joint statement that "it can no longer be business as usual" and suspended the Dominican Republic's application to join calling on the country's leaders to "take immediate, credible steps" to stave off a potential humanitarian crisis triggered by a citizenship ruling.⁴³⁴ The decision came with a formal condemnation of the Dominican Republic's Constitutional Tribunal ruling

⁴²⁸ "History of the Caribbean Community."

⁴²⁹ Ronald Sanders, "CARICOM Not Ready for DR," *The Trinidad Guardian Newspaper*, August 25, 2005, accessed April 14, 2015, <http://legacy.guardian.co.tt/archives/2005-08-31/bussguardian27.html>.

⁴³⁰ "The Dominican Republic and Caricom," *Stabroek News*, June 20, 2012, accessed April 14, 2015, <http://www.stabroeknews.com/2012/opinion/editorial/06/20/the-dominican-republic-and-caricom/>.

⁴³¹ "CARICOM to Discuss Dominican Republic Haitian Issue next Week," *Jamaica Observer News*, November 22, 2013, accessed April 14, 2015, <http://www.jamaicaobserver.com/latestnews/CARICOM-to-discuss-Dominican-Republic-Haitian-issue-next-week>.

⁴³² Jacqueline Charles, "Caribbean Leaders Defend Haiti, Denounce Dominican Decision," *Black Star News*, December 1, 2013, accessed April 14, 2015, <http://www.blackstarnews.com/global-politics/others/caribbean-leaders-defend-haiti-denounce-dominican-decision.html>.

⁴³³ Ibid.

⁴³⁴ "CARICOM Statement on Developments in the Aftermath of the Ruling of the Constitutional Court of the Dominican Republic on Nationality," Caribbean Community Secretariat, press release 265/13, November 26, 2013, accessed April 14, 2015, http://www.caricom.org/jsp/pressreleases/press_releases_2013/pres265_13.jsp.

despite a last minute assurance by Dominican President Danilo Medina that those affected by the ruling would not be deported.⁴³⁵

Prime Minister Persad-Bissessar said CARICOM “is prepared to engage the Dominican Republic, but the government of the Dominican Republic must be prepared to show good faith by immediate, credible steps as part of an overall plan to resolve this nationality and attendant issues in the shortest possible time.”⁴³⁶

CARICOM also called on the government of the Dominican Republic to take the necessary political, legislative, judicial and administrative steps to urgently redress the grave humanitarian situation created by the ruling. CARICOM also called for international pressure to be brought to bear on the Dominican Republic and promised to “review its relationship with the Dominican Republic in other forums including that of CARIFORUM, CELAC and the OAS. It cannot be business as usual.”⁴³⁷

On March 3, 2015 CARICOM reiterated its “grave concern” over the situation in the Dominican Republic through a statement following the 36th Annual Summit in the Bahamas where it condemned “the Dominican Republic government's repudiation of international law.”⁴³⁸ CARICOM also condemned “the resurgence of anti-Haitian sentiment in the Dominican Republic” and concluded, “in view of these troubling developments, the Caribbean Community maintains its posture of 'no business as usual' with the Dominican Republic.”⁴³⁹

In sum, CARICOM’s denunciation of the Dominican government, its call for improvements, and the statements’ clarity and forcefulness are commendable and have contributed to the ongoing repudiation of the Dominican Republic’s actions. Therefore, CARICOM should continue to apply pressure on the Dominican Republic through similar statements. However it must realize that there is a limit to what these statements can achieve. While suspension of the Dominican Republic’s application to join CARICOM is a worthwhile response, the Dominican government is unlikely to miss what it never had, certainly not enough to change domestic law and policy it believes to be right and within its jurisdiction and sovereignty. Until the Dominican Republic faces tough consequences to its decisions and actions it is not likely to change course.

Therefore, CARICOM must follow on its promises and enlist the support of other regional blocs such as the OAS, CELAC, and CARIFORUM in denouncing the Dominican government’s actions and making it clear that there are consequences to its human rights grievances and disregard for international treaties and norms, including

⁴³⁵ Jacqueline Charles, “Caribbean Leaders Consider Sanction against the Dominican Republic,” *Miami Herald*, November 26, 2013, accessed April 14, 2015, <http://www.miamiherald.com/news/nation-world/world/americas/haiti/article1957898.html>.

⁴³⁶ “Speaking Notes by the Honourable Prime Minister Kamla Persad-Bissessar Chairman-Conference of Heads of Government of CARICOM at the Press Conference Following the Fifth Special Meeting of the Bureau of the Conference of Heads of Government of CARICOM on the Ruling of the Constitutional Court of the Dominican Republic on Nationality (TC 0163/13),” Caribbean Community Secretariat, press release 266/2013, November 27, 2013, accessed on June 1, 2015, http://www.caricom.org/jsp/pressreleases/press_releases_2013/pres266_13.jsp.

⁴³⁷ “CARICOM Statement on Developments.”

⁴³⁸ “CARICOM Concerned over Plight of Haitians in Dominican Republic,” *Fox News Latino*, March 3, 2015, accessed April 14, 2015, <http://latino.foxnews.com/latino/news/2015/03/03/caricom-concerned-over-plight-haitians-in-dominican-republic/>.

⁴³⁹ Ibid.

expulsion and suspension of membership. The impact of this coordinated response is much more likely to be effective.

The Role of the European Union

The European Union (EU), like the U.S., is in a strong position to influence the course of migration and nationality law, and policy in the Dominican Republic because of its privileged relations with the country and the region. The EU cooperates with the Dominican Republic on both a bilateral and regional basis, the latter within the framework of the on-going EU-CELAC and EU-CARIFORUM talks.⁴⁴⁰ In addition, the EU promotes bilateral dialogue between the governments of the Dominican Republic and Haiti⁴⁴¹ and has an economic agreement, the Economic Partnership Agreement (EPA), with the Caribbean Forum (a grouping comprised of CARICOM-member states and the Dominican Republic known as CARIFORUM). The EPA, which helps make trade, investment, and development assistance easier for all parties, was signed and ratified in October 2008 and is an important example of the EU's influential role in the Caribbean.⁴⁴²

The EU, according to CARIFORUM's former Secretary General, Ivan Ogando Lora, was and continues to be critical to the maintenance of cohesion between CARICOM and the Dominican Republic.

“Throughout the years, the CARICOM-DR relationship has had its ups and downs but one significant characteristic is that the EU was always part of the background. Unfortunately, more often than not, the main incentive for the CARICOM-DR relation is linked to dealing with the EU as a single group. The fact that CARICOM-DR have been unable to work together *vis a vis* interlocutors other than the EU speaks for itself.”⁴⁴³

Indeed it is hard to imagine a CARIFORUM without the EU taking center stage and ensuring that there is cooperation between CARICOM and the Dominican Republic. According to Ogando Lora it is “unlikely that CARIFORUM would survive without EDF [European Development Fund] support.”⁴⁴⁴

Lastly, in November 2012 the member states of the EU and the Caribbean adopted a new Joint Caribbean-European Union Partnership Strategy to “enhance Caribbean– European Union relations and broaden the engagement by adding a political pillar to the traditionally development and trade cooperation based relationship with the

⁴⁴⁰ “EU Relations with Dominican Republic,” *European Union*. European External Action Service, n.d., accessed March 24, 2015, http://eeas.europa.eu/dominican_republic/index_en.htm.

⁴⁴¹ Viviano De Leon, “Embajadores De UE Apoyan El Diálogo Entre RD Y Haití,” *Listin Diario*. Listindiario.com, December 3, 2014, accessed March 24, 2015, <http://www.listindiario.com/la-republica/2014/12/3/347714/Embajadores-de-UE-apoyan-el-dialogo-entre-RD-y-Haiti>.

⁴⁴² “EU Relations with Dominican Republic.”

⁴⁴³ Ivan Ogando Lora, “Dominican Republic – CARICOM: Unfinished Business,” *GREAT Insights*, October 2013.

⁴⁴⁴ Ibid.

Caribbean region.”⁴⁴⁵ Thus, the EU can play a very important role to in the Caribbean in order to ensure that democratic development and rule of law continue to flourish.

In February 2014, after the Constitutional Tribunal ruling, 168-13, the spokesperson of Catherine Ashton, High Representative of the European Union for Foreign Affairs and Security Policy and Vice President of the Commission, issued a statement welcoming bilateral dialogue between the Dominican Republic and Haiti and extending its experience with issues including “trade and customs facilitation, security, fight against drug trafficking, border management, migration policies and environmental protection.”⁴⁴⁶

The EU also welcomed the “commitment” stated by the Dominican Republic government to “take concrete measures to safe guard basic rights of persons of Haitian descent.”⁴⁴⁷ Lastly, the statement concluded that, while the EU recognizes “the sovereign right of the Dominican Republic to determine its policies on nationality and migration, the European Union encourages a rapid implementation of the necessary measures in line with universal human rights standards.”⁴⁴⁸

In addition to the official statement from the EU’s Foreign Affairs Office, individual states expressed their concerns with the Constitutional Tribunal ruling and subsequent developments in the Dominican Republic through the February 2014 Working Group of the Universal Periodic Review (UPR) conducted by the Human Rights Council, the global UN forum where States directly evaluate the human rights records of their peers. The recommendations ranged from urging the Dominican government to observe international covenants and treaties (Ireland and Germany)⁴⁴⁹ to ensuring that rights to nationality are applied fairly, with no discrimination, and not retroactively (Italy, Slovenia, and Spain).⁴⁵⁰ France took a more direct and unyielding route, stating it is important to:

“Take all necessary measures to prevent statelessness and allow all residents to fully enjoy their fundamental rights in particular persons of Haitian’s descent who have been affected by the ruling of the Constitutional Tribunal of the 23rd of September 2013.”⁴⁵¹

These statements, as well as others, indicate that EU-member states not only understand the gravity of the situation in the Dominican Republic but also that enough political will exist to demand action and improvements to these human rights

⁴⁴⁵ Ibid.

⁴⁴⁶ Catherine Ashton, "Statement by the Spokesperson of EU High Representative Catherine Ashton on the Occasion of the 2nd High Level Binational Dialogue between Dominican Republic and Haiti," European Union External Action, February 4, 2014, accessed April 12, 2015, http://eeas.europa.eu/statements/docs/2014/140204_01_en.pdf.

⁴⁴⁷ Ibid.

⁴⁴⁸ Ibid.

⁴⁴⁹ United Nations Human Rights Council, Universal Periodic Review 26th Sess., *Report of the Working Group on the Universal Periodic Review*, U.N. Doc., A/HRC/26/15 (April 4, 2014), accessed April 20, 2015, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/DOSession18.aspx>.

⁴⁵⁰ Ibid.

⁴⁵¹ Ibid., para 98.133.

deprivations. This is why the EU partnered with a local Dominican NGO to help improve implementation of the PNRE.

