

DREAMS DEFERRED:

THE STRUGGLE OF DOMINICANS
OF HAITIAN DESCENT TO GET
THEIR NATIONALITY BACK

ROBERT F.
KENNEDY
HUMAN
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UNDEF  The United Nations
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EXECUTIVE SUMMARY

“ANYONE THAT HAS THIS [DARK] COLOR ... EVERYBODY THINKS THAT WE ARE HAITIANS.” – María P.

On September 23, 2013, the Constitutional Tribunal of the Dominican Republic issued Judgment 168-13, ruling that it did not recognize the right to Dominican citizenship of hundreds of thousands of its citizens because they were the children of non-resident foreigners. The decision applied retroactively to generations of people who were born in the Dominican Republic between 1929 and 2010, leaving the citizenship status of these people and their descendants in limbo. This decision left people like those whose stories we share in this report invisible in their own country.

The majority of the people affected by the decision are Dominicans of Haitian descent who were born in the Dominican Republic to Haitian parents at a time when the Dominican Constitution granted them the right to *jus soli*, or birthright citizenship. These people are Dominicans under the law in force at the time of their birth and are also culturally and linguistically Dominican, yet they face a pervasive “anti-Haitian” sentiment that permeates some sectors of Dominican society and are discriminated against by Dominican authorities because of their Haitian origin. As a result, even before Judgment 168-13, Dominicans of Haitian descent often faced harassment, administrative hurdles, soaring costs, and long delays when applying for official state identification documents that allowed them to exercise their rights as Dominican citizens.

For years prior to Judgment 168-13, a series of migration laws, judicial decisions, and administrative policies formalized this discrimination, consistently chipping away at the constitutional right to *jus soli* nationality. Judgment 168-13 was the culmination of this institutional discrimination, violating international law and the Dominican Constitution itself by retroactively stripping Dominican citizens of their nationality and labeling them as foreigners in their own country, leaving many of them stateless.

Judgment 168-13 earned condemnation from Dominican civil society and international human rights bodies, including the Inter-American Court and Commission of Human Rights. In response, the Dominican government passed Law 169-14, which promised to restore citizenship to one group of people born in the Dominican Republic, “Group A,” those who had been registered as Dominican citizens prior to Judgment 168-13, and offered a path to naturalized citizenship for a second group, “Group B,” who were not registered as Dominican citizens prior to Judgment 168-13. The arbitrary distinction between the two groups has added another layer to an already complicated problem.

As a result of Law 169-14, the Dominican government considers the situation of individuals in “Group A” to be resolved. However, Law 169-14 has not been the solution to the constant obstacles that Dominicans of Haitian descent face daily in spite of being registered as Dominican citizens. As those in “Group A” reveal in their own words, the majority are still without valid identity documents three years after Law 169-14 was passed. Many in “Group A” have been “re-registered” as citizens in a separate registry that lacks legal basis, marking them literally and symbolically as a second class of Dominican citizen. 23 of the 24 people interviewed were without a valid *cédula* identity card either because their original registration of birth

had been canceled or they have been unable to get a new *cédula* with reasonable effort. Without this *cédula*, Dominicans are unable to register the birth of their children, register themselves in school, run for public office, find stable employment, get married, or access social and health services. If individuals in “Group A” do try to obtain new documents from the State, they must navigate an arduous process with little support or resources, further complicated by express discrimination by state officials and suspicious cancellation or withholding of documents with little to no explanation. Worst of all, problems with documentation often present issues for the next generation, meaning that those in “Group A” are unable to plan for their futures or for the futures of their children.

Although efforts to defend the rights of Dominicans of Haitian descent have surged in response to Judgment 168-13 and Law 169-14, the lack of political will on the part of the Dominican State to address the situation is clear from subsequent acts. Local courts have nullified original birth certificates of those in “Group A,” invalidating not only a document that allows them access to civic services but one that also serves as a tangible marker of their Dominican citizenship. Human rights defenders and journalists who work to defend and protect the rights of Dominicans of Haitian descent have been the targets of harassment and accusations of anti-nationalism, which have gone unaddressed by the Dominican government. Lastly, and perhaps most importantly, the entrenched racial and xenophobic discrimination, the “anti-Haitianism” that underlies these denationalization policies and has historically permeated Dominican society endures without measures in place to address it.

Three years after the incendiary moment of the Constitutional Tribunal’s Judgment 168-13, the international community must ensure that the Dominican government does not continue to hide behind Law 169-14 as a “solution” to the human rights violations that those affected by the decision suffer. The Dominican State must be held accountable for its disregard of international law and must eliminate the legal, practical, and social barriers to recognizing and respecting the right to nationality for those in “Group A” and all those affected by Judgment 168-13. The government must act now to ensure that these violations do not continue for another generation.

In the report, we make the following recommendations to the Dominican Government and to the international community:

1. To the Government of the Dominican Republic

- a. Establish a formal and permanent space for public conference, discussion and evaluation of the implementation of Law 169-14 and the situation of persons it has affected. Ensure that a diverse group of stakeholders are invited to the table, including representatives from the community of Dominicans of Haitian descent and civil society organizations working on their behalf.
- b. Eliminate the practice of using a separate registration book, the “*Libro de Transcripción*” for those in “Group A.” Commit to a system that is free from discrimination and distinction and ensure State agents take responsibility for ensuring the right to nationality for Dominicans of Haitian descent.
- c. Establish a process that guarantees effective and efficient access to the Civil Registry for those attempting to establish their legal status and obtain their identity documents.
- d. Ensure that the police, armed forces, and other state agents refrain from harassment and discrimination against Dominicans of Haitian descent, including any use of means of coercion, intimidation, disproportionate use of force, or expulsion.

- e. Publicly denounce threats and intimidation directed at human rights defenders and journalists, including those who work to defend the right to nationality of Dominicans of Haitian descent.
- f. Investigate in a timely manner all former and current cases of attacks, threats or intimidation against human rights defenders and journalists.
- g. Address the longstanding racial and xenophobic discrimination that has permeated many sectors of Dominican society and which is at the root of the policies of denationalization of Dominicans of Haitian descent.

Specific recommendations for the Central Electoral Board (JCE)

- h. Clarify the requirements for persons in “Group A” to obtain their documents in an expedited manner, including firm deadlines for receipt of documents.
- i. Ensure members of “Group A” can obtain their documents in the local *oficialía* where they reside and are not required to travel to Santo Domingo to enquire about the status of their documents or copies.
- j. Cease using the “Transcription Book,” and ensure that the persons in “Group A” are recognized in the Civil Registry and they can maintain the information they were registered with initially. Abstain from continuing to nullify the original birth certificates of those in “Group A.”
- k. Ensure timely information, frequent training, and sanctions to those authorities that deliberately or arbitrarily attempt to circumvent the rights of persons in “Group A” to their documents.
- l. Establish a mechanism to receive and address complaints from citizens who experience violations of their rights while attempting to obtain their documentation.
- m. Ensure due process in all decisions regarding the issuance of documentation to Dominicans of Haitian descent

2. To the International community

- a. Support local and international civil society groups in their efforts to protect the rights of Dominicans of Haitian descent, including those in “Group A.”
- b. Call on the Dominican Republic to recognize and respect its obligations under international law and implement procedures to restore full citizenship and documentation to individuals in “Group A.”
- c. Denounce the existing violations of the rights of Dominicans of Haitian descent, including those in “Group A”, and call on the Dominican government to implement restorative proceedings.
- d. Call on the Dominican government to publicly address the entrenched culture of racial discrimination in the country that serves as the foundation for many violations of the rights of Dominicans of Haitian descent and support them in these efforts, including with financial support.

INTRODUCTION

José is a proud citizen of the Dominican Republic. He is 39-years old and he was born in Galvan, a small town in the Dominican Republic's Baoruco province, near the Haitian border. When he came of age, he received his high school diploma and obtained his national *cédula* identity card. Afterward, he served proudly on behalf of his country in the Dominican army. José longs to go to university to pursue his dream career, social work, to protect and ensure the safety of children in his country.

José is also a Dominican of Haitian descent, which has drastically changed his life trajectory. On September 23, 2013, the Dominican Republic's Constitutional Tribunal issued Judgment 168-13, which held that José and thousands of other Dominicans of Haitian descent like him were no longer considered citizens of the Dominican Republic.¹

Since 1865 the Constitution of the Dominican Republic has included the right to *jus soli* nationality, Dominican nationality conferred by virtue of birth within Dominican territory. In 1929, an exception to *jus soli* nationality was introduced to exclude from Dominican citizenship children born to “foreigners in transit,” people who were temporarily in the country for visits, temporary work, or otherwise short stays.² In the 2013 decision, Judgment 168-13, the Constitutional Court interpreted this “foreigners in transit” exception to apply to all children born between 1929 and 2010 to undocumented migrants living in the Dominican Republic, retroactively stripping these individuals of their Dominican citizenship.³ This included adults like José, who were Dominican citizens born in the Dominican Republic to Haitian migrants and who have lived their entire lives in the Dominican Republic.⁴ Because of this new interpretation of the country's highest court and the policies that later implemented it, José discovered that his national *cédula* identity card was disabled and prevented him from undertaking any activity that he previously took for granted as a Dominican citizen, including serving in the army, attending school, or getting a job that allows him to make a contribution to his country and leave the poverty of the *bateyes*⁵ behind.

“Before, when I was a little boy and I was in school, it was my dream to have a career that helped my family succeed. And I couldn't because of the level of poverty we lived in the bateyes. My first job was in the army. I was a corporal in the army but because of the little they paid a corporal I decided to leave the army ranks and dedicate myself to social work here in my community. But I see that if I make an effort to finish high school I can work to become a professional and study for a university degree to learn something and do something to help someone in the future. And here I am happily on my way to enroll in university and I'm rejected because my documents weren't valid to be able to attend university.”

1 Judgment 168-13, Constitutional Tribunal of the Dominican Republic, September 23, 2013, pages 98-99, “Decide Tercero” [Third Decision] Available at: <http://tribunalconstitucional.gob.do/sites/default/files/documentos/Sentencia%20TC%200168-13%20-%20C.pdf>.

2 See Dominican Republic Migratory Regulation No. 279, May 12, 1939. Available in Spanish at: <http://www.acnur.org/fileadmin/Documentos/BDL/2001/0241.pdf?view=1>; see also Inter-American Commission of Human Rights (IACHR), “Report on the Situation of Human Rights in the Dominican Republic,” paras. 148-149, (2015), available at <http://www.oas.org/en/iachr/reports/pdfs/dominicanrepublic-2015.pdf>.

3 See Judgment 168-13, Constitutional Tribunal of the Dominican Republic, September 23, 2013, pages 98-99, “Decide Tercero” [Third Decision]. Available at: <http://tribunalconstitucional.gob.do/sites/default/files/documentos/Sentencia%20TC%200168-13%20-%20C.pdf>; See also IACHR, “Report on the Situation of Human Rights in the Dominican Republic,” paras. 173-75, (2015). Available at <http://www.oas.org/en/iachr/reports/pdfs/dominicanrepublic-2015.pdf>.

4 See Judgment 168-13, Constitutional Tribunal of the Dominican Republic, September 23, 2013, pages 98-99, “Decide Tercero” [Third Decision]. Available at: <http://tribunalconstitucional.gob.do/sites/default/files/documentos/Sentencia%20TC%200168-13%20-%20C.pdf>; See also IACHR, “Report on the Situation of Human Rights in the Dominican Republic,” paras. 173-75, (2015). Available at <http://www.oas.org/en/iachr/reports/pdfs/dominicanrepublic-2015.pdf>.

5 *Bateyes* are settlements that built up around sugar mills where cane cutters, most of them Haitians or of Haitian descent, live and raise their families. Residents of the *bateyes* refer to them by number (bateye 8, 9, etc.) Children of the Nations, “The Origin of the Dominican Batey,” November 14, 2007. Available at: <https://cotni.org/news/dominican-republic/2007/11/14/origin-dominican-batey>.

Unfortunately, José's story is not unique. Judgment 168-13 drastically altered the lives of thousands of Dominicans of Haitian descent by stripping them of their Dominican nationality,⁶ effectively giving a stamp of constitutional approval to a long history of discrimination against Dominicans of Haitian descent.⁷

In response to the crisis generated by Judgment 168-13 and the intense national and international criticism it provoked, the Dominican legislature passed Law 169-14 in 2014.⁸ This law subdivided those people affected by Judgment 168-13 into two groups according to whether they had been registered as Dominican citizens in the Civil Registry prior to the September 23, 2013 judgment ("Group A") or if they lacked such status at the time of the judgment ("Group B").⁹ José was one of the "luckier" ones, qualifying for "Group A" as he had previously been registered as a Dominican citizen. In accordance with Law 169-14, he is eligible for restoration of his nationality.¹⁰ He already had his *cédula* identity card, which Law 169-14 stated should be officially recognized.¹¹ The government assured people in "Group A" like José that their nationality issues would be resolved.¹² However, three years after Law 169-14 was put in place, José is still waiting for restoration of his *cédula* identity card.