The EU provided €190,000 Euros (or 208,631 USD) to MENAMIRD to conduct a program to provide guidance and support to migrants under the PNRE.⁴⁵² The program, which began on the first day of the regularization process and will run until the plan concludes, has the support of the General Directorate of Migration, the Ministry of Interior and Police, and the National Commission of Human Rights.⁴⁵³

This project, aimed at people from rural and suburban communities in Santo Domingo, the bateyes and other towns like Boca Chica, Los Alcarrizos, Monte Plata, Barahona and San Pedro de Macoris, would identify, pay for, and directly accompany 5,000 individuals who lack financial resources, according to William Charpentier, Coordinator for MENAMIRD.⁴⁵⁴ To achieve this, the project will hire about 105 promoters to offer information and guidance to those who have not yet finalized the PNRE.⁴⁵⁵

As explained earlier, the EU is a very important political actor in the Dominican Republic and the Caribbean. An actor whose influence has brought together the unlikely partnership of the Dominican Republic and CARICOM and now brings together governments in Santo Domingo and Port au Prince for “High level Binational Dialogue.” It is this very influence that the EU should use to pressure Santo Domingo into redressing its human rights violations; after all, several of its member states have expressed their distaste for the Dominican government’s actions.

Conclusion

Given the realities and human dimension of migration – past, present, and future – humanitarian solutions must be devised, implemented and adhered to, in order to protect the rights of migrants and their descendants in the Dominican Republic. Although the Dominican Republic is tightening its borders, there is a continued and concerning inflow of migrants from Haiti. Migration from Haiti to the Dominican Republic has occurred for decades and the human outcome of such migration in the form of children as well as the continued desire of Haitians to cross the border will continue to be a pressing issue.

With the application period for the Naturalization Law (169-14) expired, there needs to be a continued effort and process to restore Dominican nationality to those rendered stateless by Sentence 168-13. This restoration of nationality is the sole

⁴⁵² XE currency converter: Euro to USD, April 28 2015; Niza Campos, "Inician Un Plan De Orientación a Haitianos Indocumentados," *Diario Libre*. [DiarioLibre.com](http://www.diariolibre.com/noticias/2015/02/12/i1009301_inician-plan-orientacin-haitianos-indocumentados.html), February 12, 2015, accessed March 24, 2015, http://www.diariolibre.com/noticias/2015/02/12/i1009301_inician-plan-orientacin-haitianos-indocumentados.html.

⁴⁵³ Isabel Leticia Leclerc "Lanzan programa de orientación de inmigrantes en el marco del Plan de Regularización," *Listin Diario*, February 12, 2015, accessed June 1, 2015, <http://www.listindiario.com/la-republica/2015/2/11/355865/Lanzan-programa-de-orientacion-de-inmigrantes-en-el-marco-del-Plan-de?AspxAutoDetectCookieSupport=1>.

⁴⁵⁴ Campos, “Inician Un Plan.” Original quote in Spanish. Translated by research team member. “El programa cuenta con 105 personas como promotores que recorrerán las cuatro provincias, donde van a identificar las 40 mil personas, de las cuales a una 5 mil que carecen de recursos económicos, se les costeará el proceso de documentación.”

⁴⁵⁵ Ibid.

responsibility of the Dominican government. Haiti has no part to play in providing documentation or assistance to Dominican nationals attempting to restore their nationality. Moreover, the prospect of acquiring Haitian nationality is not an adequate or appropriate solution to address the effective statelessness produced by Sentence 168-13. Finally, the expulsion of Dominicans of Haitian descent to Haiti, whether incidentally or intentionally, would be unacceptable and only serve to further destabilize Haiti. As such, the Dominican Republic should take every precaution to ensure that Dominican nationals are not expelled to Haiti and that nationality to those left effectively stateless by Sentence 168-13 is restored.

With regards to the PNRE, the application deadline to apply for regularization is set to expire on June 17, 2015. Once the deadline for the PNRE passes, irregular migrants will face official deportation, a threat that, as mentioned above, will also affect Dominicans of Haitian descent in both Groups A and B, as evidenced by recent cases. Unlike the restoration of nationality, the regularization of Haitian migrants in the Dominican Republic is a shared responsibility of both the Haitian and Dominican governments. The two countries should continue to work together to ensure that all Haitian migrants in the Dominican Republic have adequate documentation. Moreover, the two countries will need to cooperate and maintain an open dialogue in administering legal deportations of irregular migrants from the Dominican Republic to Haiti. Consequently, the need for cooperation between the two countries in ensuring that human rights and humanitarian standards are upheld persists.

Recommendations

Below please find a list of policy recommendations to various actors. Recalling the difference between the regularization and the naturalization processes, as well as the difference between the migrant and the effectively stateless populations, when necessary, a distinction is made with regards to policy recommendations for migration issues versus statelessness issues.

To the Dominican Republic

Migration	Statelessness
The Dominican Republic should empower and increase the capacity of the Human Rights Unit under the Attorney General's Office so that it can effectively protect human rights within the country, particularly the rights of those most vulnerable.	
The Dominican Republic must ensure that legal deportations are carried out with strict adherence to international human rights law and humanitarian standards, which include maintaining an open dialogue with Haiti, as well as assistance to Haiti in receiving deportees.	The Dominican Republic must protect the right to nationality and as such, re-establish a pathway to restore all the benefits of nationality and citizenship to Dominicans of Haitian descent born in the country between 1929-2007.
	The Dominican Republic should expedite the restoration process for members of Group A, ensuring that citizenship documents are issued in a timely fashion.
	The Dominican Republic must safeguard all members of Groups A and B from expulsion.
	The Dominican Republic should ratify the Convention on the Reduction of Statelessness.

To Haiti

Migration	Statelessness
Haiti should collaborate with the Organization of American States (OAS) to provide identification cards to Haitian citizens. Such collaboration could help ensure a greater percentage of this population has documentation and prevent issues that arise from being undocumented.	

To Civil Society

Migration	Statelessness
Media outlets should continue to report on all issues regarding the regularization and naturalization processes in the Dominican Republic as well as the effects of these processes on the community.	
More <i>pro bono</i> legal services are needed to guide those pursuing documentation. The assistance of legal clinics conducted by law students studying in the Dominican Republic would be one option that provides invaluable legal assistance to applicants, professional experience to law students, and promotes a culture of <i>pro bono</i> service.	

To the Private Sector

Migration	Statelessness
Private sector employers should provide written labor contracts to workers, such that there is a documented record of employment.	
Private sector employers should provide requested documentation certifying employment to workers who are applying to the PNRE or similar processes.	

To the United States

Migration	Statelessness
The US should continue to fund the IOM.	The US should continue to fund the UNHCR.

The US should consider placing economic sanctions on the Dominican Republic to improve its human rights record and address the issue of potential statelessness

To the Caribbean Community (CARICOM)

Migration	Statelessness
CARICOM should continue to pressure the Dominican government via press statements and public appearances. It should enlist the support of other regional blocs such as the OAS, CELAC, and CARIFORUM in denouncing the Dominican government's actions and make it clear that there are consequences to its human rights grievances and disregard for international treaties and norms, including expulsion and suspension of membership.	

To the European Union (EU)

Migration	Statelessness
The EU should be more vocal in its reproach of the Dominican citizenship and migration laws. It should also consider a joint effort with the U.S. government to make potential sanctions more effective.	

Bibliography

General References

Aber, Shaina and Small, Mary. "Citizen or Subordinate: Permutations of Belonging in the United States and the Dominican Republic." *Journal on Migration and Human Security* 1, no. 3 (2013): 76-96. Accessed June 2, 2015.
Doi: <http://dx.doi.org/10.14240/jmhs.v1i3.12>.

———. "All Eyes on Dominican Republic, Haiti High Level Talks Friday: EFE." *Dominican Today*. March 12, 2015. Accessed May 17, 2015.
<http://www.dominicantoday.com/dr/local/2015/3/12/54494/All-eyes-on-Dominican-Republic-Haiti-high-level-talks-Friday-EFE>.

Agyapong, Wilhelmina. "Troubled Haitian-Dominican Bilateral Relations Await Progress." *Council on Hemispheric Affairs*. February 27, 2014. Accessed February 24, 2015. <http://www.coha.org/troubled-haitian-dominican-bilateral-relations-await-progress/>.

American Bar Association Rule of Law Initiative (ABA ROLI). "American Bar Association Rule of Law Program Book." (2015). Accessed May 29, 2015.
http://www.americanbar.org/content/dam/aba/directories/roli/misc/aba_rol_i_2015_program_book_web_email.authcheckdam.pdf.

Amnesty International. "Amnesty International Report 2014/15: Dominican Republic." *Amnesty International*. Accessed March 7, 2015.
<https://www.amnesty.org/en/countries/americas/dominican-republic/report-dominican-republic/>.

Amnesty International. "Dominican Republic: Killing at the hands of the police rise while reforms stall. Press Release. *Amnesty International*. August 15, 2014.
<https://www.amnesty.org/en/press-releases/2014/08/dominican-republic-killings-hands-police-rise-while-reforms-stall/>.

Amnesty International. "Dominican Republic: Withdrawal from top regional human rights court would put rights at risk." November 6, 2014. Accessed June 11, 2015.
<https://www.amnesty.org/en/articles/news/2014/11/dominican-republic-withdrawal-top-regional-human-rights-court-would-put-rights-risk/>.

Amnesty International. "Urgent Action: Deported Dominican Man Able to Return Home." UA: 415/15 Index: AMR 27/1046/2015 Dominican Republic. *Amnesty International*. February 23, 2015. Accessed May 17, 2015.
https://www.amnestyusa.org/sites/default/files/uaa04115_2.pdf.

Amnesty International. "Urgent Action: Journalists Threatened and Harassed." UA: 27/15 Index: AMR 27/004/2015 Dominican Republic. *Amnesty International*. February 4, 2015. Accessed May 6, 2015.

<https://www.amnestyusa.org/sites/default/files/uaa02715.pdf>.

Amnesty International. "Urgent Action: Mass Deportation in the Dominican Republic." UA: 20/15 Index: AMR 27/002/2014 Dominican Republic. *Amnesty International*. January 28, 2015. Accessed April 5, 2015.

<http://www.amnestyusa.org/sites/default/files/uaa02015.pdf>.

Amnesty International. "Urgent Action - Mass Statelessness Crisis Continues." UA: 289/13 Index AMR 27/003/2015 Dominican Republic. *Amnesty International*. January 30, 2015. Accessed May 17, 2015.

http://www.amnestyusa.org/sites/default/files/uaa28913_2.pdf.

Anderson, Jon. "Defining Citizenship in the Dominican Republic." *World Policy Blog*. October 10, 2013. <http://www.worldpolicy.org/blog/2013/10/10/defining-citizenship-dominican-republic>.

Antonini, Blanca. "Relations between Haiti and the Dominican Republic" *Norwegian Peacebuilding Resource Centre: NOREF Report* (February 2012). Accessed February 13, 2015.

http://www.peacebuilding.no/var/ezflow_site/storage/original/application/26f1be85a4d2270c401bd6dce69afec3.pdf.

Ashton, Catherine. "Statement by the Spokesperson of EU High Representative Catherine Ashton on the Occasion of the 2nd High Level Binational Dialogue between Dominican Republic and Haiti." *European Union External Action*. February 4, 2014. Accessed April 12, 2015. http://eeas.europa.eu/statements/docs/2014/140204_01_en.pdf.

Associated Press. "Dominican Republic quits OAS's human rights court." *Daily Mail*. November 4, 2014. Accessed June 12, 2015. <http://www.dailymail.co.uk/wires/ap/article-2821226/Dominican-Republic-quits-OASS-human-rights-court.html>.