"I am completely desperate. Right now I am scared that they will call me for a job. I have given my CV out to different organizations and I am scared that they will call me for a job and because of my documents I won't be able to work. I am completely paralyzed. At times, to be honest with you, I have wanted to disappear. When you see that you almost have something; my work has always been my weakness, to work in social work related to the protection of children. But right now if I see that Plan¹³ calls me and they tell me that I qualified for the post, we go through all the process to sign the contract and when I present my *cédula* they tell me "whoa! We can't hire you because the insurance company will not accept you." Then this will make my shoulders drop. To be honest, I have even thought about taking my own life.

Imagine how I feel."

This report calls attention to the problems that continue to afflict many Dominicans of Haitian descent in "Group A" who still experience violations of their right to nationality in the wake of Judgment 168-13 in spite of the government's promises to resolve their situation. Despite Law 169-14's guarantee of restored Dominican citizenship, three years later, many in "Group A" do not have valid and functional national identity documents that make this guarantee concrete. We share their stories of how their identities as

6 See, e.g. Human Rights Watch, "We are Dominican: Arbitrary Deprivation of Nationality in the Dominican Republic," (July 1, 2015), which called Dominicans of Haitian descent "the single largest ethnic group affected by the 2013 decision and the 2014 law." Available at: <https://www.hrw.org/report/2015/07/01/we-are-dominican/arbitrary-deprivation-nationality-dominican-republic>.

7 See, e.g. Human Rights Watch, "We are Dominican: Arbitrary Deprivation of Nationality in the Dominican Republic," (July 1, 2015). Available at: <https://www.hrw.org/report/2015/07/01/we-are-dominican/arbitrary-deprivation-nationality-dominican-republic>

8 See Ley No. 169-14 [Law 169-14] (May 23, 2014), "Considerando Décimo" [10th Consideration] Available at: <http://www.refworld.org/docid/53882dea4.html>. See also Human Rights Watch, "We are Dominican: Arbitrary Deprivation of Nationality in the Dominican Republic," (July 1, 2015). Available at: <https://www.hrw.org/report/2015/07/01/we-are-dominican/arbitrary-deprivation-nationality-dominican-republic>

9 Ley No. 169-14 [Law 169-14] (May 23, 2014), Capítulo 1, "Del Régimen Especial, Artículo 6." Available at: <http://www.refworld.org/docid/53882dea4.html>.

10 Ley No. 169-14 [Law 169-14] (May 23, 2014), Capítulo 1, "Del Régimen Especial, Artículo 2." Available at: <http://www.refworld.org/docid/53882dea4.html>.

11 Ley No. 169-14 [Law 169-14] (May 23, 2014), Capítulo 1, "Del Régimen Especial, Artículo 4." Available at: <http://www.refworld.org/docid/53882dea4.html>.

12 See Ley No. 169-14 [Law 169-14] (May 23, 2014), "Considerando Noveno," calling the process outlined in Group A a "solution." Available at: <http://www.refworld.org/docid/53882dea4.html>. See also, El País, "Crean comisión ejecutora de la ley de régimen especial de naturalización," [An Executive Commission on the Law for the Special Naturalization Regime], (July 29, 2014). Available at: http://www.7dias.com.do/el-pais/2014/07/29/169121_crea-comision-ejecutora-ley-regimen-especial-naturalizacion.html#WQicf2krJ0x; El Nacional, "Mas de 350,000 regularizan su documentacion en la RD," [More than 350,000 regularize their documentation in the DR] (June 25, 2015). Available at: <http://elnacional.com.do/mas-de-350000-personas-regularizan-su-documentacion-en-rd/>.

13 Social service organization where José would like to work.

Dominican citizens were stolen as well as the discrimination and abuse they suffer at the hands of the state authorities as they struggle to have their nationality recognized.

This report in no way looks to ignore the grave situation of those in “Group B” who comprise the grand majority of people affected by Judgment 168-13 who are entitled to *jus soli* citizenship but who were not registered as Dominican citizens when Judgment 168-13 was issued. Of these people, only a small percentage¹⁴ were able to register in the “foreigners’ book,” *el libro de extranjería*, which required them to self-report as foreigners in their own country. These people are without a clear path to obtaining citizenship through naturalization despite the guarantee in Law 169-14.¹⁵ In accordance with the estimates from the Office of the United Nations High Commissioner for Refugees (UNHCR), there could be around 133,770 persons experiencing statelessness in the Dominican Republic and urgent actions are necessary to resolve the problem.¹⁶

José’s story is particularly distressing because, according to the Dominican government, by being included within “Group A” under Law 169-14, in comparison to “Group B,” his nationality would have been restored and he should be guaranteed access to valid identity documents.¹⁷ However, in practice, José and thousands of other Dominicans in the same situation remain in limbo as they are without access to identity documents.¹⁸ For every José that exists, there are at least two Dominicans of Haitian descent in “Group B” whose citizenship has not been recognized and they are effectively stateless.¹⁹ Others may not know their status or may simply have encountered one too many barrier in their fight to obtain proof of their Dominican citizenship.²⁰ The co-authoring organizations also work to defend and protect the right to nationality of people in “Group B” and others affected by the denationalization policies in the Dominican Republic. However, with this report, we have decided to focus specifically on “Group A” to counteract the official narrative that this group’s situation has been resolved and to propose concrete solutions so that this narrative becomes reality.

In that regard, although this report focuses on the impact of Judgment 168-13 on Dominicans of Haitian descent, with particular emphasis on those in “Group A,” the bias and intolerance that are at the root of these policies go back at least a century.²¹ In **Section I**, we trace the Dominican Republic’s constitutional amendments and the laws and policies that culminated in Judgment 168-13 and its destructive aftermath. **Section II** tracks the international backlash against these policies and identifies the human rights violations that have been, and continue to be, at issue for Dominicans of Haitian descent. Much has been written

14 8,755 individuals from “Group B” were registered under Law 169-14 before the expiration of the deadline. See, e.g., Diario Libre, “Ley 169 y su Reglamento de Aplicación: ¿dónde estamos?” [Law 169 and its Enforcement Regulations: where are we?] February 5, 2015. Available at: <https://www.diariolibre.com/opinion/ley-169-y-su-reglamento-de-aplicacion-dnde-estamos-AIDL998811>.

15 See, e.g., Diario Libre, “Ley 169 y su Reglamento de Aplicación: ¿dónde estamos?” [Law 169 and its Enforcement Regulations: where are we?] February 5, 2015. Available at: <https://www.diariolibre.com/opinion/ley-169-y-su-reglamento-de-aplicacion-dnde-estamos-AIDL998811>; See, also Jason Nichols, The Guardian, “The Dominican Republic’s mass Haitian deportation reflects its racist history,” (June 23, 2015). Available at: <https://www.theguardian.com/commentisfree/2015/jun/23/dominican-republic-haitian-deportation-reflects-racist-history>.

16 UNHCR, “Tendencias Globales Desplazamiento Forzado en 2015,” [Global Trends in Forced Displacement 2015] page 61, n. 16. Available at: <http://www.acnur.org/fileadmin/scripts/doc.php?file=fileadmin/Documentos/Publicaciones/2016/10627>. (Explaining that there are 133,700 stateless persons, including only people born in the country whose parents, both of them, were born outside the country. It does not include people born in the country having one parent born in the country and the other a Dominican national, in accordance with the 210,000 figure that was released previously.)

17 Ley No. 169-14 [Law 169-14] (May 23, 2014), Capítulo 1, “Del Regimen Especial,” [Chapter 1, Of the Special Regimen] Articles 2 and 4. Available at: <http://www.refworld.org/docid/53882dea4.html>. See, e.g., Jason Nichols, The Guardian, “The Dominican Republic’s mass Haitian deportation reflects its racist history” (June 23, 2015). Available at: <https://www.theguardian.com/commentisfree/2015/jun/23/dominican-republic-haitian-deportation-reflects-racist-history>.

18 See Sección III; Human Rights Watch, “We are Dominican: Arbitrary Deprivation of Nationality in the Dominican Republic,” (July 1, 2015). Available at: <https://www.hrw.org/report/2015/07/01/we-are-dominican/arbitrary-deprivation-nationality-dominican-republic>.

19 Embassy of the Dominican Republic in the United States, “Conclusion of the National Regularization Plan for Foreigners in the Dominican Republic.” Available at: <http://www.domrep.org/migrationreformbill.html>. Stating that 340,000 persons will enter the Dominican civil registry under Law 169-14, including nearly 53,000 of those in “Group A,” like Juliana Deguis Pierre.

20 See Sección III; Human Rights Watch, “We are Dominican: Arbitrary Deprivation of Nationality in the Dominican Republic,” (July 1, 2015). Available at: <https://www.hrw.org/report/2015/07/01/we-are-dominican/arbitrary-deprivation-nationality-dominican-republic>.

21 See, e.g., Jason Nichols, The Guardian, “The Dominican Republic’s mass Haitian deportation reflects its racist history” (June 23, 2015). Available at: <https://www.theguardian.com/commentisfree/2015/jun/23/dominican-republic-haitian-deportation-reflects-racist-history>; Human Rights Watch, “We are Dominican: Arbitrary Deprivation of Nationality in the Dominican Republic,” (July 1, 2015). Available at: <https://www.hrw.org/report/2015/07/01/we-are-dominican/arbitrary-deprivation-nationality-dominican-republic>.

about the struggle of Dominicans of Haitian descent, but very rarely are the victims afforded the space to speak and give much-needed context to the complex web of court judgments, laws, and governmental policies that restrict their lives. **In Section III**, José and others in “Group A” speak for themselves, identifying eleven main issues they face everyday in the wake of Judgment 168-13 and Law 169-14.

Section IV illustrates the advocacy efforts on behalf of Dominicans of Haitian descent on Judgment 168-13’s third anniversary, highlighting the local movements that have responded to the crisis of Dominicans of Haitian descent and identifying new obstacles that have sprung up. Finally, in **Section V**, those in “Group A,” advocates who work on their behalf, and the organizations who contributed to this report make recommendations to the Dominican government and the international community to ensure full restoration of the constitutional rights of Dominicans of Haitian descent, particularly those included in “Group A” under Law 169-14.

By calling attention to the barriers people in “Group A” continue to face, the need for overarching change to all the nationality policies in the Dominican Republic becomes painfully clear. Many of the issues identified in this report will continue to affect future generations of Dominicans.

I. JUDGMENT 168-13: THE CONSTITUTIONAL STAMP ON A HISTORY OF DISCRIMINATION

Judgment 168-13, issued by the Dominican Republic’s Constitutional Court on September 23, 2013, was a landmark moment in a long history of institutionalized discrimination against Dominicans of Haitian descent.²² Before that judgment, Dominican migration laws,²³ judicial decisions²⁴ and administrative acts,²⁵ not to mention the 2010 constitutional amendment,²⁶ had continuously etched away at guarantees of birthright citizenship.

The Dominican Constitution had been amended in 1929²⁷ and again in 2010²⁸ to exclude children of undocumented or resident foreign migrants from claiming birthright citizenship. Such amendments were widely understood to prevent the children born to Haitians who had migrated to the Dominican Republic from becoming automatic Dominican citizens at birth, which incentivized migration.²⁹ Changes in the Constitution led to implementation of inconsistent policies and practice by Dominican authorities who often discriminatorily applied newer and more restrictive constitutional amendments to older Dominicans of Haitian descent whose citizenship was not affected by the new amendments.³⁰

With its ruling in Judgment 168-13, the highest court in the Dominican Republic validated and authorized the retroactive application of constitutional amendments to individuals who were born before these laws were enacted.³¹ Overnight, hundreds of thousands of Dominicans of Haitian descent born in the Dominican Republic between 1929 and 2010 were stripped of their Dominican citizenship.³² The judgment also left the legal status of their children and grandchildren unclear.³³ However, these individuals are still Dominican in every other sense of the word. They were born in the Dominican Republic, they live their lives there, many of them only speak Spanish, and feel entirely Dominican.³⁴

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- 22 See, e.g. Dominican Today, “Haitian-Dominicans picket at high court marks 3 years of landmark decision.” Available at: <http://www.dominicantoday.com/dr/local/2016/9/23/60711/Haitian-Dominicans-picket-at-high-court-marks-3-years-of-landmark>; See, also Judgment 168-13, Constitutional Tribunal of the Dominican Republic, September 23, 2013. Available at: <https://www.tribunalconstitucional.gob.do/sites/default/files/documentos/Sentencia%20TC%200168-13%20-%20C.pdf>.
- 23 Ley No. 169-14 [Law 169-14], May 23, 2014. Available at: <http://www.refworld.org/docid/53882dea4.html>.
- 24 Sentencia B.J. No. 1141 de La Suprema Corte de Justicia [Judgment B.J. No. 1141 of the Supreme Court of Justice], December 14, 2005. Available at: http://www.poderjudicial.gob.do/consultas/consultas_sentencias/detalle_info_sentencias.aspx?ID=114110009.
- 25 See, e.g. Circular No. 017 from the JCE, HoyDigital, April 26, 2008. Available at: <http://hoy.com.do/circular-no-017-de-la-jce/>; Junta Central Electoral, Resolución 12-2007, December, 2007. Available at: <http://www.acnur.org/t3/fileadmin/Documentos/BDL/2012/8899.pdf?view=1>.
- 26 Constitución Política de la República Dominicana [Political Constitution of the Dominican Republic], January 26, 2010, art. 18(3). Published en la Gaceta Oficial No. 10561, January 26, 2010. Available at: <http://www.ifrc.org/docs/ldr/75IES.pdf>.
- 27 Judgment 168-13, Constitutional Tribunal of the Dominican Republic, September 23, 2013, page 51, para. 2.16, “Decide Tercero” [Third Decision]. Available at: <http://tribunalconstitucional.gob.do/sites/default/files/documentos/Sentencia%20TC%200168-13%20-%20C.pdf>; IACHR, “Report on the Situation of Human Rights in the Dominican Republic,” para. 146, (2015). Available at: <http://www.oas.org/en/iachr/reports/pdfs/dominicanrepublic-2015.pdf>.
- 28 See Constitución Política de la República Dominicana [Political Constitution of the Dominican Republic], Publicada en la Gaceta Oficial [Published in the Official Gazette] No. 10561, January 26, 2010, art. 18(3). Available at: <http://www.ifrc.org/docs/ldr/75IES.pdf>.
- 29 Judgment 168-13, Constitutional Tribunal of the Dominican Republic, September 23, 2013, pages 23-24. Available at: <http://tribunalconstitucional.gob.do/sites/default/files/documentos/Sentencia%20TC%200168-13%20-%20C.pdf>.
- 30 See State Department, 2013 Human Rights Reports: Dominican Republic, at ‘Stateless Persons,’ page 19. Available at: <http://www.state.gov/documents/organization/220649.pdf>.
- 31 Judgment 168-13, Constitutional Tribunal of the Dominican Republic, September 23, 2013, page 8, paras. 1 y J. Available at: <http://tribunalconstitucional.gob.do/sites/default/files/documentos/Sentencia%20TC%200168-13%20-%20C.pdf>.
- 32 UNHCR, “Tendencias Globales Desplazamiento Forzado en 2015,” [Global Trends in Forced Displacement 2015] page 61, n. 16. Available at: <http://www.acnur.org/fileadmin/scripts/doc.php?file=fileadmin/Documentos/Publicaciones/2016/10627>. (Explaining that there are 133,700 stateless persons, including only people born in the country whose parents, both of them, were born outside the country. It does not include people born in the country having one parent born in the country and the other a Dominican national, in accordance with the 210,000 figure that was released previously)
- 33 See Judgment 168-13, Constitutional Tribunal of the Dominican Republic, September 23, 2013, pages 98 -99, “Decide Tercero” [Third Decision] Available at: <http://tribunalconstitucional.gob.do/sites/default/files/documentos/Sentencia%20TC%200168-13%20-%20C.pdf>
- 34 See, e.g. Section III; Minority Rights, “Our Lives in Transit – documentary sheds light on harsh realities faced by ‘legal ghosts’ in Dominican Republic,” September 3, 2016. Available at: <http://minorityrights.org/2016/03/09/our-lives-in-transit-documentary-sheds-light-on-harsh-realities-faced-by-legal-ghosts-in-dominican-republic/>.

EXPLANATION OF IDENTITY DOCUMENTS³⁵

- **Constancia de nacimiento:** certificate of live birth issued by a medical center where a child is born. Medical centers are required to issue this document to parents who can prove that they are Dominican. If the parents cannot prove that they are Dominican, the medical center must issue a pink “foreigner” live birth certificate.
 - The *constancia de nacimiento* is necessary to obtain the *acta de nacimiento*, or official birth certificate.
- **Acta de nacimiento:** official birth certificate issued by the Civil Registry that serves as the primary form of identification for children under the age of 18.
 - This document is required to apply for a passport and to obtain social services, including an official marriage license, health care, and school enrollment.
 - An *acta de nacimiento* is required in order to obtain the *cédula de identidad*.
- **Cédula de identidad:** Individuals are encouraged to apply for the *cédula* once they turn 18. The *cédula* is the main form of state identification, and is required for legal employment, opening a bank account, registration for social security, and many other things.

i. Background on Citizenship in the Dominican Republic

To understand Judgment 168-13 and its impact, one must trace the requirements of citizenship in the Dominican Republic back nearly a century.

The Dominican Republic has long relied on the migration of Haitian workers who crossed the border to labor on sugar mills.³⁶ Like most of the Western hemisphere, the country has historically provided *jus soli*, or birthright citizenship, to children born in its territory since 1865.³⁷ As a result, children of Haitian immigrants who were born on Dominican soil were automatically Dominican citizens. Despite their right to citizenship, these Dominicans of Haitian descent often faced discrimination on the basis of their skin color, economic class, and family’s migratory history.³⁸ They also often faced problems obtaining identity documents that confirmed their Dominican citizenship.³⁹

Beginning with the Constitution of 1929, the Dominican Republic specified that the right to Dominican nationality would be for all persons born on Dominican territory with the exception of the legitimate children born to foreign diplomats residing in the country or to foreigners who were “in transit” through the Dominican Republic.⁴⁰ It was this latter exception that was reinterpreted by the Constitutional Court in Judgment 168-13 to apply to descendants of Haitians born in Dominican territory. This was in spite of the fact that the migratory laws in force for decades established clearly that the “in transit” category corresponded

35 See, e.g., IACHR, “Report on the Situation of Human Rights in the Dominican Republic” (2015), paras. 160 – 68. Available at <http://www.oas.org/en/iachr/reports/pdfs/dominicanrepublic-2015.pdf>; See also Georgetown Law Human Rights Institute Fact-Finding Project, *Left Behind: How Statelessness in the Dominican Republic Limits Children’s Access to Education*, pages 16-17 (2014). Available at: http://www.law.georgetown.edu/academics/centers-institutes/human-rights-institute/fact-finding/upload/Left-Behind_HRL_Report-2014_English_Final.pdf.

36 See, e.g., Celso Perez, “Dominican Republic’s Tortured Relationship with its Haitian Minority,” Human Rights Watch, June 9, 2015. Available at: <https://www.hrw.org/news/2015/06/19/dominican-republics-tortured-relationship-its-haitian-minority-0>.

37 IACHR, “Report on the Situation of Human Rights in the Dominican Republic,” para. 146 (2015). Available at <http://www.oas.org/en/iachr/reports/pdfs/dominicanrepublic-2015.pdf>; Inter. Am. Ct. H.R., Benito Tide Méndez, et. al, vs. Dominican Republic, Case on the Merits 12.271, Informe No. 64/12, Inter. Am. Ct. H.R. para. 143 (March 29, 2012); see also, Jon Feere, “Birthright Citizenship in the United States: A Global Comparison” (2010), Center for Immigration Studies. Available at: <http://cis.org/birthright-citizenship>.

38 See, e.g., Inter. Am. Ct. H.R., *Case of the Girls Yean and Bosico vs. Dominican Republic*. Case on the Merits. Judgment of Sept. 8, 2005. Series C, No. 130. Testimonies 3(c), Testimony of Debora E. Soler Munczek. Available at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_130_%20ing.pdf.

39 See State Department, *2013 Human Rights Reports: Dominican Republic*, pages 22 -25. Available at: <http://www.state.gov/documents/organization/220649.pdf>.

40 Judgment 168-13, Constitutional Tribunal of the Dominican Republic, September 23, 2013, page 51, para. 2.16. Available at: <http://tribunalconstitucional.gob.do/sites/default/files/documentos/Sentencia%20TC%200168-13%20-%20C.pdf>; IACHR, “Report on the Situation of Human Rights in the Dominican Republic,” para. 146, (2015). Available at <http://www.oas.org/en/iachr/reports/pdfs/dominicanrepublic-2015.pdf>.

to persons that entered the territory with the purpose of continuing on through the country with a foreign destination, and for whom a period of 10 days in the Dominican Republic was considered sufficient.⁴¹

It was not until the adoption of the General Law on Migration No. 285-04 in 2004 that the term “in transit” was modified to include temporary workers, the majority of whom came from and continue to come from Haiti, regardless of the length of time they stayed in Dominican territory by considering them “non-resident” foreigners.⁴² This General Law on Migration also introduced a different birth registry for children of “non-resident” foreigners that included the issuance of a *pink* “constancia de nacimiento” (certificate of live birth) that was distinct from the certificate that was used for Dominican citizens.⁴³

In 2005, the Supreme Court of Justice, in a judgment on the constitutionality of General Law on Migration No. 285-04, interpreted the term “foreigners in transit” to include individuals without a residence permit, that is to say people in an irregular migratory situation, regardless of whether they had spent decades living in the Dominican Republic or whether their children had been born there.⁴⁴ As a result, the children born to individuals lacking residence permits were no longer entitled to Dominican citizenship even if they were born in the country.⁴⁵

KEY PLAYER: THE CENTRAL ELECTORAL BOARD (JCE FOR ITS ACRONYM IN SPANISH)

The Central Electoral Board (JCE for its acronym in Spanish) is the state agency that oversees the state offices of the Civil Registry (*oficialías*) in the Dominican Republic. As the agency responsible for the issue of birth certificates and national *cédula* identity cards, the JCE implements the constitutional amendments with respect to nationality. The body is also responsible for the administration and oversight of the governmental elections. Members of the JCE are chosen by the Senate. In November 2016, Julio César Castaños Guzmán was chosen to be president, along with new members Rosario Graciano, Roberto Saladín, Carmen Imbert and Henry Mejía.⁴⁶

In 2007, the Central Electoral Board (“JCE” for its acronym in Spanish) issued Resolution 12-2007, which created the “Registry of the Birth of a Child to a Foreign Non-resident Mother in the Dominican Republic,” also called the “Libro de Extranjería” or “Book of Foreigners” in which they began to record the *pink* (*emphasis added*) constancias de nacimiento (certificates of live births).⁴⁷ In effect, the Dominican government implemented a parallel registration system to record the births of children born to migrants and foreigners in order to deny citizenship to these children. The system failed to take into account

41 Dominican Republic, “Reglamento de Migración” [Migratory Regulation] No. 279, Section V, May 12, 1939. Available at: <http://www.acnur.org/fileadmin/Documentos/BDL/2001/0241.pdf?view=1>.

42 Ley General de Migración [General Law on Migration], No. 285-04 (August 15, 2004), Art. 36. Available at: [https://www.oas.org/dil/Migrants/Republica%20Dominicana/1.Ley%20sobre%20migración%20N%20285%20del%2015%20de%20agosto%20de%202004%20\(reemplaza%20la%20Ley%2095%20de%201939\).pdf](https://www.oas.org/dil/Migrants/Republica%20Dominicana/1.Ley%20sobre%20migración%20N%20285%20del%2015%20de%20agosto%20de%202004%20(reemplaza%20la%20Ley%2095%20de%201939).pdf).

43 Ley General de Migración [General Law on Migration], No. 285-04 (August 15, 2004), Art. 36. Available at: [https://www.oas.org/dil/Migrants/Republica%20Dominicana/1.Ley%20sobre%20migración%20N%20285%20del%2015%20de%20agosto%20de%202004%20\(reemplaza%20la%20Ley%2095%20de%201939\).pdf](https://www.oas.org/dil/Migrants/Republica%20Dominicana/1.Ley%20sobre%20migración%20N%20285%20del%2015%20de%20agosto%20de%202004%20(reemplaza%20la%20Ley%2095%20de%201939).pdf); See also State Department, 2013 *Human Rights Reports: Dominican Republic*, pages 22 -23. Available at: <http://www.state.gov/documents/organization/220649.pdf>.

44 See Sentencia B.J. No. 1141 de La Suprema Corte de Justicia [Judgment B.J. No. 1141 of the Supreme Court of Justice], December 14, 2005. Available at: http://www.poderjudicial.gob.do/consultas/consultas_sentencias/detalle_info_sentencias.aspx?ID=11410009.

45 See Sentencia B.J. No. 1141 de La Suprema Corte de Justicia [Judgment B.J. No. 1141 of the Supreme Court of Justice], December 14, 2005. Available at: http://www.poderjudicial.gob.do/consultas/consultas_sentencias/detalle_info_sentencias.aspx?ID=11410009.