Blake, Jillian. "Constitutional Stability through Citizenship in the Dominican Republic." *Blog of the International Journal of Constitutional Law*. September 5, 2014. Accessed May 27, 2015. <http://www.icconnectblog.com/2014/09/constitutional-stability-through-citizenship-in-the-dominican-republic/>.

Baluarte, David C. "An Island Shakes as Human Rights and Sovereignty Clash." *Human Rights Brief* 13, no. 2 (2006). Accessed June 12, 2015.

<https://www.wcl.american.edu/hrbrief/13/2baluarte.pdf>.

Campos, Niza. "Inician Un Plan De Orientación a Haitianos Indocumentados." *Diario Libre*. DiarioLibre.com. February 12, 2015. Accessed March 24, 2015.

http://www.diariolibre.com/noticias/2015/02/12/i1009301_inician-plan-orientacin-haitianos-indocumentados.html.

Canada: Immigration and Refugee Board of Canada. "Dominican Republic: The process to obtain permanent resident status; loss of such status; proof of such status."

(DOM36739.E, June 7, 2001). <http://www.refworld.org/docid/3df4be2a24.html>.

Canton, Santiago A. and McMullen, Jr., Wade H. "The Dominican Republic and Haiti: Shame." *Americas Quarterly Higher Education and Competitiveness* (Summer 2014).

Accessed April 20, 2015. <http://www.americasquarterly.org/content/dominican-republic-and-haiti-shame>.

———. "CARICOM Concerned over Plight of Haitians in Dominican Republic." *Fox News Latino*. March 3, 2015. Accessed April 14, 2015.

<http://latino.foxnews.com/latino/news/2015/03/03/caricom-concerned-over-plight-haitians-in-dominican-republic/>.

———. "CARICOM Single Market (CSM) Ratified! - Caribbean Leaders Sign Formal Document." *Jamaica Gleaner*. January 31, 2006. Accessed April 14, 2015.

<http://old.jamaica-gleaner.com/gleaner/20060131/lead/lead1.htm>.

———. "CARICOM to Discuss Dominican Republic Haitian Issue next Week." *Jamaica Observer News*. November 22, 2013. Accessed April 14, 2015.

<http://www.jamaicaobserver.com/latestnews/CARICOM-to-discuss-Dominican-Republic-Haitian-issue-next-week>.

Caribbean Community Secretariat. "CARICOM Statement on Development in the Aftermath of the Ruling of the Constitutional Court of the Dominican Republic on Nationality." *Caribbean Community Secretariat*. Press Release 265/13. November 26, 2013. Accessed April 14, 2015.

http://www.caricom.org/jsp/pressreleases/press_releases_2013/pres265_13.jsp.

Caribbean Community Secretariat. "History of The Caribbean Community." Accessed April 14, 2015. <http://www.caricom.org/jsp/community/history.jsp?menu=community>.

Caribbean Community Secretariat. "More Member States Using the New CARICOM Passport." *Caribbean Community Secretariat*. Press Release 22/2007. January 25, 2007.

Accessed April 14, 2015. http://www.caricom.org/jsp/pressreleases/pres22_07.jsp.

Caribbean Community Secretariat. "Objectives of the Community." Accessed April 14, 2015.

<http://www.caricom.org/jsp/community/objectives.jsp?menu=community>.

Caribbean Community Secretariat. "Speaking Notes by the Honourable Prime Minister Kamla Persad-Bissessar Chairman-Conference of Heads of Government of CARICOM at the Press Conference Following the Fifth Special Meeting of the Bureau of the Conference of Heads of Government of CARICOM on the Ruling of the Constitutional Court of the Dominican Republic on Nationality (TC 0163/13)." *Caribbean Community Secretariat*. Press Release 266/2013. November 27, 2013. Accessed on June 1, 2015. http://www.caricom.org/jsp/pressreleases/press_releases_2013/pres266_13.jsp.

Ceara-Hatton, Miguel. "A critique of the ruling of the Dominican Republic Constitutional Court." *Stabroek News*. November 18, 2013. Accessed May 5, 2015. <http://www.stabroeknews.com/2013/features/in-the-diaspora/11/18/critique-ruling-dominican-republic-constitutional-court/>.

CEFASA. "El Plan de Regularización y la Ley de Naturalización." *Info CEFASA*. December 2014. Accessed May 17, 2015. http://issuu.com/cefasa/docs/boletin_diciembre_2014.

Central Intelligence Agency (CIA). *The World Factbook*. <https://www.cia.gov/library/publications/the-world-factbook/>.

Central Intelligence Agency (CIA). "Constitution" in *The World Factbook*. <https://www.cia.gov/Library/publications/the-world-factbook/fields/2063.html>.

Central Intelligence Agency (CIA). "Haiti" in *The World Factbook* (Washington, DC: CIA, last updated May 15, 2015). Accessed June 5, 2015. <https://www.cia.gov/library/publications/the-world-factbook/geos/ha.html>.

Chapin Metz, Helen, ed. *Dominican Republic and Haiti: Country Studies*. 3rd ed. Washington, DC: Federal Research Division, Library of Congress, 2001.

Charles, Jacqueline. "Caribbean Leaders Consider Sanction against the Dominican Republic." *Miami Herald*. November 26, 2013. Accessed April 14, 2015. <http://www.miamiherald.com/news/nation-world/world/americas/haiti/article1957898.html>.

Charles, Jacqueline. "Caribbean Leaders Defend Haiti, Denounce Dominican Decision." *Black Star News*. December 1, 2013. Accessed April 14, 2015. <http://www.blackstarnews.com/global-politics/others/caribbean-leaders-defend-haiti-denounce-dominican-decision.html>.

Charles, Jacqueline. "Thousands March in Haiti over Dominican Racism." *Miami Herald*. February 25, 2015. Accessed April 5, 2015. <http://www.miamiherald.com/news/nationworld/world/americas/haiti/article11180039.html>.

———. "Chickens and Eggs." *The Economist*. August 24, 2013. Accessed February 25, 2015. <http://www.economist.com/news/americas/21584012-haitis-government-tries-risky-experiment-industrial-policy-chickens-and-eggs>.

Cote-Muñoz, Natalia and Rosario, Verónica Alma. "Human Rights Under Threat: Denationalization and Dominicans of Haitian Ancestry." *The SAIS Review of International Affairs*, February 20, 2015. Accessed June 2, 2015. <http://www.saisreview.org/2015/02/20/human-rights-under-threat-denationalization-and-dominicans-of-haitian-ancestry/>.

Council on Hemispheric Affairs. "Haiti Amends Constitution" *Council on Hemispheric Affairs*. July 25, 2012. Accessed March 28, 2015. <http://www.coha.org/haiti-amends-constitution/>.

Coupeau, Steeve. *The History of Haiti*. Greenwood Histories of the Modern Nations. Westport, Conn: Greenwood Press, 2008.

Darius, Danio. "Le PIDIH un échec, le gouvernement haïtien envisage de solliciter la prorogation du PNRE, selon Daniel Supplice." *Le Nouvelliste National*. May 8, 2015. Accessed May 14, 2015. <http://lenouvelliste.com/lenouvelliste/article/144582/Le-PIDIH-un-echec-le-gouvernement-haitien-envisage-de-solliciter-la-prorogation-du-PNRE-selon-Daniel-Supplice>.

———. "Deadline to Naturalize Foreigners' Offspring Expires." *Dominican Today*, February 2, 2015. Accessed April 2015. <http://www.dominicantoday.com/dr/local/2015/2/2/54091/Deadline-to-naturalize-foreigners-offspring-expires>.

De Leon, Viviano. "Embajadores De UE Apoyan El Diálogo Entre RD Y Haití." *Listin Diario*. Listindiario.com. December 3, 2014. Accessed March 24, 2015. <http://www.listindiario.com/la-republica/2014/12/3/347714/Embajadores-de-UE-apoyan-el-dialogo-entre-RD-y-Haiti>.

———. "Dimite embajador haitiano en la R.Dominicana y designan a Daniel Supplice." *7 Dias.com.do*. February 25, 2015. Accessed May 15, 2015. http://www.7dias.com.do/portada/2015/02/25/i183183_dimite-embajador-haitiano-dominicana-designan-daniel-supplice.html#.VWnWfU9Viko.

———. "Dominican Republic and Haiti to Resume Talks About Citizenship." *Atlanta Blackstar*. December 18, 2013. Accessed May 17, 2015. <https://atlantablackstar.com/2013/12/18/dominican-republic-haiti-resume-talks-citizenship/>.

———. "Dominican Republic Convicted of Inhumane Treatment of Haitians." *PanAm Post*. October 27, 2014. Accessed May 15, 2015. <http://panampost.com/panam-staff/2014/10/27/dominican-republic-convicted-of-inhumane-treatment-of-haitians/>.

- . “Dominican Republic starts to regularize foreigners on June 1.” *Dominican Today*. May 15, 2014. Accessed February 17, 2015. <http://www.dominicantoday.com/dr/local/2014/5/15/51467/Dominican-Republic-starts-to-regularize-foreigners-on-June-1>.
- . “Dominican Republic to require migrant work permits.” *Associated Press*. June 1, 2012. Accessed February 13, 2015, <http://bigstory.ap.org/article/dominican-republic-require-migrant-work-permits>.
- Embassy of the U.S., Port Au Prince, Haiti. “U.S. State Department Spokesperson Statement on Recent Dominican Republic Citizenship Ruling.” Press Release. December 19, 2013. Accessed April 14, 2015. <http://haiti.usembassy.gov/pr-state-spoxx-dr-ruling-dec-19-2013.html>.
- European Commission Directorate-General for Trade. “Economic Partnerships.” Accessed April 14, 2015. <http://ec.europa.eu/trade/policy/countries-and-regions/development/economic-partnerships/>.
- European Union. European External Action Service. “EU Relations with Dominican Republic.” n.d. Accessed March 24, 2015. http://eeas.europa.eu/dominican_republic/index_en.htm.
- Fieser, Ezra. “Dominican Nurse Fired for Haitian Parents Shows Expulsion Threat.” *Bloomberg*. March 24, 2015. Accessed March 30, 2015. <http://www.bloomberg.com/news/articles/2015-03-24/dominican-nurse-fired-for-haitian-parents-shows-expulsion-threat>.
- Frankema, Ewout and Masé, Aline. “An Island Drifting Apart. Why Haiti is Mired in Poverty While the Dominican Republic Forges Ahead.” *Journal of International Development* 26 (1) (2014): 128-148.
- Freedom House. *Freedom in the World 2014*. “Dominican Republic.” *Freedom House*. (2014). Accessed June 7, 2015. <https://freedomhouse.org/report/freedom-world/2014/dominican-republic#.VXTVbs9Viko>.
- Freedom House. *Freedom of the Press 2012*. “Dominican Republic.” *Freedom House* (2012). Accessed April 6, 2015. <https://freedomhouse.org/report/freedom-press/2012/dominican-republic>.
- Fund for Peace. *Fragile States Index*. *Fund for Peace* (2014). <http://fsi.fundforpeace.org/>.
- Gaestel, Allyn. “Stateless in the Dominican Republic: Residents stripped of citizenship.” *Aljazeera*. May 4, 2014. Accessed April 3, 2015. <http://america.aljazeera.com/articles/2014/5/4/stateless-in-the-dominican-republic-residents-stripped-of-citizenship.html>.