46 Junta Central Electoral, Organizational Philosophy, <http://jce.gob.do/Filosofia-Organizacional> (last accessed March 3, 2017); El Caribe, “En 2016, a year of elections, pressure, and changes for the JCE,” September 12, 2016. Available at: <http://www.elcaribe.com.do/2016/12/09/2016-ano-elecciones-presion-cambios-para-jce>

47 Central Electoral Board (JCE), Resolución 12-2007, December 10, 2007. Available at: http://issuu.com/publicaciones2008/docs/090612232656-2036f571937746c7888e9_20090612_232805; Nelson B. Varona, *Circular No. 017 of the JCE*, HoyDigital (August 26, 2008). Available at: <http://hoy.com.do/circular-no-017-de-la-jce/>; See also State Department, 2013 *Human Rights Reports: Dominican Republic*, pages 22 -23, available at <http://www.state.gov/documents/organization/220649.pdf>; See also State Department, 2013 *Human Rights Reports: Dominican Republic*, pages 22 -23. Available at: <http://www.state.gov/documents/organization/220649.pdf>.

individuals, who, for many other reasons – the discrimination or delay of JCE authorities or loss of documents, etc. – may have been unable to provide official identity documents that proved their residency in the country.⁴⁸

Finally, in 2010, the Dominican Republic amended its Constitution to formally incorporate an exception to the right to Dominican nationality under the *jus soli* principle to children of individuals “who reside illegally in Dominican territory.”⁴⁹ It is worth noting that, by some accounts, the JCE applied the new constitutional exception retroactively, denying Dominican nationality to people of Haitian descent born prior to 2010 who had not yet obtained identity documents to verify their Dominican nationality.⁵⁰

ii. The 168-13 Judgment: A Controversial Decision with Broad Implications

The case that led to Judgment 168-13 attempted to challenge the legality of the policies restricting birthright citizenship to Dominicans of Haitian descent by clearly demonstrating the retroactive application of the broader “in transit” definition.⁵¹ The petitioner, Ms. Juliana Deguis Pierre, embodied the thousands of Dominicans who were born in the country to Haitian migrants or Dominican parents of Haitian descent; were registered as Dominican citizens; and who later faced many barriers to receiving their official identity documents.⁵²

Ms. Deguis Pierre was born in Yamasá, Monte Plata in the Dominican Republic on April 1, 1984 to parents who were both Haitian migrants.⁵³ Her parents registered her birth at the *oficialía* in Yamasá that same year.⁵⁴ She grew up culturally and linguistically Dominican; she speaks only Spanish and hardly any Haitian creole.⁵⁵ Ms. Deguis Pierre obtained her birth certificate in 1993.⁵⁶ In 2008, she went to the local *oficialía* of the Central Electoral Board (JCE) to obtain her *cédula* identity card.⁵⁷ While she was there, the JCE authorities confiscated her birth certificate, telling her that it was “irregular” because she was the daughter of Haitian migrants who were “in transit,” although none of the changes in the 2004 Migratory Law should have applied to her situation.⁵⁸ In 2010, in light of the constitutional amendment that expressly eliminated the right to Dominican nationality for individuals born in Dominican territory to parents in an irregular migratory status,⁵⁹ the Central Electoral Board (JCE) released Circular 17-2010, ordering workers in the *oficialías* not to issue, process, sign, or release documents to children of foreign parents,⁶⁰ though once again this should not have applied to Ms. Deguis Pierre. When the JCE again

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48 See also State Department, *2013 Human Rights Reports: Dominican Republic*, pages 22 -23. Available at: <http://www.state.gov/documents/organization/220649.pdf>; Caroline Bettinger-Lopez & Indira Goris, *Grant Full Nationality to All Born in Country*, MIAMI HERALD (June 9, 2007). Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1550872.

49 Constitución Política de la República Dominicana [Political Constitution of the Dominican Republic], January 26, 2010, art. 18(3). Published in la Gaceta Oficial [The Official Gazette] No. 10561, January 26, 2010. Available at: <http://www.ifrc.org/docs/idrl/75IES.pdf>.

50 See State Department, *2011 Human Rights Reports: Dominican Republic*, at “Stateless Persons.” Available at: <http://www.state.gov/j/drl/rls/hrrpt/2011/wha/186510.htm>.

51 See Judgment 168-13, Constitutional Tribunal of the Dominican Republic, September 23, 2013. Available at: <http://tribunalconstitucional.gob.do/sites/default/files/documentos/Sentencia%20TC%200168-13%20-%20C.pdf>.

52 See Judgment 168-13, Constitutional Tribunal of the Dominican Republic, September 23, 2013, page 3, para. 21. Available at: <http://tribunalconstitucional.gob.do/sites/default/files/documentos/Sentencia%20TC%200168-13%20-%20C.pdf>; IACHR, “Report on the Situation of Human Rights in the Dominican Republic,” paras. 169-173, (2015). Available at <http://www.oas.org/en/iachr/reports/pdfs/dominicanrepublic-2015.pdf>.

53 Judgment 168-13, Constitutional Tribunal of the Dominican Republic, September 23, 2013, page 3, para. 21. Available at: <https://www.tribunalconstitucional.gob.do/sites/default/files/documentos/Sentencia%20TC%200168-13%20-%20C.pdf>; IACHR, “Report on the Situation of Human Rights in the Dominican Republic,” para. 169, (2015). Available at <http://www.oas.org/en/iachr/reports/pdfs/dominicanrepublic-2015.pdf>.

54 IACHR, “Report on the Situation of Human Rights in the Dominican Republic,” para. 169, (2015). Available at <http://www.oas.org/en/iachr/reports/pdfs/dominicanrepublic-2015.pdf>.

55 Santiago A. Canton y Wade H. McMullen, Jr., *Americas Quarterly*, “The Dominican Republic and Haiti: Shame,” (Summer 2014). Available at <http://www.americasquarterly.org/content/dominican-republic-and-haiti-shame>.

56 Judgment 168-13, Constitutional Tribunal of the Dominican Republic, September 23, 2013, para. 1, n. 1. Available at: <https://www.tribunalconstitucional.gob.do/sites/default/files/documentos/Sentencia%20TC%200168-13%20-%20C.pdf>.

57 Judgment 168-13, Constitutional Tribunal of the Dominican Republic, September 23, 2013, para 21. Available at: <https://www.tribunalconstitucional.gob.do/sites/default/files/documentos/Sentencia%20TC%200168-13%20-%20C.pdf>; IACHR, “Report on the Situation of Human Rights in the Dominican Republic,” para. 170, (2015). Available at: <http://www.oas.org/en/iachr/reports/pdfs/dominicanrepublic-2015.pdf>.

58 IACHR, “Report on the Situation of Human Rights in the Dominican Republic,” para. 170, (2015). Available at: <http://www.oas.org/en/iachr/reports/pdfs/dominicanrepublic-2015.pdf>.

59 Constitución Política de la República Dominicana [Political Constitution of the Dominican Republic], January 26, 2010, art. 18(3). Published in la Gaceta Oficial [The Official Gazette] No. 10561, January 26, 2010. Available at <http://www.ifrc.org/docs/idrl/75IES.pdf>.

60 Central Electoral Board (JCE), Resolución 12-2007, December 10, 2007. Available at: http://issuu.com/publicaciones2008/docs/090612232656-2036f571937746c7888e9_20090612_232805; Nelson B. Varona, *Circular No. 017 of the JCE*, HoyDigital (August 26, 2008). Available at: <http://hoy.com.do/circular-no-017-de-la-jce/>; IACHR, “Report on the Situation of Human Rights in the Dominican Republic,” para. 169, (2015). Available at: <http://www.oas.org/en/iachr/reports/pdfs/dominicanrepublic-2015.pdf>.

refused to hand over her documents, Ms. Deguis Pierre filed an action in the local court for the return of her birth certificate and the issue of her *cédula* card, which was denied in 2012.⁶¹ She then appealed the decision to the Constitutional Tribunal,⁶² which issued Judgment 168-13 on September 23, 2013.⁶³

In Judgment 168-13, the Constitutional Court affirmed the retroactive application of the “in transit” exception contained in the 2010 Constitutional amendment to Ms. Deguis Pierre’s situation.⁶⁴ The Court considered that she was not entitled to Dominican nationality because she was the daughter of undocumented Haitian immigrants who were “foreign citizens in transit,” despite her being born before the 2010 amendment.⁶⁵ The Court ordered that Ms. Deguis Pierre be issued a birth certificate that reflected her foreign status and a special pass for a “temporary stay”⁶⁶ in the Dominican Republic, even though she had lived her entire life in the country.⁶⁷ Critics of the decision indicated that Judgment 168-13 violated at least four articles of the Dominican Constitution: 1) Article 18, the right to nationality, 2) Article 110, the protection against retroactive application of the law, 3) Article 74, interpretation of fundamental rights in the light most favorable to affected persons, and 4) Article 69, judicial responsibility and due process, in addition to the rulings of the Inter-American Court of Human Rights.⁶⁸

Judgment 168-13 was emblematic because, although apparently neutral, the majority of people affected by Judgment 168-13 are Dominicans of Haitian descent. The decision seemingly approved of the racism and discrimination against Dominicans of Haitian descent,⁶⁹ who had always been viewed as Haitian, black, or foreign, but never as Dominican.⁷⁰

THE DECISION SEEMINGLY APPROVED OF THE RACISM AND DISCRIMINATION AGAINST DOMINICANS OF HAITIAN DESCENT, WHO HAD ALWAYS BEEN VIEWED AS HAITIAN, BLACK, OR FOREIGN, BUT NEVER AS DOMINICAN.

Going beyond Ms. Deguis Pierre’s case, the Court explicitly and retroactively applied the decision to thousands of other Dominicans of Haitian descent who were in her situation.⁷¹ To achieve this, the Court ordered the JCE to audit the birth registry books of the Civil Registry since 1929, the year in which the exception to the right to nationality for children of foreigners “in transit” was introduced, and compile a list of the “foreigners” who were “registered irregularly” which would be transferred to a registry

61 Judgment 168-13, Constitutional Tribunal of the Dominican Republic, September 23, 2013, page 3, para 2.1, Referencia. Available at: <https://www.tribunalconstitucional.gob.do/sites/default/files/documentos/Sentencia%20TC%200168-13%20-%20C.pdf>; IACHR, “Report on the Situation of Human Rights in the Dominican Republic,” para. 171, (2015). Available at <http://www.oas.org/en/iachr/reports/pdfs/dominicanrepublic-2015.pdf>.

62 Judgment 168-13, Constitutional Tribunal of the Dominican Republic, September 23, 2013, page 1. Available at: <http://tribunalconstitucional.gob.do/sites/default/files/documentos/Sentencia%20TC%200168-13%20-%20C.pdf>; IACHR, “Report on the Situation of Human Rights in the Dominican Republic,” para. 172, (2015). Available at <http://www.oas.org/en/iachr/reports/pdfs/dominicanrepublic-2015.pdf>.

63 Judgment 168-13, Constitutional Tribunal of the Dominican Republic, September 23, 2013, page 1. Available at: <http://tribunalconstitucional.gob.do/sites/default/files/documentos/Sentencia%20TC%200168-13%20-%20C.pdf>; IACHR, “Report on the Situation of Human Rights in the Dominican Republic,” para. 172, (2015). Available at <http://www.oas.org/en/iachr/reports/pdfs/dominicanrepublic-2015.pdf>.

64 Judgment 168-13, Constitutional Tribunal of the Dominican Republic, September 23, 2013, page 98, “Decide Tercero” [Third Decision]. Available at: <http://tribunalconstitucional.gob.do/sites/default/files/documentos/Sentencia%20TC%200168-13%20-%20C.pdf>

65 Judgment 168-13, Constitutional Tribunal of the Dominican Republic, September 23, 2013, page 98, “Decide Segundo.” Available at: <http://tribunalconstitucional.gob.do/sites/default/files/documentos/Sentencia%20TC%200168-13%20-%20C.pdf>.

66 Judgment 168-13, Constitutional Tribunal of the Dominican Republic, September 23, 2013, page 99, “Decide Cuarto” [Fourth Decision]. Available at: <http://tribunalconstitucional.gob.do/sites/default/files/documentos/Sentencia%20TC%200168-13%20-%20C.pdf>.

67 Santiago A. Canton y Wade H. McMullen, Jr., Americas Quarterly, “The Dominican Republic and Haiti: Shame,” (Summer 2014). Available at <http://www.americasquarterly.org/content/dominican-republic-and-haiti-shame>.

68 El País, “Sentencia sobre nacionalidad viola al menos cuatro artículos de la Constitución” [Ruling on nationality violates at least four articles of the Constitution], April 11, 2017. Available at: http://www7dias.com.do/el-pais/2013/09/26/i48801_sentencia-sobre-nacionalidad-viola-menos-cuatro-articulos-constitucion.html#WOL_9RIZOqA.

69 See, e.g. Human Rights Watch, “We are Dominican: Arbitrary Deprivation of Nationality in the Dominican Republic,” (July 1, 2015), which called Dominicans of Haitian descent “the single largest ethnic group affected by the 2013 decision and the 2014 law.” Available at: <https://www.hrw.org/report/2015/07/01/we-are-dominican/arbitrary-deprivation-nationality-dominican-republic>; IACHR, “Report on the Situation of Human Rights in the Dominican Republic,” paras. 186-87, (2015). Available at: <http://www.oas.org/en/iachr/reports/pdfs/dominicanrepublic-2015.pdf>

70 See IACHR, “Report on the Situation of Human Rights in the Dominican Republic,” para. 108-15, (2015). Available at: <http://www.oas.org/en/iachr/reports/pdfs/dominicanrepublic-2015.pdf>.

71 Judgment 168-13, Constitutional Tribunal of the Dominican Republic, September 23, 2013, pages 98 -99, “Decide Tercero” [Third Decision] Available at: <http://tribunalconstitucional.gob.do/sites/default/files/documentos/Sentencia%20TC%200168-13%20-%20C.pdf>

book of foreigners.⁷² In addition, the President of the Dominican Republic, Danilo Medina, approved a Regularization Plan in November 2013 that gave foreigners who wished to regularize their migratory situation in the Dominican Republic 18-months to register themselves.⁷³ After that period, those who were not so registered could be deported to Haiti.⁷⁴

Judgment 168-13 led to harsh criticism for the Dominican State from the international community.⁷⁵ In light of the judgment, the Office of the High Commissioner for Human Rights of the United Nations (OHCHR) urged the Government of the Dominican Republic to “take all necessary measures” to ensure that citizens of Haitian origin are not deprived of their right to nationality,⁷⁶ a sentiment echoed by the High Commissioner for Refugees (UNHCR),⁷⁷ the European Union,⁷⁸ and by the Caribbean Community (CARICOM).⁷⁹ The Working Group of the Universal Periodic Review recommended that the Dominican Republic take “urgent steps to ensure full respect for the right to a nationality [...] and to seek technical advice with UNHCR to identify and prevent statelessness and protect stateless persons.”⁸⁰ UNICEF also urged the Dominican Republic to adopt “a procedure to protect every child’s right to acquire a nationality, in accordance with the country’s international human rights obligations.”⁸¹

As a result of the controversial judgment and under significant pressure from local civil society organizations and the international community, the Dominican government proposed a Naturalization Bill to Congress. The Bill recognized the citizenship of those individuals who had been previously registered as Dominican citizens and established a registration process for those born in the country but who had not yet been registered as citizens.⁸² The Bill, now known as Law 169-14, was passed into law on May 23, 2014,⁸³ and promised to be a solution to the situation of those Dominicans of Haitian descent affected by Judgment 168-13.⁸⁴

JUDGMENT 168-13 LED TO HARSH CRITICISM FOR THE DOMINICAN STATE FROM THE INTERNATIONAL COMMUNITY.

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- 72 Judgment 168-13, Constitutional Tribunal of the Dominican Republic, September 23, 2013, page 99, “Decide Quinto” [Fifth Decision]. Available at: <http://tribunalconstitucional.gob.do/sites/default/files/documentos/Sentencia%20TC%200168-13%20-%20C.pdf>
- 73 “Propuesta de Proyecto de Decreto Reglamentario Relativo al Plan Nacional de Regularización de Extranjeros en Situación Migratoria Irregular,” Periodo de vigencia del plan [Project Proposal for the Regulatory Decree Relative to the National Plan for Regularization of Foreigners, Period of Application of the Plan] November 23, 2013. Available at: <http://web.archive.org/web/20150225224133/http://www.mip.gob.do/Portals/0/docs/PublicacionRegularizacion.pdf>.
- 74 “Propuesta de Proyecto de Decreto Reglamentario Relativo al Plan Nacional de Regularización de Extranjeros en Situación Migratoria Irregular,” Periodo de vigencia del plan [Project Proposal for the Regulatory Decree Relative to the National Plan for Regularization of Foreigners, Period of Application of the Plan] November 23, 2013. Available at: <http://web.archive.org/web/20150225224133/http://www.mip.gob.do/Portals/0/docs/PublicacionRegularizacion.pdf>; IACHR, “Report on the Situation of Human Rights in the Dominican Republic,” para. 538, (2015). Available at: <http://www.oas.org/en/iachr/reports/pdfs/dominicanrepublic-2015.pdf>.
- 75 For a detailed list of international responses, see The European Network on Statelessness, “What should the European Union Do about the Mass and Arbitrary Deprivation of Nationality in the Dominican Republic,” (May 9, 2014). Available at: <http://www.statelessness.eu/blog/what-should-european-union-do-about-mass-and-arbitrary-deprivation-nationality-dominican>.
- 76 United Nations Office of the High Commissioner, “UN urges Dominican Republic to ensure citizens of Haitian origin do not lose nationality,” October 1, 2013. Available at: <http://www.un.org/apps/news/story.asp?NewsID=46152&Cr=haiti&Cr1=#:WE3QaXeZO8U>.
- 77 United Nations High Commissioner for Refugees, “UNHCR concerned by potential impact of Dominican court decision on persons of Haitian descent,” October 1, 2013. Available at: <http://www.unhcr.org/cgi-bin/texis/vtx/search?page=search&docid=524c0c929&query=dominican%20republic>
- 78 Dominican Today, “European Union hails Dominican Republic-Haiti talks,” February 4, 2014. Available at: <https://dominantoday.com/dlr/local/2014/02/04/european-union-hails-dominican-republic-haiti-talks>.
- 79 CARICOM, “Communique issued at the conclusion of the 36th regular meeting of the head,” (July 5, 2015). Available at: <http://www.caricom.org/media-center/communications/communiques/communique-issued-at-the-conclusion-of-the-36th-regular-meeting-of-the-head>.
- 80 United Nations Human Rights Office of the High Commissioner, Universal Periodic Review Media Briefing, February 5, 2014 (Morning). Available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/Highlights5February2014am.aspx>
- 81 UNICEF, “Statement attributable to UNICEF on the Constitutional Court decision on Dominican-born persons of Haitian descent,” October 9, 2013. Available at: https://www.unicef.org/media/media_70619.html.
- 82 Ley No. 169-14 [Law 169-14], May 23, 2014, artículo 1. Available at: <http://www.refworld.org/docid/53882dea4.html>.
- 83 Ley No. 169-14 [Law 169-14], May 23, 2014. Available at: <http://www.refworld.org/docid/53882dea4.html>.
- 84 Ley No. 169-14 [Law 169-14], “Considerando Octavo” [Eighth Consideration] May 23, 2014. Available at: <http://www.refworld.org/docid/53882dea4.html>.

II. DISREGARD OF INTERNATIONAL LAW: CONTINUED VIOLATIONS OF HUMAN RIGHTS

The Constitutional Court's Judgment 168-13 was a watershed moment in the habitual disavowal of the Dominican courts and state institutions' of international human rights conventions and treaties on the issue of nationality.⁸⁵ Article 74(3) of the Dominican Constitution recognizes the "constitutional hierarchy" and "direct and immediate application" of the human rights treaties, pacts, and conventions signed and ratified by the Dominican state,⁸⁶ which include many that guarantee the right to nationality.⁸⁷ International law recognizes the sovereign right of States to make their own nationality and citizenship laws,⁸⁸ but establishes a series of safeguards to prevent statelessness.⁸⁹

The Dominican Republic has consistently argued that Dominicans of Haitian descent who were stripped of their nationality have the right to Haitian nationality and are not stateless.⁹⁰ However, these statements do not consider that people of Haitian descent born in the Dominican Republic are not automatically considered Haitian nationals under Haitian law.⁹¹ Article 11 of the Haitian Constitution states that "each individual born of a Haitian father or mother that have been born Haitian and have not renounced their nationality at the time of the birth"⁹² has Haitian nationality, which implies that there must be an application process. Experts warn that "the legislative and constitutional developments in Haiti [...] mean that the acquisition of Haitian nationality is far from automatic."⁹³ Moreover, it is very difficult to get the documents necessary to prove Haitian nationality because of a "dysfunctional system of a civil registry and a weak consular capacity across the Caribbean."⁹⁴ The Dominican Republic's policies leave many Dominicans of Haitian descent without Dominican nationality in violation of international law.

85 See, e.g. Dominican Today, "Haitian-Dominicans picket at high court marks 3 years of landmark decision," September 23, 2016. Available at: <http://www.dominicantoday.com/dr/local/2016/9/23/60711/Haitian-Dominicans-picket-at-high-court-marks-3-years-of-landmark>; see, also Judgment 168-13, Tribunal Constitucional de República Dominicana, September 23, 2013. Available at: <https://www.tribunalconstitucional.gob.do/sites/default/files/documentos/Sentencia%20TC%200168-13%20-%20C.pdf>; El País, "Sentencia sobre nacionalidad viola al menos cuatro artículos de la Constitución" [Ruling on nationality violates at least four articles of the Constitution], April 11, 2017. Available at: http://www.7dias.com.do/el-pais/2013/09/26/148801_sentencia-sobre-nacionalidad-viola-menos-cuatro-articulos-constitucion.html#WOL_9RiZQqA.

86 See Constitución Política de la República Dominicana [Political Constitution of the Dominican Republic], January 26, 2010, Article 74(3). Published in la Gaceta Oficial [The Official Gazette] No. 10561, January 26, 2010. Available at: <http://www.ifrc.org/docs/drl/751ES.pdf>.

87 See, e.g., UN General Assembly, *Optional Protocol to the International Covenant on Civil and Political Rights*, 19 December 1966, United Nations, Treaty Series, vol. 999, page 171. Available at: <http://www.refworld.org/docid/3ae6b3bf0.html>; UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, page 3. Available at: <http://www.refworld.org/docid/3ae6b38f0.html>; UN General Assembly, *International Convention on the Elimination of All Forms of Racial Discrimination*, 21 December 1965, United Nations, Treaty Series, vol. 660, page 195. Available at: <http://www.refworld.org/docid/3ae6b3940.html>; and UN General Assembly, *Convention on the Elimination of All Forms of Discrimination Against Women*, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13. Available at: <http://www.refworld.org/docid/3ae6b3970.html>. For a full list of treaties to which the Dominican Republic is a party, see List of Human Rights Treaties to which the Dominican Republic is a Signatory, see <http://indicators.ohchr.org/>.

88 U.N. Convention on the Reduction of Statelessness, art. 7(6), *opened for signature* Aug. 30, 1961, 989 U.N.T.S. 175 (entered into force Dec. 13, 1975). Available at: <http://www.unhcr.org/en-us/protection/statelessness/3bbb286d8/convention-reduction-statelessness.html>.

89 U.N. Convention on the Reduction of Statelessness, art. 7(6), *opened for signature* Aug. 30, 1961, 989 U.N.T.S. 175 (entered into force Dec. 13, 1975). Available at: <http://www.unhcr.org/en-us/protection/statelessness/3bbb286d8/convention-reduction-statelessness.html>.

90 Judgment 168-13, Constitutional Tribunal of the Dominican Republic, September 23, 2013, para. 51 (a) y 31.2 – 31.3. Available at: <http://tribunalconstitucional.gob.do/sites/default/files/documentos/Sentencia%20TC%200168-13%20-%20C.pdf>

91 Amnesty International, "Submission to the Human Rights Committee," AMR 27/2978/2015, December 2015, pages 5-6. Available at: http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/DOM/INT_CCPR_NGS_DOM_22471_E.pdf.

92 Diario Libre, "La Constitución haitiana" [The Haitian Constitution], translating Article 11 of the Haitian Constitution. June 24, 2015. Available at: <http://www.diariolibre.com/opinion/la-constitucion-haitiana-JCDL1209321>.

93 Amnesty International, Dominican Republic: Submission to the Human Rights Committee, AMR 27/2978/2015, December 2015, page 5. Available at: http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/DOM/INT_CCPR_NGS_DOM_22471_E.pdf.

94 Canada: Immigration and Refugee Board of Canada, *Haiti: Dual citizenship, including legislation, requirements and procedures for former Haitian citizens to re-acquire citizenship (2012-January 2013)*, 8 February 2013, HTII04293.E. Citing: The US Department of State's Country Reports on Human Rights Practices for 2011 (24 May 2012, 18). Available at: <http://www.refworld.org/docid/51dd18df4.htm>.

i. The Inter-American System of Human Rights

The bodies of the Inter-American Human Rights System, of which the Dominican Republic is a member State,⁹⁵ have been particularly vocal on the right to nationality in the Dominican Republic. Both the Inter-American Court and the Inter-American Commission, have consistently condemned the actions of the Dominican state regarding the right to nationality of Dominicans of Haitian descent.

a. Clear Violations of the American Convention on Human Rights

The following rights are particularly relevant to the situation of Dominicans of Haitian descent:

1. The Right to Nationality

Citizenship is the vehicle through which individuals are able to exercise their most basic human rights.⁹⁶ The right to nationality is so essential that although States maintain their sovereign right to determine their own nationality laws,⁹⁷ Article 20 of the American Convention on Human Rights affirms the right of an individual to the nationality of the state where he or she was born if he or she has no right to any other nationality, and declares that “no one shall be arbitrarily deprived of his nationality or of the right to change it.”⁹⁸ In the 2014 *Case of Expelled Dominicans and Haitian Persons*, the Inter-American Court explained that the right to nationality has two aspects: an individual’s access to basic legal protections through her connection to a specific State, and the protection from arbitrary deprivation of nationality which deprives someone of these legal protections, including her basic civil and political rights.⁹⁹ Judgment 168-13’s stripping Dominicans of Haitian descent of their Dominican nationality robs them of both facets of their right to nationality.¹⁰⁰ It removes their legal connection to the Dominican State and arbitrarily deprives them of that connection many years after it was bestowed. Because Dominicans of Haitian descent are not automatically Haitian nationals¹⁰¹ they are effectively left stateless due to the policies of the Dominican State.¹⁰²

2. The Right to Recognition as a Person Before the Law

Violations of the right to nationality go hand-in-hand with violations of the right to juridical personality. Most of the individuals affected by Judgment 168-13 and the subsequent legislative measures adopted by the Government to provide a “solution” to their situation currently have no clear legal status under the laws of any country.¹⁰³ Although Dominicans of Haitian descent

95 The Dominican Republic ratified the American Convention on Human Rights in 1978 and recognized the jurisdiction of the Inter-American Court of Human Rights in 1999. See Inter-American Commission on Human Rights, *Ratification of the American Convention on Human Rights*. Available at: <http://www.cidh.org/basicos/english/Basic4.Amer.Conv.Ratif.htm#9>.