Gallup and Meridian International Center. "U.S.-Global Leadership Project Report." *Gallup.com*. April 12, 2012. Accessed April 14, 2015. <http://www.gallup.com/poll/153998/global-leadership-project-report.aspx>.

Gamboa, Liliana and Harrington Reddy, Julia. "Judicial Denationalisation of Dominicans of Haitian Descent." *Forced Migration Review* 46 (May 2014): 52-54. Accessed May 27, 2015. <http://www.fmreview.org/en/afghanistan/gamboa-harrington.pdf>.

Gauthier, Amélie and Moita, Madalena. "Vulnerability and Causes of Fragility in Haiti." *Fride Project Report* (2010). Accessed April 19, 2015. www.fride.org/download/IP_Haiti_final_ENG_Mar10.pdf.

Georgetown Law Human Rights Institute. "Left Behind: How Statelessness in the Dominican Republic Limits Children's Access to Education." Georgetown University Law Center, Washington, DC, 2014. http://www.law.georgetown.edu/academics/centers-institutes/human-rights-institute/fact-finding/upload/Left-Behind_HRI_Report-2014_English_Final.pdf.

Gómez, Carmen. "Junta Central Electoral Informa Inventario Extranjeros en Registro Civil." *Junta Central Electoral*. November 7, 2013. Accessed May 17, 2015. <http://beta.jce.gob.do/Noticias/category/comision-de-oficialias/junta-central-electoral-informa-inventario-extranjeros-en-registro-civil>.

Gonçalves Margerin, Marselha, Kalra Varma, Monika, and Sarmiento, Salvador. "Building a Dangerous Precedent in the Americas: Revoking Fundamental Rights of Dominicans." *Human Rights Brief* 21, no. 1 (2014): 9-16.

Guzmán Ariza Attorneys at Law. "An Overview of Dominican Labor Law." Accessed February 12, 2015. <http://www.drlawyer.com/publication/labor-law/>.

Haggerty, Richard A., ed. "The System of Government: Constitutional Development." *Dominican Republic: A Country Study* (1989). <http://countrystudies.us/dominican-republic/56.htm>.

———. "Haiti - Dominican Republic: Demonstration Front the Consulate of Haiti." *Haiti Libre*. January 29, 2015. Accessed April 2015. <http://www.haitilibre.com/en/news-13063-haiti-dominican-republic-demonstration-front-the-consulate-of-haiti.html>.

———. "Haiti President Speech on Dominican Republic to Caricom." *Haiti Sentinel*. November 30, 2013. Accessed May 5, 2015. <http://www.sentinel.ht/politics/articles/5231-haiti-president-speech-on-dominican-republic-to-caricom>.

———. "Haiti - Social: Arrest of 200 Haitians in the Dominican Republic." *Haiti Libre*. November 19, 2014. Accessed May 15, 2015, <http://www.haitilibre.com/en/news-12542-haiti-social-arrest-of-200-haitians-in-the-dominican-republic.html>.

———. “Haiti - Politic: A Joint Bilateral Meeting ‘Successful and Promising.’” *Haiti Libre*. March 28, 2015. Accessed May 14, 2015. <http://www.haitilibre.com/en/news-13488-haiti-politic-a-joint-bilateral-meeting-successful-and-promising.html>.

Hannam, Monique A. "Soy Dominicano -- The Status of Haitian Descendants Born in the Dominican Republic and Measures to Protect Their Right to a Nationality." Notes. *Vanderbilt Journal of Transnational Law* 47, no. 4 (August 2014): 1123 - 1166. Accessed May 27, 2015. <http://www.vanderbilt.edu/jotl/manage/wp-content/uploads/Hannam-Final.pdf>.

Horn, Maja. “Dictates of Dominican Democracy: Conceptualizing Caribbean Political Modernity.” *Small Axe: A Caribbean Journal of Criticism* 18 (2) (2014): 18-35.

Horne, Katelyn A. “Navigating Nationality: The Rights to Birth Registration and Nationality in Refugee magnet States.” Notes. *Columbia Journal of Transnational Law* (2014): 114-156.

Hufbauer, Gary Clyde, et al. *Economic Sanctions Reconsidered*. 3rd ed., Expanded ed. Washington, DC: Peterson Institute for International Economics, 2007.

Immigration and Refugee Board of Canada. “Haiti: Dual citizenship, including legislation; requirements and procedures for former Haitian citizens to re-acquire citizenship.” February 8, 2013. Accessed May 30, 2015. http://www.ecoi.net/local_link/250646/374731_de.html.

Inter-American Commission on Human Rights. *IACHR Wraps Up Visit To the Dominican Republic*. Press Release, No.97/13. December 6, 2013. http://www.oas.org/en/iachr/media_center/PReleases/2013/097.asp.

Inter-American Commission on Human Rights. *Progress and Challenges posed by Law 169/14 in the Dominican Republic*: Public Hearing of the Inter-American Commission on Human Rights (IACHR). 153rd sess. October 31, 2014.

———. “Interior y Policía advierte no habrá prórroga del plazo Ley de naturalización.” *Noticias Sin*. January 30, 2015. Accessed June 2, 2015. <http://www.noticiassin.com/2015/01/interior-y-policia-advierte-no-habra-prorroga-del-plazo-ley-de-naturalizacion/>.

International Organization for Migration (IOM). “About IOM.” Accessed May 29, 2015. <http://www.iom.int/about-iom>.

Junta Central Electoral. "Inventario Extranjeros Registro Del Estado Civil 1929-2007." November 1, 2013. Accessed May 17, 2015. <http://jce.gob.do/web/docs/InventarioExtranjerosRegistroCivilRD1929-2007.pdf>.

Kazazi, Mojtaba. *Burden of Proof and Related Issues: A Study on Evidence before International Tribunals*. The Netherlands: Kluwer Law International: 1996.

Kosinski, Stacie. "State of Uncertainty: Citizenship, Statelessness, and Discrimination in the Dominican Republic." *Boston College International and Comparative Law Review* 32, no. 2 (2009): 377-398.

Marsteintredet, Leiv. "Amendments, Replacements and Constitutional Instability? The Case of the Dominican Republic." *International Journal of Constitutional Law Blog* (October 3, 2014). <http://www.iconnectblog.com/2014/10/amendments-replacements-and-constitutional-instability-the-case-of-the-dominican-republic/>.

Medina, Danilo. "Discurso de Rendición de Cuentas del Presidente Danilo Medina-27 de Febrero de 2015." Presidencia República Dominicana. Independence Day speech before National Assembly. February 27, 2015. Accessed May 17, 2015. <http://es.scribd.com/doc/257129851/Discurso-de-Rendicion-de-Cuentas-del-Presidente-Danilo-Medina-27-de-Febrero-de-2015>.

———. "Medina: I apologized, not asked forgiveness, to offspring of Haitians." *Dominican Today*. October 8, 2013. Accessed April 14, 2015. <http://www.dominicantoday.com/dr/local/2013/10/8/49219/Medina-I-apologized-not-asked-forgiveness-to-offspring-of-Haitians>.

Migration Policy Institute (MPI). "International Migrant Population by Country of Origin and Destination." MPI. <http://www.migrationpolicy.org/programs/data-hub/charts/international-migrant-population-country-origin-and-destination>.

Ministerio de Interior y Policía. "Centros de Atención para el (PNRE)." Accessed May 17, 2015. <http://mip.gob.do/CentrosdeAtenci%C3%B3nparaelPNRE/tabid/423/Default.aspx>.

Ministerio de Interior y Policía. "Oficinas de Regularización trabajarán este fin de semana." January 29, 2015. Accessed May 17, 2015. <http://www.mip.gob.do/tabid/92/itemid/594/Oficinas-de-Regularizacin-trabajarn-este-fin-de.aspx>.

Minority Rights Group International. "World Directory of Minorities and Indigenous Peoples - Dominican Republic : Haitians." (2008). Accessed April 21, 2015. <http://www.refworld.org/docid/49749d2e21.html>.

Mundi. "index mundi." Retrieved from <http://www.indexmundi.com/g/g.aspx?c=ha&v=27>.

Núñez, Ali. "Advierte Plan Regularización es para extranjeros están en RD desde 2011." *Al Momento*. March 23, 2015. Accessed May 17, 2015. <http://almomento.net/advierte-plan-regularizacion-es-para-extranjeros-entraron-a-rd-antes-de-octubre-2011/>

Nwosu, Chiamaka and Batalova, Jeanne. "Immigrants from the Dominican Republic in the United States." *Migration Policy Institute*. July 18, 2014. Accessed April 28, 2015. <http://www.migrationpolicy.org/article/foreign-born-dominican-republic-united-states>.

Office of the United States Trade Representative. "CAFTA-DR (Dominican Republic-Central America FTA)." Accessed April 14, 2015. <https://ustr.gov/trade-agreements/free-trade-agreements/cafta-dr-dominican-republic-central-america-fta>.

Office of Trade and Labor Affairs, Bureau of International Labor Affairs. U.S. Department of Labor. "Public Report of Review of U.S. Submission 2011-03 (Dominican Republic)." September 27, 2013. <http://www.dol.gov/ilab/reports/pdf/20130926DR.pdf>.

Ogando Lora, Ivan. "Dominican Republic – CARICOM: Unfinished Business." *GREAT Insights*. October 2013.

Olivier, Louis-Joseph. "Déportation Massive, Assassinat, Chasse aux Haïtiens en République Dominicaine." *Le Nouvelliste*. February 12, 2015. Accessed April 5, 2015. <http://lenouvelliste.com/lenouvelliste/article/141472/Deportation-massive-assassinat-chasse-aux-Haitiens-en-Republique-dominicaine>.

———.Online Newspapers. "Dominican Republic Newspapers." Accessed May 6, 2015. <http://www.onlinenewspapers.com/domrep.htm>.

Organization for Economic Co-operation and Development (OECD). "Development Data - United States." Accessed April 14, 2015. <https://data.oecd.org/united-states.htm#profile-development>.

Organization of American States (OAS). "IACHR Condemns Judgment of the Constitutional Court of the Dominican Republic." Press Release No. 130/14. November 6, 2014. Accessed April 13, 2015. http://www.oas.org/en/iachr/media_center/PReleases/2014/130.asp.

Open Society Justice Initiative. *Bueno v. Dominican Republic*. Last updated June 1, 2010. Accessed June 12, 2015. <http://www.opensocietyfoundations.org/litigation/bueno-v-dominican-republic>.

Open Society Justice Initiative. "Dominicans of Haitian Descent and the Compromised Right to Nationality. *Report Presented to the Inter-American Commission on Human Rights on the Occasion of its 140th Session*." (October 2010). Accessed February 10, 2015. <http://www.opensocietyfoundations.org/sites/default/files/Dominican-Republic-Nationality-Report-ENG-20110805.pdf>.

Open Society Justice Initiative. "Dominican Republic Court Ruling Raises Mass Statelessness Threat." Press Release. October 2, 2013.
<http://www.opensocietyfoundations.org/press-releases/dominican-republic-court-ruling-raises-mass-statelessness-threat>.