96 See, e.g. Hannah Arendt, *The Origins of Totalitarianism*, page 177 (3rd ed. 1968).

97 Introductory Notes to the U.N. Convention on the Reduction of Statelessness, art. 7(6), *opened for signature* Aug. 30, 1961, 989 U.N.T.S. 175 (entered into force Dec. 13, 1975). Available at: <http://www.unhcr.org/en-us/protection/statelessness/3bbb286d8/convention-reduction-statelessness.html>

98 American Convention on Human Rights, Art. 20(3), Nov. 22, 1969, OAS Treaty Series No. 36. Available at: https://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights.htm. “No one shall be arbitrarily deprived of his right to nationality or of the right to change it.”

99 Inter-Am. Ct. H.R., *Case of Expelled Dominicans and Haitians v. Dominican Republic*. Preliminary Objections, Merits, Reparations and Costs. Judgment of August 28, 2014, Series C No. 282, para. 254. Available at: http://corteidh.or.cr/docs/casos/articulos/seriec_282_ing.pdf, citing *Propuesta de Modificación a la Constitución Política de Costa Rica Relacionada con la Naturalización [Proposed Modification of the Political Constitution of Costa Rica with Respect to Naturalization]*, Advisory Opinion, OC-4/84 del January 19, 1984, Serie A No. 4, párr. 34, y *Case of Gelman vs. Uruguay. Merits and Reparations*. Judgment of February 24, 2011 Serie C No. 221, para. 128.

100 Inter-Am. Ct. H.R., *Case of Expelled Dominicans and Haitians v. Dominican Republic*. Preliminary Objections, Merits, Reparations and Costs. Judgment of August 28, 2014. Series C No. 282, para. 512. Available at: http://corteidh.or.cr/docs/casos/articulos/seriec_282_ing.pdf.

101 Amnesty International, *Dominican Republic: Submission to the Human Rights Committee*, pages 5 -6. AMR 27/2978/2015, December 2015. Available at: http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/DOM/INT_CCPR_NGS_DOM_22471_E.pdf; Canada: Immigration and Refugee Board of Canada, *Haiti: Dual citizenship, including legislation; requirements and procedures for former Haitian citizens to re-acquire citizenship (2012-January 2013)*, 8 February 2013, HT1104293.E. Citing: The US Department of State’s Country Reports on Human Rights Practices for 2011, (24 May 2012, 18) available at: <http://www.refworld.org/docid/51dd18df4.html> [accessed 10 March 2017].

102 Amnesty International, *Dominican Republic: Submission to the Human Rights Committee*, pages 5 -6. AMR 27/2978/2015, December 2015. Available at: http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/DOM/INT_CCPR_NGS_DOM_22471_E.pdf.

103 Freedom House, *Freedom in the World Report 2016*, “Dominican Republic: Political Pluralism and Participation.” Available at: <https://freedomhouse.org/report/freedom-world/2016/dominican-republic>. Sibylla Brodzinskyy, *The Guardian*, “Dominicans of Haitian Descent fear Mass Deportations as Deadline Looms, June 16, 2015. Available at: <https://www.theguardian.com/world/2015/jun/16/dominican-republic-haiti-deportation-residency-permits>; See also Ley No. 169-14 [Law 169-14], “Considerando Octavo” [Eighth Consideration] May 23, 2014. Available at: <http://www.refworld.org/docid/53882dea4.html>.

are in their home country, many are unable to obtain valid official identity documents.¹⁰⁴ As a result, because they have no documentation identifying them as citizens and they don't have documentation that identifies them as foreigners, they are effectively invisible under the law in the Dominican Republic.¹⁰⁵ On this point, the Inter-American Court has held "the failure to recognize juridical personality harms human dignity, because it denies absolutely an individual's condition of being a subject of rights and renders him vulnerable to non-observance of his rights by the State or other individuals."¹⁰⁶

3. The Right to Be Free from Racial Discrimination

The Dominican Republic's efforts to deprive Dominicans of Haitian descent of their nationality have a strong foundation in racial discrimination. The Inter-American Court's decision in the *Case of the Girls Yean and Bosico* contextualized the violations the girls experienced within the "vulnerable situation of the Haitian population and Dominicans of Haitian origin in the Dominican Republic,"¹⁰⁷ and cited the United Nations Committee on the Rights of the Child's "deep concern"¹⁰⁸ at the discrimination against Dominican children of Haitian descent. Other special procedures of the United Nations have also documented a strong "anti-Haitianism" in the country that is "based on skin colour, without distinguishing between Haitians, Dominicans of Haitian descent and black Dominicans with no ties at all to Haiti."¹⁰⁹ This discrimination on the part of state agents is a violation of the general obligation to respect the rights recognized in the American Convention on Human Rights in accordance with Article 1 of said Convention.¹¹⁰

BECAUSE THEY HAVE NO DOCUMENTATION IDENTIFYING THEM AS CITIZENS AND THEY DON'T HAVE DOCUMENTATION THAT IDENTIFIES THEM AS FOREIGNERS, THEY ARE EFFECTIVELY INVISIBLE UNDER THE LAW IN THE DOMINICAN REPUBLIC.

As discussed in Section IV, the inability of Dominicans of Haitian descent to obtain documents to exercise their Dominican citizenship restricts their ability to exercise their most basic civil rights. Accordingly, Dominicans of Haitian descent often suffer interference with other essential rights such as the right to family (Article 17 of the American Convention on Human Rights)¹¹¹ when they

4. Violations of Other Rights Derived from the Right to Nationality

As discussed in Section IV, the inability of Dominicans of Haitian descent to obtain documents to exercise their Dominican citizenship restricts their ability to exercise their most basic civil rights. Accordingly, Dominicans of Haitian descent often suffer interference with other essential rights such as the right to family (Article 17 of the American Convention on Human Rights)¹¹¹ when they

104 See Section III; Human Rights Watch, "We are Dominican: Arbitrary Deprivation of Nationality in the Dominican Republic," (July 1, 2015). Available at: <https://www.hrw.org/report/2015/07/01/we-are-dominican/arbitrary-deprivation-nationality-dominican-republic>; Freedom House, Freedom in the World Report 2016, "Dominican Republic: Political Pluralism and Participation." Available at: <https://freedomhouse.org/report/freedom-world/2016/dominican-republic>.

105 See, e.g. Amnesty International Human Rights Now Blog, "Dominican Republic's Absurd Laws Shatters Star Boxer's Promising Career," February 9, 2016. Available at: <http://blog.amnestyusa.org/americas/dominican-republics-absurd-laws-shatters-star-boxers-promising-career/>.

106 Inter-Am. Ct. H. R., *Case of the Girls Yean and Bosico vs. Dominican Republic*. Merits, Judgment of Sept. 8, 2005. Series C, No. 130, para. 179. Available at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_130_%20ing.pdf.

107 Inter-Am. Ct. H. R., *Case of the Girls Yean and Bosico vs. Dominican Republic*. Merits, Judgment of Sept. 8, 2005. Series C, No. 130, para. 168. Available at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_130_%20ing.pdf.

108 Inter-Am. Ct. H. R., *Case of the Girls Yean and Bosico vs. Dominican Republic*. Merits, Judgment of Sept. 8, 2005. Series C, No. 130, para. 169. Available at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_130_%20ing.pdf.

109 See, e.g. United Nations, "Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Doudou Diène y the Independent expert on minority issues, Gay McDougall – Addendum – Mission to the Dominican Republic," pars. 44 and 91. A/HRC/7/19/Add.5 March 18, 2008. Available at: <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/7/19/Add.5&Lang=E>.

110 American Convention on Human Rights, art. 1, Nov. 22, 1969, OAS Treaty Series No. 36, Article 1. Available at: https://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights.htm "The States Parties to this Convention undertake to respect the rights and freedoms recognized herein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, without any discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition." The right to be free from discrimination on the basis of race is also enshrined in Article 2 of both the Universal Declaration of Human Rights and the *International Covenant on Civil and Political Rights*. Universal Declaration of Human Rights, G.A. res. 217A (III), art. 2, U.N. Doc A/810 page 71 (1948); and the *International Covenant on Civil and Political Rights*, U.N. General Assembly, December 16, 1966, (entered into force March 23, 1976) United Nations, Treaty Series, vol. 999, art. 2, page 171.

111 Article 17 reads "1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the state. 2. The right of men and women of marriageable age to marry and to raise a family shall be recognized, if they meet the conditions required by domestic laws, insofar as such conditions do not affect the principle of nondiscrimination established in this Convention. 3. No marriage shall be entered into without the free and full consent of the intending spouses. 4. The States Parties shall take appropriate steps to ensure the equality of rights and the adequate balancing of responsibilities of the spouses as to marriage, during marriage, and in the event of its dissolution. In case of dissolution, provision shall be made for the necessary protection of any children solely on the basis of their own best interests. 5. The law shall recognize equal rights for children born out of wedlock and those born in wedlock."

are not allowed to marry or register their children as Dominican citizens due to a lack of their own documentation; the right to a name (Article 18 of the American Convention on Human Rights),¹¹² if they are unable to register themselves or their children because of issues with documentation; the right to participate in government (Article 23 of the American Convention on Human Rights);¹¹³ the right to equal protection if they are unable to vote or hold public office (Article 24 of the American Convention on Human Rights);¹¹⁴ and the right to judicial protection (Article 25 of the American Convention on Human Rights).¹¹⁵

b. The Dominican Government's Disregard of Judgments of the Inter-American Court

The Dominican Republic has consistently flouted the judgments of the Inter-American Court of Human Rights, holding the State responsible for violations of the rights of Dominicans of Haitian descent and ordering reparations for the victims.¹¹⁶ In the 2005 decision *Case of the Girls Yean and Bosico v. Dominican Republic*, the Inter-American Court tracked the history of discrimination against Dominicans of Haitian descent and the obstacles the State has imposed on their registration as Dominican citizens.¹¹⁷ The Court held that by withholding birth certificates from two Dominican girls of Haitian descent who were entitled to birthright citizenship, the Dominican Republic had violated the girls' rights to a name, to nationality, to legal recognition before the law, equal protection, and to humane treatment.¹¹⁸ The Court ordered that the State undertake a public act of recognition of responsibility, apologize to the victims and their families, pay damages, and adopt "the legislative, administrative and any other measures needed to regulate the procedure and requirements for acquiring Dominican nationality."¹¹⁹ In addition, the Court specified that this process would have to be "simple, accessible and reasonable, since, to the contrary, applicants could remain stateless" and an "effective remedy should exist for cases in which the request is rejected."¹²⁰

Although the decision was issued years before Judgment 168-13, the Court in *Yean and Bosico* declared that many of the Dominican Republic's policies and practices regarding the right to nationality of Dominicans of Haitian descent violated the American Convention on Human Rights.¹²¹ In defiance of the Inter-American Court's decision, the Senate of the Dominican Republic issued a resolution rejecting the judgment and later passed a decision upholding the law that undocumented migrants should be considered as being "in transit,"¹²². Since then, many of the discriminatory practices discussed by the

112 Article 18 reads: "Every person has the right to a given name and to the surnames of his parents or that of one of them. The law shall regulate the manner in which this right shall be ensured for all, by the use of assumed names if necessary."

113 Article 23 reads: "1. Every citizen shall enjoy the following rights and opportunities: a. to take part in the conduct of public affairs, directly or through freely chosen representatives; b. to vote and to be elected in genuine periodic elections, which shall be by universal and equal suffrage and by secret ballot that guarantees the free expression of the will of the voters; and c. to have access, under general conditions of equality, to the public service of his country. 2. The law may regulate the exercise of the rights and opportunities referred to in the preceding paragraph only on the basis of age, nationality, residence, language, education, civil and mental capacity, or sentencing by a competent court in criminal proceedings."

114 Article 24 reads: "All persons are equal before the law. Consequently, they are entitled, without discrimination, to equal protection of the law."

115 Article 25 reads: "1. Everyone has the right to simple and prompt recourse, or any other effective recourse, to a competent court or tribunal for protection against acts that violate his fundamental rights recognized by the constitution or laws of the state concerned or by this Convention, even though such violation may have been committed by persons acting in the course of their official duties. 2. The States Parties undertake: a. to ensure that any person claiming such remedy shall have his rights determined by the competent authority provided for by the legal system of the state; b. to develop the possibilities of judicial remedy; and c. to ensure that the competent authorities shall enforce such remedies when granted."

116 CARICOM, "Communiqué issued at the conclusion of the 36th regular meeting of the head," (July 5, 2015). Available at: <http://www.caricom.org/media-center/communications/communiques/communique-issued-at-the-conclusion-of-the-36th-regular-meeting-of-the-head>.

117 Inter-Am. Ct. H. R., *Case of the Girls Yean and Bosico vs. Dominican Republic*. Merits, Judgment of Sept. 8, 2005. Series C, No. 130, paras. 168-174. Available at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_130_%20ing.pdf.

118 Inter-Am. Ct. H. R., *Case of the Girls Yean and Bosico vs. Dominican Republic*. Merits, Judgment of Sept. 8, 2005. Series C, No. 130, operative paras. 2-4. Available at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_130_%20ing.pdf.

119 Inter-Am. Ct. H. R., *Case of the Girls Yean and Bosico vs. Dominican Republic*. Merits, Judgment of Sept. 8, 2005. Series C, No. 130, operative paragraph 8. Available at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_130_%20ing.pdf.

120 Inter-Am. Ct. H. R., *Case of the Girls Yean and Bosico vs. Dominican Republic*. Merits, Judgment of Sept. 8, 2005. Series C, No. 130, operative paragraph 8. Available at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_130_%20ing.pdf.

121 See Inter-Am. Ct. H. R., *Case of the Girls Yean and Bosico vs. Dominican Republic*. Merits, Judgment of Sept. 8, 2005. Series C, No. 130, operative paragraph 8. Available at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_130_%20ing.pdf.

122 Sentencia B.J. No. 1141 de La Suprema Corte de Justicia [Judgment B.J. No. 1141 of the Supreme Court of Justice], December 14, 2005. Available at: http://www.poderjudicial.gob.do/consultas/consultas_sentencias/detalle_info_sentencias.aspx?ID=11410009.

Inter-American Court in the *Yean and Bosico* case have become the law of the Dominican Republic.¹²³

Later, in the 2014 *Case of Expelled Dominican and Haitian Persons*, the Court underscored the complete disregard of the Dominican government for the right to nationality of Dominicans of Haitian descent.¹²⁴ The Inter-American Court held that the Dominican Republic violated the rights of Dominicans of Haitian descent, including children, by denying them access to identity documents they were constitutionally entitled to, destroying or confiscating their documents, detaining them without cause, and forcibly expelling them from the Dominican Republic.¹²⁵ Ultimately, thirteen days after the Inter-American Court's decision, the Constitutional Tribunal of the Dominican Republic – the same court that issued Judgment 168-13 – declared the country's acceptance of the jurisdiction of the Inter-American Court unconstitutional because it had been accepted solely by the Executive Branch and had not passed through the Legislative Branch of the government.¹²⁶ In its response to the Constitutional Court's decision, the Inter-American Commission said “[t]he Constitutional Court's judgment has no basis whatsoever in international law, and therefore it can have no effect.”¹²⁷

c. Indifference to the Recommendations of the Inter-American Commission

The Inter-American Commission has also called attention to the situation of Dominicans of Haitian descent for almost two decades.¹²⁸ As early as 1999 the Commission noted the existence of “problems in the documentation and registration of individuals of Haitian individuals born in the Dominican Republic; as well as arbitrary obstacles and bureaucratic attitudes of the state workers towards these individuals”¹²⁹ and recommended that the State address the issue. Its reporting on the issue and recommendations that the Dominican State address the right to nationality for those of Haitian descent have remained consistent as the State's policies have gotten worse.¹³⁰

In its latest *Report on the Situation of Human Rights in the Dominican Republic*, released in February 2016, the Inter-American Commission expressed that “the situation of Dominicans of Haitian descent, rather than improving, has worsened over the years, as a result of legislative, judicial, administrative, and constitutional practices and measures adopted by various Dominican authorities, which, instead of ameliorating the situation of those affected, have managed to perpetuate the violations of their human rights.”¹³¹ The Commission further emphasized that the effect of Judgment 168-13 had “led to an unreasonable, discriminatory and disproportionate result by considering as ‘foreigners in transit’ Haitian migrants who have lived in the Dominican Republic for 30, 40, or 50 years and who, for that reason, have developed personal, family, and social ties with the Dominican State.”¹³² The Commission recommended that the Dominican Republic was to:

123 See e.g., Inter-Am. Ct. H. R., *Case of Expelled Dominicans and Haitians v. Dominican Republic*, Preliminary Objections, Merits, Reparations and Costs. Judgment of August 28, 2014. Series C No. 282, paras. 318 and 469-71. Available at: http://corteidh.or.cr/docs/casos/articulos/seriec_282_ing.pdf.

124 Inter-Am. Ct. H. R., *Case of Expelled Dominicans and Haitians v. Dominican Republic*, Preliminary Objections, Merits, Reparations and Costs. Judgment of August 28, 2014. Series C No. 282, para. 469 and operative para. 10. Available at: http://corteidh.or.cr/docs/casos/articulos/seriec_282_ing.pdf.

125 Inter-Am. Ct. H. R., *Case of Expelled Dominicans and Haitians v. Dominican Republic*, Preliminary Objections, Merits, Reparations and Costs. Judgment of August 28, 2014. Series C No. 282, operative paras. 3-11. Available at: http://corteidh.or.cr/docs/casos/articulos/seriec_282_ing.pdf.

126 Judgment TC/0256/14 of the Constitutional Court of the Dominican Republic, (November 4, 2014), Available at: <http://www.tribunalconstitucional.gob.do/sites/default/files/documentos/Sentencia%20TC%200256-14%20C.pdf>.

127 IACHR, “IACHR Condemns Judgment of Constitutional Court of the Dominican Republic,” November 6, 2014. Available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/130.asp.

128 IACHR, “Report on the Situation of Human Rights in the Dominican Republic,” para 1. October 7, 1999. Available at: <http://www.cidh.org/countryrep/Rep.Dominicana99sp/indice.htm>.

129 IACHR, “Report on the Situation of Human Rights in the Dominican Republic,” para 36. October 7, 1999. Available at: <http://www.cidh.org/countryrep/Rep.Dominicana99sp/indice.htm>.

130 See, e.g. IACHR, “Activities of the IACHR in 2013” paras. 14 and 25. Available at: <http://www.oas.org/en/iachr/docs/annual/2013/docs-en/AnnualReportChap1.pdf>.

131 IACHR, “Report on the Situation of Human Rights in the Dominican Republic,” para. 325 (2015). Available at: <http://www.oas.org/en/iachr/reports/pdfs/dominicanrepublic-2015.pdf>.

132 IACHR, “Report on the Situation of Human Rights in the Dominican Republic,” para. 327 (2015). Available at: <http://www.oas.org/en/iachr/reports/pdfs/dominicanrepublic-2015.pdf>.

“[a]dopt, as soon as possible, the necessary measures to guarantee the right to nationality of those persons who already had that right under the domestic legal system in force between 1929 and 2010. The measures to guarantee the right to nationality of the persons adversely affected by the [J]udgment 168-13 should be general and automatic. Such mechanisms should be simple, clear, rapid, and fair. They may not be discretionary or be implemented in a discriminatory fashion. The mechanisms must be economically accessible.”¹³³

The Commission has also highlighted the need to address the racial component to the discrimination against Dominicans of Haitian descent. In 2015, the Inter-American Commission requested that the Dominican Republic “officially and publicly recognize the existence and the historical, social and cultural impact that racism and racial discrimination have had in the Dominican Republic, and express firmly, its political will to fight it.”¹³⁴ However, although nationality policies and laws are neutral with respect to race, the Dominican authorities’ actions are often based on their perception of an individual’s nationality after seeing the color of their skin.¹³⁵ The Dominican courts’ affirmations of the Central Electoral Board’s (JCE) discriminatory practices also clearly demonstrate the lack of State will to find solutions in accordance with applicable international law.¹³⁶

Depriving Dominicans of Haitian descent of their Dominican nationality is a clear violation of many rights in the American Convention on Human Rights. As the Inter-American Commission has stated, the Dominican Republic’s failure to comply with the decisions or recommendations of the Inter-American system, particularly with respect to the right to nationality of Dominicans of Haitian descent “undermines the international human rights protections of those under the Dominican State’s jurisdiction.”¹³⁷

ii. Criticisms from Other International Human Rights Bodies

In addition to the Inter-American system, the Dominican Republic has been denounced before various human rights mechanism for its failure to recognize the right to nationality of Dominicans of Haitian descent and for its discrimination against Haitians and people of Haitian descent. The Dominican Republic is a State Party to many international human rights treaties, including the International Covenant on Civil and Political Rights and its Optional Protocol,¹³⁸ the Convention on the Rights of the Child,¹³⁹ the Convention on the Elimination of All Forms of Racial Discrimination,¹⁴⁰ and the Convention on the Elimination of All Forms of Discrimination Against Women.¹⁴¹ As with the Inter-American system, Dominican courts and other governmental institutions have not recognized the application of these conventions or the recommendations of their monitoring bodies to the Dominican Republic.¹⁴²

133 IACHR, “Report on the Situation of Human Rights in the Dominican Republic,” para. 331(4) (2015). Available at: <http://www.oas.org/en/iachr/reports/pdfs/dominicanrepublic-2015.pdf>.

134 IACHR, “Report on the Situation of Human Rights in the Dominican Republic,” para. 396(1) (2015). Available at: <http://www.oas.org/en/iachr/reports/pdfs/dominicanrepublic-2015.pdf>.

135 See Section III; See, also IACHR, “Report on the Situation of Human Rights in the Dominican Republic,” paras. 1, 4, and 598 (2015). Available at <http://www.oas.org/en/iachr/reports/pdfs/dominicanrepublic-2015.pdf>.

136 See, e.g., La Cámara Civil, Comercial y de Trabajo del Juzgado de Primera Instancia del Distrito Judicial de Monte Plata, Sentencia civil número 425-2016-SCIV-00337 [The Civil, Commercial and Labor Chapter of the First Instance Court in the Monte Plata Judicial District Civil Judgment No. 425-2016-SCIV-00337]. NCI núm. 42425-13-00293. Expediente núm. 425-13-00293.

137 IACHR, “IACHR Condemns Judgment of Constitutional Court of the Dominican Republic,” November 6, 2014. Available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/130.asp.

138 Ratified in 1978. United Nations Human Rights Office of the High Commissioner, Status of Ratification Interactive Dashboard, List of Human Rights Treaties to which the Dominican Republic is a Signatory, <http://indicators.ohchr.org>.

139 Ratified in 1991. United Nations Human Rights Office of the High Commissioner, Status of Ratification Interactive Dashboard, List of Human Rights Treaties to which the Dominican Republic is a Signatory, <http://indicators.ohchr.org>.

140 Ratified in 1983. United Nations Human Rights Office of the High Commissioner, Status of Ratification Interactive Dashboard, List of Human Rights Treaties to which the Dominican Republic is a Signatory, <http://indicators.ohchr.org>.

141 Ratified in 1982. United Nations Human Rights Office of the High Commissioner, Status of Ratification Interactive Dashboard, List of Human Rights Treaties to which the Dominican Republic is a Signatory, <http://indicators.ohchr.org>.

142 See, e.g. CEJIL, UN Human Rights Council, Submission to the 18th Session to the Universal Periodic Review: Review of the Dominican Republic, “The Dominican Republic’s Continued Failure to Meet International Obligations,” June 24, 2013. Available at: https://www.upr-info.org/sites/default/files/document/dominican_republic/session_18_-_january_2014/cejil_upr18_dom_e_main.pdf.

For example, in 2008, five years before Judgment 168-13, the UN Human Rights Council noted that generations born in the Dominican Republic to Haitian parents with the constitutional right to *jus soli* citizenship were “being denied legitimate expectations of citizenship.”¹⁴³ The Council called on the Government of the Dominican Republic to urgently conform to the *jus soli* provisions of the Constitution and to ensure that the rights of all persons of Haitian descent were respected.¹⁴⁴ Judgment 168-13 later affirmed the denial of citizenship to children born in the Dominican Republic to Haitian parents.

Speaking specifically about the registration process for children born to foreign mothers, in 2013, the Committee on the Elimination of Discrimination Against Women expressed deep concern that “the exception to the *jus soli* principle relating to foreigners ‘in transit’ is systematically applied in an excessively broad fashion even to women who have spent many years, if not their entire life, in the Dominican Republic.”¹⁴⁵ The Committee called for the Dominican Republic to “remove all the obstacles for women of Haitian descent and women of uncertain status to obtaining birth certificates for their children, ensuring their access to all rights.”¹⁴⁶ The Committee on the Rights of the Child urged the Dominican Republic to ensure “the restoration of nationality to all individuals, including children, born before the Constitution of 2010 who are affected by the Constitutional Court’s ruling of 23 September 2013.”¹⁴⁷

Like the Inter-American Commission, other human rights bodies have addressed the racially discriminatory component of the denationalization policies against Dominicans of Haitian descent. The U.N. Working Group of Experts on People of African Descent affirmed the right of Dominicans of Haitian descent “to reside safely in the territory, as well as children born in the Dominican Republic who are legally registered.”¹⁴⁸ The Committee on the Elimination of Racial Discrimination recommended the removal of administrative obstacles to issuing and restoring identity documents to Dominicans of Haitian origin and adoption of non-discriminatory policies with regards to identity documents to ensure that Dominican citizens of Haitian origin are not deprived of their right to nationality.¹⁴⁹ Similarly, the U.N. Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance recommended increased oversight over local Civil Registry offices to “encourage [] an official attitude of facilitation and trust,”¹⁵⁰ transparent process in the issuance and denial of identity documents, and notice that “acts of racial discrimination in the exercise of official functions will be severely punished.”¹⁵¹ However, as Section III of this report reveals, acts of racial discrimination are still pervasive.

In spite of these recommendations and statements of concern, the Dominican Republic has persisted without

143 UN Human Rights Council, Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development. Racism, Racial Discrimination, Xenophobia, and Related Forms of Intolerance: “Follow-up to and Implementation of the Durban Declaration and Programme of Action,” A/HRC/7/19/Add.5, Introduction at page 3. March 18, 2008. Available at: <http://www.refworld.org/pdfid/47e23b252.pdf>.

144 UN Human Rights Council, Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development. Racism, Racial Discrimination, Xenophobia, and Related Forms of Intolerance: “Follow-up to and Implementation of the Durban Declaration and Programme of Action,” A/HRC/7/19/Add.5, Introduction at page 3. March 18, 2008. Available at: <http://www.refworld.org/pdfid/47e23b252.pdf>.