Orozco, Manuel. "Understanding the Remittance Economy in Haiti." Paper commissioned by the World Bank. March 15, 2006. Accessed May 27, 2015.
<http://www.thedialogue.org/publicationfiles/understanding%20the%20remittance%20economy%20in%20haiti.pdf>.

———. *Oxford Bibliographies*. online ed., s.v. "Nationality and Statelessness."

Patrick, Jonathan. "Haiti Earthquake Response Emerging Evaluation Lessons." *OECD Evaluation Insights*, no. 1 (2011). Accessed April 20, 2015.
<http://www.oecd.org/countries/haiti/50313700.pdf>.

Pellerano & Herrera. "Doing Business in the Dominican Republic" (last updated September 2011). <http://www.phlaw.com/imagen?file=articulos/196/196>.

Péralte, Thomas. "Haiti: Largest Anti-Government Demonstration to Date Demands President Michel Martelly's Resignation." *Global Research*. November 17, 2014. Accessed April 20, 2015. <http://www.globalresearch.ca/haiti-largest-anti-government-demonstration-to-date-demands-president-michel-martellys-resignation/5416581>.

Petrozziello, Allison J. "Haitian Construction Workers in the Dominican Republic: An Exploratory Study on Indicators of Forced Labor" report prepared by the *Observatorio de Migrantes del Caribe (OBMICA)* for ICF International, Santo Domingo, Dominican Republic (September 2012). Accessed March 29, 2015.
<http://www.obmica.org/index.php/publicaciones/informes/24-haitian-construction-workers-in-the-dominican-republic-an-exploratory-study-on-indicators-of-forced-labor?tmpl=print>.

Planas, Roque. "Dominican Journalists Claim Death Threats for Covering Citizenship Debate," *The Huffington Post*. February 12, 2015. Accessed February 20, 2015.
http://www.huffingtonpost.com/2015/02/12/dominican-journalists-death-threats_n_6674160.html.

Plataforma 169. Informe No. 6: Estado del proceso de inscripción, según los actos Notariales. 2014. [in English: Platform 169. Report No. 6: State of the process of registration, according to the Notary acts].

Plataforma 169. Informe No. 7: Informe de situaciones observadas en las Unidades del Ministerio de Interior y Policía, durante el proceso de aplicación de la Ley 169-14 para las personas del Grupo B. October 3, 2014. [in English: Platform 169. Report No. 7: Report of the observed situations in the Ministry of Interior and Police Units, during the application process of Law 169-14 for the people of Group B].

Presidencia República Dominicana. “Declaración. Gobierno dominicano rechaza la Sentencia de la Corte Interamericana de Derechos Humanos.” Presidencia República Dominicana. October 24, 2014. Accessed June 12, 2015. <http://www.scribd.com/doc/244178548/Declaracion-Gobierno-dominicano-rechaza-la-Sentencia-de-la-Corte-Interamericana-de-Derechos-Humanos>.

PricewaterhouseCoopers. “Doing Business: A Guide for the Dominican Republic.” (January 2014). <https://www.pwc.com/ia/es/publicaciones/assets/doing-business/doing-business-2013-4-rep-dominicana.pdf>.

Quintana, Francisco. “Inter-American Court condemns unprecedented situation of statelessness in the Dominican Republic.” Blog. *European Network on Statelessness*. October 27, 2014. Accessed June 12, 2015, <http://www.statelessness.eu/blog/inter-american-court-condemns-unprecedented-situation-statelessness-dominican-republic>.

Robert F. Kennedy Center for Justice and Human Rights. “Memo: Constitutional Changes in the Dominican Republic.” *Robert F. Kennedy Center for Justice and Human Rights*. February 5, 2010. <http://rfkcenter.org/memo-constitutional-changes-in-the-dominican-republic>.

Robert F. Kennedy Center for Justice and Human Rights. “Robert F. Kennedy Human Rights expresses concern over massive expulsions from the Dominican Republic; urges government to reform failed Naturalization Law.” *Robert F. Kennedy Center for Justice and Human Rights*. February 2, 2015. Accessed June 2, 2015. <http://rfkcenter.org/robert-f-kennedy-human-rights-expresses-concern-over-massive-expulsions-from-the-dominican-republic-urges-government-to-reform-failed-naturalization-law>.

Sanders, Ronald. “CARICOM Not Ready for DR.” *The Trinidad Guardian Newspaper*. August 25, 2005. Accessed April 14, 2015. <http://legacy.guardian.co.tt/archives/2005-08-31/bussguardian27.html>.

Sangro Blasco, Alicia. “IOM Supports Haitians Applying for Regularization in Dominican Republic.” November 21, 2014. Accessed February 26, 2015. <http://www.iom.int/news/iom-supports-haitians-applying-regularization-dominican-republic>.

———. “The Dominican Republic and Caricom.” *Stabroek News*. June 20, 2012. Accessed April 14, 2015. <http://www.stabroeknews.com/2012/opinion/editorial/06/20/the-dominican-republic-and-caricom/>.

The PRS Group. “Dominican Republic Country Conditions for Investment & Trade” in *Political Risk Yearbook: Dominican Republic Country Report*. The PRS Group. January 1, 2015. EBSCOhost (100605609).

The PRS Group. “Dominican Republic Country Forecast” in *Political Risk Yearbook: Dominican Republic Country Report*. The PRS Group. January 1, 2015. EBSCOhost (100605609).

The Regional Statistics Programme, ed. *CARICOM's Trade: A Quick Reference to Some Summary Data*. 5th ed. Guyana: CARICOM Secretariat. 2013.

The World Bank. “Country Overview- Haiti.” (2015).
<http://www.worldbank.org/en/country/haiti/overview>.

The World Bank database. <http://data.worldbank.org/>.

The World Bank. “Dominican Republic Takes Important Steps to Promote more Inclusive Growth.” October 23, 2014. Accessed April 6, 2015.
<http://www.worldbank.org/en/news/press-release/2014/10/23/dominican-republic-takes-steps-to-promote-inclusive-growth>.

The World Bank. “World Development Indicator.”
(2013). <http://data.worldbank.org/indicator/BX.TRF.PWKR.DT.GD.ZS>.

The World Bank Group. “Ease of Doing Business in the Dominican Republic.” data from *Doing Business 2015*. The World Bank Group.
<http://www.doingbusiness.org/data/exploreeconomies/dominican-republic/>.

The World Bank Remittance Data. Annual Remittances Data, Haiti.
<http://econ.worldbank.org/WBSITE/EXTERNAL/EXTDEC/EXTDECPROSPECTS/0,,contentMDK:22759429~pagePK:64165401~piPK:64165026~theSitePK:476883,00.html>.

Transparency International. *Corruption Perceptions Index 2014*. Transparency International (2014). <http://www.transparency.org/cpi2014/results>.

UHY International Ltd. “Doing Business in the Dominican Republic.” October 2012. Accessed April 6, 2015. <http://www.uhy.com/wp-content/uploads/Doing-Business-in-Dominican-Republic.pdf>.

United Nations High Commissioner for Refugees (UNHCR). “UNHCR welcomes Dominican Republic President’s bill as positive step in easing statelessness situation.” Press Release. *UNHCR*. May 16, 2014. <http://www.unhcrwashington.org/media-news/press-releases/unhcr-welcomes-dominican-republic-president%E2%80%99s-bill-positive-step-easing>.

United Nations High Commissioner for Refugees (UNHCR). “UNHCR concerned by potential impact of Dominican court decision on persons of Haitian descent.” Press Release. *UNHCR*. October 1, 2013. Accessed May 29, 2015.
<http://www.unhcr.org/524c0c929.html>.

United Nations High Commissioner for Refugees (UNHCR). "UNHCR Urges Dominican Republic to Restore Nationality." Press Release. *UNCHR*. December 5, 2013. Accessed April 15, 2015. <http://www.unhcr.org/52a0a59b9.html>.

United Nations Human Rights Committee. *Concluding Observations of the Human Rights Committee: Dominican Republic*. U.N. Doc. CCPR/CO/71/DOM (April 26, 2001). <http://www.refworld.org/docid/3be11f544.html>.

United Nations Human Rights Council, *National report submitted in accordance with paragraph 15(a) of the annex to Human Rights Council resolution 5/1 : [Universal Periodic Review] : Dominican Republic*. U.N. Doc. A/HRC/WG.6/6/DOM/1 (August 27, 2009). Accessed June 11, 2015. http://www.univie.ac.at/bimtor/dateien/dominican_republic_upr_2009_report.pdf.

United Nations Human Rights Council. *Report of the Working Group on the Universal Periodic Review: Dominican Republic*. U.N. Doc. A/HRC/26/15 (April 4, 2014). Accessed April 20, 2015. <http://www.ohchr.org/EN/HRBodies/UPR/Pages/DOSession18.aspx>.

United Nations Office of the High Commissioner on Human Rights. "Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework." *United Nations*. HR/PUB/11/04 (2011). http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf.

United States Government Accountability Office. "Status of Funds for the Mérida Initiative." Accessed April 14, 2015. <http://www.gao.gov/new.items/d10253r.pdf>.

United States Department of Labor. "2013 Findings on the Worst Forms of Child Labor: Dominican Republic." 2013. Accessed February 12, 2015. http://www.dol.gov/ilab/reports/child-labor/dom_republic.htm.

United States Department of State. "Caribbean Basin Security Initiative." Accessed April 14, 2015. <http://www.state.gov/p/wha/rt/cbsi/>.

United States Department of State. "Congressional Presentation Document for Fiscal Year 2015." June 26, 2014. Accessed April 14, 2015. <http://www.state.gov/j/prm/releases/docsforcongress/228594.htm>.

United States Department of State. "Proposed Refugee Admissions for Fiscal Year 2015." September 18, 2014. Accessed April 14, 2015. <http://www.state.gov/j/prm/releases/docsforcongress/231817.htm>.

United States Department of State. "State-USAID Joint Strategic Goal Framework." April 2, 2014. Accessed April 28, 2015. <http://www.state.gov/s/d/rm/rls/dosstrat/2014/html/225783.htm>.

United States Department of State. "U.S. Relations with the Dominican Republic." November 18, 2013. Accessed April 14, 2015. <http://www.state.gov/r/pa/ei/bgn/35639.htm>.

Volz, Dustin. "Illegal Haitian Workers in Demand." Stateless in the Dominican Republic. *Walter Cronkite School of Journalism and Mass Communication*. Accessed February 12, 2015. <http://cronkite.asu.edu/buffett/dr/labor.html>.

Wright, Pam. "The Origin of the Dominican Batey." *Children of the Nations*. November 14, 2007. Accessed May 12, 2015. <https://cotni.org/news/dominican-republic/2007/11/14/origin-dominican-batey>.

———. XE Currency Converter: Euro to USD.

———. XE Currency Converter: USD to Dominican Peso.

Cases

Bueno v. Dominican Republic. Inter-American Commission on Human Rights. *Petition Filed*. (June 2010).

Case of Expelled Dominicans and Haitians vs. The Dominican Republic, Inter-American Court of Human Rights (IACtHR). August 28, 2014. Accessed June 11, 2015, http://corteidh.or.cr/docs/casos/articulos/seriec_282_ing.pdf.

Case of the Yean and Bosico Children v. The Dominican Republic. Inter-American Court of Human Rights (IACtHR). September 8, 2005. Accessed June 11, 2015. <http://www.refworld.org/docid/44e497d94.html>.

República Dominicana Tribunal Constitucional. *Sentencia TC/0168/13*. Public Law TC/0168/13. (September 23, 2013). Available at <http://tribunalconstitucional.gob.do/sites/default/files/documentos/Sentencia%20TC%200168-13%20-%20C.pdf>.

República Dominicana Tribunal Constitucional. *Sentencia TC/0256/14*. (2014). Available at <http://www.tribunalconstitucional.gob.do/sites/default/files/documentos/Sentencia%20TC%200256-14%20C.pdf>.

International Law

———. American Convention on Human Rights (ACHR), 1969.

———. Convention on the Elimination of Discrimination against Women (CEDAW). 1979.

- . Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW). 1990.
- . Convention on the Rights of Persons with Disabilities (CRPD). 2006.
- . Convention on the Reduction of Statelessness. 1961.
- . International Convention on the Elimination of All Forms of Racial Discrimination (CERD). 1965.
- . International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW). 1990.
- . International Covenant on Civil and Political Rights (ICCPR). 1966.
- . United Nations Convention on the Rights of the Child (CRC). 1989.
- . Universal Declaration of Human Rights (UDHR). 1948.
- . Vienna Convention on the Law of Treaties (VCLT). 1969.

Domestic Legislation and Regulations

- . 1929 Constitution of the Dominican Republic. *Available at* <http://www.consultapopular.gov.do/documentos/revision.1929.06.20.pdf>.
- . 1987 Constitution of Haiti. English language version *available at* Political Database of the Americas. Georgetown University. (last updated July 9, 2011). <http://pdba.georgetown.edu/Constitutions/Haiti/haiti1987.html>.
- . 2010 Constitution of the Dominican Republic. English language translation *available at* Constitute, “Dominican Republic’s Constitution of 2010,” (2012), https://www.constituteproject.org/constitution/Dominican_Republic_2010.pdf.
- . 2012 Constitution of Haiti.
- . Circular No. 17 (March 29, 2007).

National Legislative Bodies / National Authorities. “República Dominicana: Reglamento de migración No. 279 de 1939.” (May 12, 1939). [in English: Migration Regulation No. 279 of 1939]. <http://www.refworld.org/docid/3dbe9f374.html>.

- . Propuesta de proyecto de decreto reglamentario relativo al plan nacional de regularización de extranjeros en situación migratoria irregular. (2013). [in English: Project proposal for a regulatory decree concerning the national plan of regularization of foreigners in an irregular migratory situation].

República Dominicana. Código de Trabajo de la República Dominicana 2007. [in English: Labor Code of the Dominican Republic]. Accessed March 17, 2015. http://codigodetrabajo.do/wp-content/uploads/2013/09/Codigo_Trabajo_Republica_Dominicana.pdf.

República Dominicana. Decreto 250-14: Reglamento de aplicación de la Ley 169-14, July 23, 2014. [in English: Decree 250-14: Regulations for the application of Law 169-14].

República Dominicana. Decreto 327-13: Plan Nacional de Regularización de extranjeros en situación migratoria irregular en la República Dominicana. Presidential Decree U.S.C. (2013). [in English: Decree 327-13: National Plan for the Regularization of foreigners in an irregular migratory situation in the Dominican Republic].

República Dominicana. Ley de Inmigración, No. 95. (1939). [in English: Immigration Law No. 95]. http://poderjudicial.gob.do/documentos/PDF/leyes/LEY_ley_no.95.pdf.

República Dominicana. Ley General de Migración, No. 285-04 (2004). [in English: General Law on Migration, No. 285-04]. http://www.mip.gob.do/Portals/0/docs/Marco_Legal_Transparencia/2013Actualizacion/Ley%20No.285-04%20Migraci%C3%B3n.pdf.

República Dominicana. Ley No. 137-11 (2011). [in English: Law No. 137-11]. http://www.tribunalconstitucional.gob.do/sites/default/files/documentos/Ley_137-11.pdf

República Dominicana: Ministerio de Interior y Policía República Dominicana. Requisitos para el plan nacional de regularización de extranjeros 2014. [in English: Requirements for the National Plan for the Regularization of Foreigners].

———. Resolution No. 12-2007 (December 10, 2007).

Appendix 1: Abbreviations

ABA ROLI – American Bar Association Rule of Law Initiative

ACHR – American Convention on Human Rights

CAFTA-DR – Dominican Republic-Central America Free Trade Agreement

CARICOM – Caribbean Community

CARIFORUM – Caribbean Forum

CBSI – Caribbean Basin Security Initiative

CEDAW – Convention on the Elimination of All Forms of Discrimination against Women

CEFASA – *Centro de Formación y Acción Social y Agraria* [in English: Center for Training and Social and Agrarian Action]

CEJIL – Center for Justice and International Law

CELAC – *Comunidad de Estados Latinoamericanos y Caribeños* [in English: Community of Latin American and Caribbean States]

CERD – International Convention on the Elimination of All Forms of Racial Discrimination

CERTV – *Corporación Estatal de Radio y Televisión* [in English: State Radio and Television Corporation]

CMW – Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

CRC – United Nations Convention on the Rights of the Child

EPA – Economic Partnership Agreement

EU – European Union

GDP – Gross Domestic Product

IACHR – Inter-American Commission on Human Rights

IACtHR – Inter-American Court of Human Rights

ICCPR – International Covenant on Civil and Political Rights

ICJ – International Court of Justice

IOM – International Organization for Migration

JCE – *Junta Central Electoral* [in English: Central Electoral Board]

MENAMIRD – *Mesa Nacional para las Migraciones y Refugiados en República Dominicana*

MINUSTAH - United Nations Stabilization Mission in Haiti

MOSCTHA – *Movimiento Social-Cultural de los Trabajadores Haitianos* [in English: The Socio-Cultural Movement for Haitian Workers]

MUDHA – *El Movimiento de Mujeres Dominico-Haitiana* [in English: Movement of Dominican-Haitian Women]

NGO – Non-governmental Organization

OAS – Organization of American States

OBMICA – *Observatorio de Migrantes del Caribe* [in English: Caribbean Migrants Observatory]

PIDIH – *Programme d’Identification et de Documentations aux Immigrants Haïtiens* [in English: The Haitian Government’s Identification and Documentation Program for Haitian Immigrants]

PLD – Dominican Liberation Party

PNRE – *Plan Nacional De Regularización De Extranjeros En Situación Migratoria Irregular* [in English: National Plan to Regularize Foreigners in an Irregular Migratory Situation]

PRD – Dominican Revolutionary Party

PRS – Political Risk Services

PRSC – Reformist Social Christian Party

UNHCR – United Nations High Commissioner for Refugees

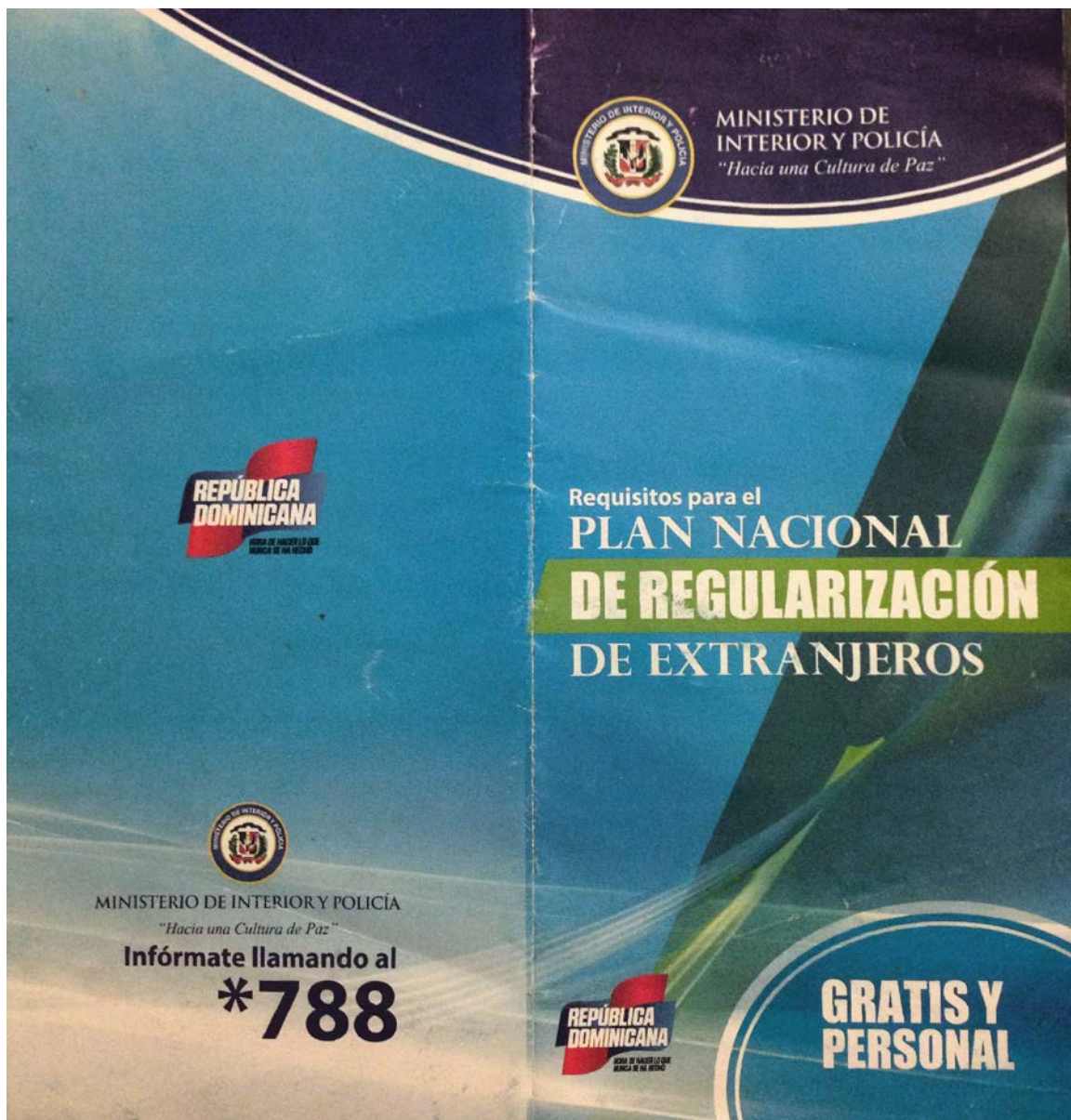
UPR – Universal Periodic Review

USD – United States Dollar

VCLT – Vienna Convention on the Law of Treaties

Appendix 2: Documents

PNRE Brochure



TODA PERSONA QUE DESEE INGRESAR AL PNRE DEBE ACREDITAR SU IDENTIDAD Y CUMPLIR CON AL MENOS DOS REQUISITOS DE CADA EJE BÁSICO

1 DATOS QUE COMPROBEN EL TIEMPO DE RADICACIÓN DEL EXTRANJERO EN EL PAÍS

La radicación tendrá que ser probada mediante la satisfacción de al menos dos (2) de los siguientes documentos:

1. Documentos que prueben trabajo regular, el cual se acredita con la presentación de al menos dos (2) de los siguientes documentos:

- a) Prueba de pagos de salario;
- b) Certificación de nómina expedida por el Ministerio de Trabajo, en el cual figure registrado el extranjero solicitante;
- c) Carné de empleado de empresa dominicana;
- d) Declaración jurada ante notario del empleador de que el extranjero es su empleado, con indicación de la fecha de su contratación;

2. Hijos nacidos y declarados en la República Dominicana, con anterioridad a la puesta en vigencia del libro especial de extranjería.

3. Domicilio y/o domicilios conocidos durante el tiempo de permanencia, lo cual se acredita con la presentación de al menos dos (2) de los siguientes documentos:

- a) Contrato de alquiler de vivienda a nombre del extranjero solicitante;
- b) Recibos de pago de alquileres por no menos de seis (6) meses, a nombre del extranjero solicitante;
- c) Al menos un (1) recibo de pago o contrato de servicios contratados a su nombre en la República Dominicana tales como servicio de energía eléctrica, telefonía, televisión por cable, servicio de agua o, recogida de basura al Ayuntamiento del lugar de su supuesta residencia;
- d) Certificación de vecindad a nombre del extranjero solicitante, expedido por la Junta de Vecinos correspondiente, debidamente registrada en los ayuntamientos y legalizadas ante el Notario Público.
- e) Acto de Notoriedad, instrumentado por un oficial público, ante siete (7) testigos hábiles, vecinos del extranjero solicitante que den fe de conocerle, debidamente legalizado ante la Procuraduría General de la República;
- f) La afiliación social, presentanción de al menos uno (1) de los siguientes documentos:

- 1) Certificación o constancia expedida por entidades sociales en la comunidad de residencia, tales como iglesias o clubes deportivos de que el extranjero solicitante pertenece a dicha comunidad;
- 2) Certificación o constancia de vecindad expedido por la Junta de Vecinos correspondiente, debidamente registrada en el ayuntamiento y legalizada ante Notario mediante la cual se certifica que el extranjero solicitante pertenece a la comunidad.

4. Documento proveniente de autoridad pública expedido a nombre del solicitante o en donde se mencione su nombre, en ocasión de un procedimiento administrativo o judicial.

5. Constancia de escolaridad o de estudios superiores en centro de estudio Dominicano expedida por una institución debidamente autorizada y registrada por el Ministerio de Educación o el Ministerio de Educación Superior Ciencia y Tecnología o institución dominicana que haya capacitado al extranjero.

6. Convivencia pública y notoria con dominicano (Declaración jurada de soltería y convivencia) hecha por ante Notario Público por el extranjero solicitante y su pareja consensual dominicana. Hecha ante siete (7) testigos dominicanos hábiles.

7. Referencias comerciales del extranjero, expedidas por entidades comerciales o comerciantes debidamente provistas de Registro Nacional de Contribuyente (RNC).

8. Propiedad de bienes muebles que permitan establecer la presunción de su arraigo, por el periodo de tiempo que supuestamente tiene residiendo en República Dominicana. Se prueba por al menos dos (2) de los siguientes documentos:

- a) Facturas y recibos, de establecimientos comerciales dominicanos debidamente identificados con su Registro Nacional de Contribuyentes (RNC);
- b) Recibos de pagos de alquiler a nombre del extranjero solicitante;
- c) Constancias de pago de tarjetas de crédito a nombre del extranjero solicitante;
- d) Matricula de vehículo de motor debidamente expedida por la Dirección General de Impuestos Internos (DGII);
- e) Cuenta bancaria a nombre del extranjero solicitante aperturada con anterioridad a la entrada en vigencia del presente plan;

9. Copia de duplicado de Certificado de Título que ampare un inmueble regularmente inscrito en el Registro de Títulos, acompañado de certificación expedida por el Registrador de Títulos o mediante Cintillo de declaración de mejoras expedido por la Dirección General del Catastro Nacional a nombre del extranjero;

10. Copia del pasaporte del solicitante donde conste el ingreso a la República Dominicana por algunos de los puertos de entrada al territorio nacional.



2 DATOS QUE COMPROBEN LOS VINCULOS CON LA SOCIEDAD DOMINICANA

Cumplir con dos de las condiciones de evaluación de los vínculos con la sociedad:

1. Hijo nacido y declarado en la República Dominicana y radicado en el país;
2. Constancia de estudios en centro de estudio dominicano;
3. Competencia del idioma español escrito;
4. Competencia del idioma español hablado;
5. Certificado de no antecedentes penales en la R.D.;
6. Domicilio conocido durante todo tiempo de la supuesta permanencia; y
7. Convivencia pública y notoria con dominicano.

Prueba de los vínculos con la sociedad. Las condiciones de vinculación con la sociedad dominicana del extranjero a través de las siguientes pruebas:

1. La existencia de hijos nacidos en la República Dominicana y declarado en la República Dominicana, se prueba con certificado de transcripción de nacimiento expedido por la dirección de la oficina central del estado civil, a través de cualquiera de sus dependencias;
2. La constancia debe de haber cursado estudio en centro dominicano, debe ser expedida por una institución debidamente autorizada y registrada;
3. La constancia de escolaridad en centro de estudio dominicano debe ser expedida por institución debidamente autorizada y registrada por el Ministerio de Educación;

4. La competencia del idioma español hablado se verificará en entrevista personal;

5. La competencia del idioma español escrito se verificará en una evaluación;

6. El certificado de no antecedentes penales en la República Dominicana emitido por la Procuraduría General de la República;

7. El domicilio conocido y estable durante todo tiempo de la permanencia, se prueba con la presentación de al menos dos (2) de los siguientes documentos:

- a) Contrato de alquiler de vivienda a nombre del extranjero solicitante;
- b) Recibos de pago de alquileres por no menos de seis (6) meses, a nombre del extranjero solicitante;
- c) Constancia de contrato o recibos de pago de servicios contratados a su nombre en la República Dominicana, tales como servicio de energía eléctrica, telefonía, televisión por cable, servicio de agua o, recogida de basura al Ayuntamiento del lugar de su supuesta residencia;
- d) Certificación de vecindad a nombre del extranjero solicitante, expedido por la Junta de Vecinos correspondiente, debidamente registradas en los ayuntamientos y legalizadas ante Notario Público;
- e) Acto de Notoriedad, instrumentado por un Oficial Público, ante siete (7) testigos hábiles, vecinos del extranjero solicitante que den fe de conocerle, debidamente legalizado ante la Procuraduría General de la República;

8. La convivencia pública y notoria con dominicano al que se refiere el Plan debe reunir las mismas características exigidas por el Reglamento, el cual se prueba con la presentación de declaración jurada de soltería y convivencia hecha por ante Notario Público por el extranjero solicitante y su pareja consensual dominicana, hecha ante siete (7) testigos dominicanos hábiles o extranjeros residentes;

3 DATOS QUE COMPRUEBEN LAS CONDICIONES LABORALES Y SOCIO-ECONÓMICAS

Quedan establecidas las siguientes condiciones y valores, como parámetros de evaluación de las condiciones laborales y socio-económicas para que el extranjero que haya ingresado ilegalmente en el territorio de la República Dominicana o aquel extranjero que haya ingresado legalmente, pero haya sobrepasado el tiempo por el que fue autorizado a permanecer en el territorio:

1. Grado educativo ya sea superior, medio o básico;
2. Propiedad de inmuebles;
3. Trabajo regular durante el tiempo de su supuesta permanencia;
4. Propiedad de bienes muebles;
5. Oficio técnico certificado;
6. Cuentas bancarias;
7. Dos (2) referencias comerciales;

Pruebas de las condiciones laborales y socio-económicas. Las condiciones laborales y socio-económicas del extranjero en situación irregular se demuestra a través de al menos dos (2) de las siguientes pruebas documentales:

1. Los grados superiores, secundarios y primarios se prueban mediante certificación expedida por las instituciones correspondientes debidamente certificadas;
2. El grado de un oficio técnico se prueba mediante certificación que expida la institución que haya capacitado al extranjero;
3. La propiedad de inmuebles se prueba mediante copia de duplicado de certificado de título que ampare un inmueble regularmente inscrito en el Registro de Títulos, de certificación expedida por el Registrador de Títulos o mediante Cintillo de Declaración de mejoras expedidos por la Dirección General de Catastro Nacional a nombre del extranjero;
4. La propiedad de bienes muebles se prueba por al menos dos (2) de los siguientes documentos:
 - a) Facturas y recibos, de establecimientos comerciales dominicanos debidamente identificados con su Registro Nacional del Contribuyente (RNC) de bienes adquiridos que sobrepasen los diez mil pesos dominicanos (RD\$10,000.00);
 - b) Recibos de pagos de alquiler de inmuebles cuya sumatoria sobrepase los diez mil pesos dominicanos (RD\$10,000.00) a nombre del extranjero solicitante;
 - c) Constancias de pago de tarjetas de crédito a nombre del extranjero solicitante con pagos, cuya sumatoria sobrepase los diez mil pesos dominicanos (RD\$10,000.00);
5. Matrícula de vehículo de motor debidamente expedida por la Dirección General de Impuestos Internos a nombre del extranjero solicitante;
6. La existencia de cuenta bancaria a nombre del extranjero se prueba mediante certificación expedida por la entidad bancaria correspondiente y la misma debe dar constancia de si presenta movimientos regulares durante al menos dieciocho (18) meses y si presenta un balance que sobrepase los diez mil pesos dominicanos (RD\$10,000.00);

7. El trabajo regular, se prueba mediante la presentación de al menos uno (1) de los siguientes documentos:

- a) Prueba de pagos de salario;
- b) Certificación de nómina expedida por el Ministerio de Trabajo, en el cual figure registrado el extranjero solicitante;
- c) Carné de empleado de empresa dominicana;
- d) Declaración jurada ante el notario público del empleador de que el extranjero es su empleado, con indicación de la fecha de su contratación;

8. Las referencias comerciales del extranjero en situación migratoria irregular deben ser dadas por entidades comerciales o comerciantes debidamente provistas de Registro Nacional de Contribuyente(RNC).

4 DATOS QUE COMPRUEBEN EL NÚCLEO FAMILIAR

Núcleos familiares con hijos nacidos en el territorio. La solicitud y el expediente de regularización de un grupo familiar compuesto por extranjeros con hijos menores de edad, radicados, que ingresaron ilegalmente en que aleguen que el hijo a nacido en territorio de la República Dominicana, se tramitará conjuntamente con el de sus padres y a ella se anexarán los siguientes documentos:

1. Acta certificada de transcripción de nacimiento expedido por la dirección de la oficina central del estado civil y sus dependencias;
2. Si el hijo menor de edad se encuentra en edad escolar, constancia de escolaridad en centro de estudio dominicano.
3. En el caso del cónyuge, presentar acta de matrimonio certificada y legalizada o convivencia pública y notoria con dominicano (declaración jurada de soltería y convivencia hecha por ante Notario Público por el extranjero solicitante y su pareja consensual hecha ante siete (7) testigos dominicanos hábiles;

***Para caso de niños, niñas y adolescente presumiblemente extranjeros, no acompañados, que se encuentren en un centro de acogida bajo supervisión del Consejo Nacional para la Niñez (CONANI), si el mismo ha sido objeto de una medida de protección, el CONANI remitirá al Ministerio de Interior y Policía lo siguiente:**

- a) Copia de documentos de identidad, en caso de que existieren;
- b) Copia de la Medida de Protección dictada en relación con el menor;
- c) Datos de ubicación del centro de acogida en que se encuentre; y
- d) Una (1) fotografía a color.

En los casos de tramitación por núcleo familiar, el cabeza de familia deberá cumplir con los renglones anteriores.

Letter from the Embassy of the Dominican Republic to The Paul H. Nitze School of Advanced International Studies - Johns Hopkins University



EMBAJADA DE LA REPÚBLICA DOMINICANA
Washington, D.C.

EDW-0433-15

Ref: Conclusion of the National Regularization Plan for Foreigners in the Dominican Republic

The Embassy of the Dominican Republic presents its compliment to the Paul H. Nitze School of Advanced International Studies of Johns Hopkins University and has the honor to inform that, as planned, the regularization process for foreigners in an irregular migratory status residing in the Dominican Republic will conclude on June 17, 2015, and as stated by President Danilo Medina, the process has been implemented for the last 18 months, and the deadline will not be extended. In this regard, it is important to note that the Plan for regularization and Special Law 169-14 have rendered positive results: so far, a total of more than 320,000 individuals will enter the Dominican civil registry, which includes those under the Regularization Plan and persons referred to as Group A and Group B.

The Regularization Plan is the first census conducted to determine the correct number of foreigners residing in the country, and to date, more than 240,000 individuals have submitted their applications. Most of the foreigners that have not presented themselves for registration already enjoy legal status; many of these are students enrolled in public and private Dominican universities and employees from the tourism, construction and agriculture sector. The implementation process has throughout received the unanimous support from the International Organization of Migration, and the preliminary figures have exceeded the projections of Dominican authorities.

This group of individuals lived their everyday in the Dominican Republic under the threat of possible deportation, but now they will possess a Government issued ID (see attached) that grants two years of legal residence. This allotted period of time provides applicants with an opportunity to complete their pending process, which consists of submitting required records, in order to lawfully attain permanent residence in the Dominican Republic.

The Regularization Plan also provides another occasion for individuals who were born in the country, that missed the extended deadline of February 1, 2015, to adhere to the Special Law 169-14, which granted expedited citizenship to those who can provide records that prove their birthplace in the Dominican Republic, or that one parent was legally residing in the country during declaration of birth. Drafted by the Dominican Presidency and approved by the Congress, Law 169-14 sought to provide a humanitarian solution to those affected by the September 23, 2013 ruling of the Constitutional Tribunal, concerning the status of those foreigners already enrolled in the civil registry. The Special Law had automatically rectified the status of nearly 35,000 that belonged in the civil registry, and their 50,000 children born in the country, like the case of Juliana Deguis Pierre and her family.

The Dominican Government will spend almost \$ 30 million dollars during this regularization process, guaranteeing accessibility via 24 registration centers across the different provinces, and representing a zero cost for applicants. These resources were invested in educational and marketing campaigns nationwide, and for employees that operated the registration centers, as well as the three mobile units that served those areas where it was not possible to establish a permanent office.

1715 22nd Street NW, Washington, D.C. 20008 • Tel. (202) 332 - 6280 • Fax: (202) 265 - 8057
edominicana@us.screx.gov.do • www.domrep.org



EMBAJADA DE LA REPÚBLICA DOMINICANA
Washington, D.C.

The international community, a keen observer of this entire process, should be mindful of the efforts of the Dominican Government to address its migration issue. President Medina has assured - and has kept his promise - that no deportations would take place as a result of the Constitutional Tribunal ruling, with an utmost respect for human and civil rights.

Since November 2013, the Dominican Republic and Haiti are engaged in a historic dialogue that has produced a series of binding agreements and joint communiqués on matters beyond the immigration issue. The high level meetings between the Heads of State and the Ministers of Foreign Affairs include discussions of national interest, such as security, the environment, tourism, customs and investment. The meeting on March 15, 2015, revealed important commitments from the Haitian Government, to provide the documents that are required by their nationals that live in Dominican Republic in order to comply with the application to the regularization plan.

More recently, representatives of the private sector from both countries have embarked in a development project along the border, from the northern point to the south coast, to create a climate for investment to generate employment and to improve standards of living for all the surrounding communities. For instance, the CODEVI project in the Haitian town of Ouanaminthe currently employs more than 7,500 individuals in manufacturing facilities that benefit from the Hope/Help Act.

Both Haiti and the Dominican Republic share an island which population continues to grow over 21 million habitants. Bilateral trade between the two nations reaches levels of \$ 1.8 billion dollars, with a great potential for growth. It is important to note, Haitian nationals and foreigners of Haitian descent that are employed in the country, send back \$ 500 million dollars of remittances a year to Haiti, an amount that represents more than 5% of the Haitian economy's Gross Domestic Product.

Lastly, both Governments continue the work closely to overcome any political strife. The efforts by the Haitian Government to provide key documentation for their nationals residing in Dominican territory are vital for the bilateral agenda. However, the dialogue and the positive work carried out, to seek a sustainable solution for the benefit of their people, demonstrates the countries' objectives to shape a future together, despite the different economic scenarios on both side of the border.

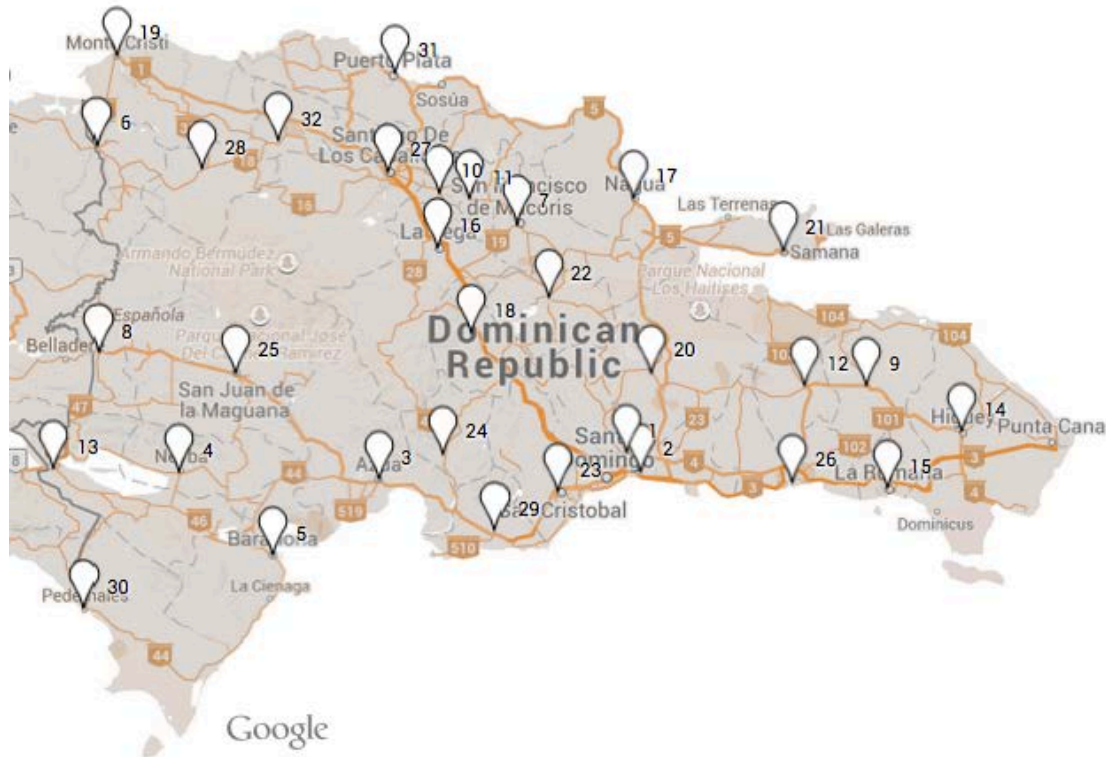
The Embassy of the Dominican Republic avails itself of this opportunity to renew to the Paul H. Nitze School of Advanced International Studies of Johns Hopkins University the assurances of its highest consideration.



Washington, D.C. June 10, 2015

Appendix 3: Maps & Charts

Office Locations Designated for the Regularization and Naturalization Processes⁴⁵⁶



	Office Location	Status on 1/29/15 ⁴⁵⁷	Documented problems ⁴⁵⁸
1	Santo Domingo Norte	Open	
2	Santo Domingo Este	Open	
3	Azua	Open	
4	Bahoruco (Neyba)	Not mentioned	Not in operation (Oct.)
5	Barahona	Open	Would not allow applicants to register without any documentation (Aug.)
6	Dajabón	Not mentioned	Not in operation (Oct.)
7	Duarte (San Francisco de Macorís)	Open	Did not accept residents of other regions (Oct.)
8	Elías Piña (Comendador)	Not mentioned	Not yet opened (Oct.)

⁴⁵⁶ This map was created using Google MyMaps and the office locations as presented on the website of the Ministerio de Interior y Policía, available at <http://mip.gob.do/CentrosdeAtenci%C3%B3nparaelPNRE/tabid/423/Default.aspx>.

⁴⁵⁷ Ministerio de Interior y Policía, “Oficinas de Regularización trabajarán este fin de semana.”

⁴⁵⁸ As reported by *Plataforma 169*, however limited to *Informe* Nos. 6 and 7.

9	El Seibo	Open	Mother's ID requested (Aug.) / See also Duarte (7)
10	Espailat (Moca)	Not mentioned	Not yet opened (Oct.)
11	Hermanas Mirabal (Salcedo)	Not mentioned	Not yet opened (Oct.)
12	Hato Mayor	Open	
13	Independencia (Jimaní)	Not mentioned	Not in operation (Oct.)
14	La Altagracia (Higüey)	Open	
15	La Romana	Open	See also Barahona (5) / See also Duarte (7)
16	La Vega	Open	Opened in September
17	María Trinidad Sanchez (Nagua)	Not mentioned	Not yet opened (Oct.)
18	Monseñor Nouel (Bonaó)	Not mentioned	Not yet opened (Oct.)
19	Monte Cristi	Not mentioned	Not yet opened (Oct.)
20	Monte Plata	Open	Parents' presence requested for applicants of legal age (Oct.)
21	Samaná	Open	
22	Sánchez Ramírez (Cotuí)	Not mentioned	
23	San Cristóbal	Open	
24	San José de Ocoa	Not mentioned	Not yet opened (Oct.)
25	San Juan de la Maguana	Open	
26	San Pedro de Macorís	Open	Mother's ID requested (Aug.) / See also Duarte (7)
27	Santiago	Open	Opened in September
28	Santiago Rodríguez	Not mentioned	Not in operation because computer system not functioning (Aug.)
29	Peravia (Bani)	Open	
30	Pedernales	Open	Not in operation (Oct.)
31	Puerto Plata	Open	Did not accept notarized documents (Oct.)
32	Valverde (Mao)	Open	Opened in September

Comparison Chart Between 169-14 and 327-13



JOHNS HOPKINS UNIVERSITY
THE PAUL H. NITZE SCHOOL OF ADVANCED INTERNATIONAL STUDIES (SAIS)
INTERNATIONAL LAW *and* ORGANIZATIONS PROGRAM
1619 MASSACHUSETTS AVENUE, NW, SUITE 420
WASHINGTON, DC 20036