145 Committee on the Elimination of All Forms of Discrimination Against Women, “Concluding Observations on the Combined Sixth and Seventh Periodic Reports of the Dominican Republic,” CEDAW/C/DOM/CO/6-7, para. 30, July 30, 2013. Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fCO%2fDOM%2fCO%2f6-7&Lang=en.

146 Committee on the Elimination of All Forms of Discrimination Against Women, “Concluding Observations on the Combined Sixth and Seventh Periodic Reports of the Dominican Republic,” CEDAW/C/DOM/CO/6-7, para. 31(b), July 30, 2013. Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fCO%2fDOM%2fCO%2f6-7&Lang=en.

147 The Committee on the Rights of the Child, “Concluding Observations on the *Convention on the Rights of the Child*,” CRC/C/DOM/CO/3-5, para. 28(a) and (c), June 8, 2015. Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fCO%2fDOM%2fCO%2f3-5&Lang=en.

148 UN Working Group of Experts on Peoples of African Descent, “Dominican Republic: UN Experts concerned over fears of arbitrary deportation and racial profiling,” July 28, 2015. Available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16270&LangID=E#sthash.sPJTtkcB.dpuf>.

149 Committee on the Elimination of Racial Discrimination, “Concluding observations on the thirteenth and fourteenth periodic reports of the Dominican Republic, adopted by the Committee at its eighty-second session (11 February–1 March 2012),” CERD/C/DOM/CO/13-14, para. 20. Adopted 19 April 2013. Available at: <http://docstore.ohchr.org/SelfServices/FilesHandler>.

150 United Nations, “Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Doudou Diène and the Independent expert on minority issues,” Gay McDougall – Addendum – Mission to the Dominican Republic, para. 129. A/HRC/7/19/Add.5 March 18, 2008. Available at: <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/7/19/Add.5&Lang=E>.

151 United Nations, “Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Doudou Diène and the Independent expert on minority issues,” Gay McDougall – Addendum – Mission to the Dominican Republic, par. 129. A/HRC/7/19/Add.5 March 18, 2008. Available at: <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/7/19/Add.5&Lang=E>.

addressing them in any comprehensive way. Law 169-14 was billed as a response to some of the sharp criticism the government received after Judgment 168-13 by creating a path to legal status for Dominicans of Haitian descent.¹⁵² However, Law 169-14 failed to adequately remedy the situation and has led to additional problems for Dominicans of Haitian descent.

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¹⁵² See, e.g. Diario Libre, "Ley 169 y su Reglamento de Aplicación: ¿dónde estamos?" [Law 169 and its Enforcement Regulations: where are we?] February 5, 2015, Available at: <http://www.diariolibre.com/opinion/ley-169-y-su-reglamento-de-aplicacin-dnde-estamos-AIDL998811>.

III. LAW 169-14: AN UNFULFILLED PROMISE OF NATIONALITY

Beyond Ms. Deguis Pierre’s case, Judgment 168-13 ordered an audit of the Dominican Republic’s Civil Registry from 1929 until 2010 and the creation of a list of all “foreigners” who were registered as Dominican citizens at birth within two

years.¹⁵³ The judgment also ordered the creation of a second list of all “foreigners” who were not properly registered as Dominican citizens in the Civil Registry before Judgment 168-13 but who would have been eligible for *jus soli* citizenship at the time of their birth.¹⁵⁴ Finally, the Court required the government to institute processes to “regularize” the status of these newly “foreign” individuals.¹⁵⁵ The subsequent Naturalization Law 169-14 passed by the Dominican legislature in May 2014 sought to implement the Constitutional Court’s ruling in Judgment 168-13.¹⁵⁶

i. Who is “Group A”? Legal Definitions

Naturalization Law 169-14 is the Dominican legislature’s “middle ground” between the fulfillment of the Constitutional Court decision, Judgment 168-13, and criticisms of the decision.¹⁵⁷ Law 169-14 sought to limit the impact of Judgment 168-13 by providing for restoration of citizenship to those affected by Judgment 168-13 who were registered as Dominican citizens in the Civil Registry prior to the Court’s ruling and creating a path for those that were not previously registered to opt for naturalized citizenship.¹⁵⁸

As a result, Law 169-14 divides those affected into two groups, “Group A” and “Group B,” establishing a different nationality regime for each group.¹⁵⁹ “Group A” consists of people, like Ms. Deguis Pierre, who were born in the Dominican Republic and were registered as Dominican citizens in the Civil Registry prior to Judgment 168-13.¹⁶⁰ In contrast to Judgment 168-13’s holding, under Law 169-14, those in “Group A” are not “foreigners” and shall have their Dominican citizenship restored retroactive to their date of birth.¹⁶¹ Despite this restoration of citizenship, Law 169-14 still perpetuates the discrimination against this group of Dominicans by clearly emphasizing the illegality of “Group A’s” initial registration as Dominican citizens. The law offers “a solution to the problem that those persons who were *illegally registered* [emphasis added] in the Civil Registry by the State because they have lived their lives under the premise that they enjoyed the right to Dominican nationality and it had become ingrained in Dominican society.”¹⁶² This reassertion of an initial illegality in their citizenship diminishes Dominicans of Haitian descent’s right to Dominican citizenship and encourages discriminatory treatment against them.

The second group under Law 169-14, “Group B,” consists of individuals born in the Dominican Republic, who were never registered as citizens in the registry books of the Civil Registry. The Law establishes

153 Judgment 168-13, Constitutional Tribunal of the Dominican Republic, September 23, 2013, page 99, “Decide Quinto” [Fifth Decision] Available at: <http://tribunalconstitucional.gob.do/sites/default/files/documentos/Sentencia%20TC%200168-13%20-%20C.pdf>.

154 Judgment 168-13, Constitutional Tribunal of the Dominican Republic, September 23, 2013, page 99, “Decide Quinto” [Fifth Decision] Available at: <http://tribunalconstitucional.gob.do/sites/default/files/documentos/Sentencia%20TC%200168-13%20-%20C.pdf>.

155 Judgment 168-13, Constitutional Tribunal of the Dominican Republic, September 23, 2013, page 100, “Decide Sexto” [Sixth Decision] Available at: <http://tribunalconstitucional.gob.do/sites/default/files/documentos/Sentencia%20TC%200168-13%20-%20C.pdf>.

156 See, e.g. Diario Libre, “Ley 169 y su Reglamento de Aplicación: ¿dónde estamos?” [Law 169 and its Enforcement Regulations: where are we?] February 5, 2015, Available at: <http://www.diariolibre.com/opinion/ley-169-y-su-reglamento-de-aplicacin-dnde-estamosa-AIDL99881>; El Congreso Nacional En Nombre de La Republica, Ley No. 169-14 [National Congress in the name of the Republic, Law 169-14], May 23, 2014. Available at: <http://www.refworld.org/docid/53882dea4.html>.

157 See, e.g. Diario Libre, “Ley 169 y su Reglamento de Aplicación: ¿dónde estamos?” [Law 169 and its Enforcement Regulations: where are we?] February 5, 2015, Available at: <http://www.diariolibre.com/opinion/ley-169-y-su-reglamento-de-aplicacin-dnde-estamosa-AIDL99881>; El Congreso Nacional En Nombre de La Republica, Ley No. 169-14 [National Congress in the name of the Republic, Law 169-14] “Considerando Decimo” [Tenth Consideration], May 23, 2014. Available at: <http://www.refworld.org/docid/53882dea4.html>.

158 Ley No. 169-14 [Law 169-14], Article 4, May 23, 2014. Available at: <http://www.refworld.org/docid/53882dea4.html>.

159 Ley No. 169-14 [Law 169-14], Article 1, May 23, 2014. Available at: <http://www.refworld.org/docid/53882dea4.html>.

160 Ley No. 169-14 [Law 169-14], Article 1, May 23, 2014. Available at: <http://www.refworld.org/docid/53882dea4.html>.

161 Ley No. 169-14 [Law 169-14], Article 1, May 23, 2014. Available at: <http://www.refworld.org/docid/53882dea4.html>.

162 Ley No. 169-14 [Law 169-14], Considerando Octavo [Eighth Consideration], May 23, 2014. Available at: <http://www.refworld.org/docid/53882dea4.html>.

a special registry for this second group that documents them as foreigners and makes them eligible to apply for naturalized Dominican citizenship in two years.¹⁶³

Under Law 169-14, “Group A” is eligible to have their existing identity documents recognized or to have the Central Electoral Board (JCE) provide the necessary documents to those who had not had them before.¹⁶⁴ In June 2015 (months before the expiration of the two-year deadline ordered by Judgment 168-13), the JCE published a list of about 53,827 people who were born in the Dominican Republic and were registered as Dominican citizens prior to the Court’s judgment.¹⁶⁵ Consequently, under Law 169-14 these people belonged to “Group A” and as a result were entitled to restoration of their citizenship and to their identity documents.¹⁶⁶ Some members of “Group A” have reported that the JCE’s audit is not complete.

The concept of “restoration” of citizenship and the provision of corresponding identity documents were also not clearly defined by Law 169-14. Many Dominicans of Haitian descent who had been registered as Dominican citizens prior to Judgment 168-13 already had legitimate birth certificates, *cédula* identity cards, and other forms of state identification. However, as in Jose’s case, many of those in “Group A” continue in legal limbo because their original identity documents have subsequently been disabled or are otherwise invalidated as a result of Judgment 168-13. Many have also experienced problems in obtaining new identity documents. With the language of illegality still present in Law 169-14, what type of citizenship those in “Group A” were entitled to is not clear. If those in “Group A” are considered naturalized citizens, they would not have all the rights of a Dominican citizen by birth, including running for president or vice president.¹⁶⁷

Arguably, you could say that individuals in “Group A” are in a better position under Law 169-14 than those in “Group B” because, in principle, they have the right to restoration of their citizenship. The next section looks at the wide gap between Law 169-14’s promises for “Group A” and the harsh reality they experience. As will be explained later, the problems with implementation of Law 169-14 with respect to “Group A” underscores the reality that all Dominicans of Haitian descent in the Dominican Republic face obstacles in the recognition of their right to nationality and the overwhelming need for large-scale reform for all of the State’s discriminatory policies, regardless of how the group has been classified under Law 169-14.

WITH THE LANGUAGE OF ILLEGALITY STILL PRESENT IN LAW 169-14, WHAT TYPE OF CITIZENSHIP THOSE IN “GROUP A” WERE ENTITLED TO IS NOT CLEAR.

163 Ley No. 169-14 [Law 169-14], Article 6, May 23, 2014. Available at: <http://www.refworld.org/docid/53882dea4.html>.

164 Ley No. 169-14 [Law 169-14], Article 4, May 23, 2014. Available at: <http://www.refworld.org/docid/53882dea4.html>.

165 Acento.com, “JCE publica en Hoy y Listín 184 páginas con dominicanos favorecidos con restitución de documentos,” [JCE publishes in Hoy and Listín 184 pages of Dominicans eligible for restoration of their documents] June 26, 2015. Available at: <http://acento.com.do/2015/actualidad/8261619-jce-publica-lista-de-dominicanos-que-podran-retirar-sus-actas-de-acuerdo-a-la-ley-169-14/>.

166 Ley No. 169-14 [Law 169-14], Articles 1, 2 and 4, May 23, 2014. Available at: <http://www.refworld.org/docid/53882dea4.html>.

167 See, e.g. Amnesty International, “Without Paper, I am No One: Stateless People in the Dominican Republic,” AMR 27/2755/2015, page 28, November 19, 2015. Available at: <http://reliefweb.int/sites/reliefweb.int/files/resources/AMR2727552015ENGLISH.pdf>.

ii. Group A: Beyond the Legal Label

All of the people interviewed for this report meet the legal definition of “Group A,” they were registered as Dominican citizens prior to Judgment 168-13. However, the vast array of problems they faced as part of “Group A” belie the seemingly simplistic legal definition that created the group. Notably, in spite of the different profiles and specific circumstances of the individuals in “Group A,” all of the people interviewed from “Group A” share two fundamental characteristics.

First, they all have dark skin and/or are descendants of Haitians. They believe Dominican officials treat them negatively because the officials presume they are Haitian on account of their skin color, regardless of their Dominican citizenship. Immigrants and foreigners without dark skin are often treated better than those presumed to be Haitian.

“Everyone who has [a light skin] color, when they go to Cristóbal to deposit a document they don’t pay them any mind, but someone who has white skin, he could be Haitian once they see his papers, but the person that comes from batey 7,8,9, the person that has this [dark] color everybody thinks that we are Haitians.” (María P, batey 8)

“Here in Tamayo [city in Baoruco province] we were sitting in the park, there was a Haitian woman and a Chinese man, the Chinese man didn’t have even a paper out of a notebook [he doesn’t have documents] they ask me for my documents, I show them the paper that the JCE gave me to travel, they called the JCE and they let me go, the [Haitian] wpm that was from Santana has her documents, but she didn’t walk with her documents and when they asked the Chinese man for his documents, he said he didn’t have them, they took the woman away and left the Chinese man.” (Genaury, batey 8)

“Each time I go to the capital when I see that the police are there I am nervous because once one has this skin color they will come for you, once they see you, they say ‘morena.’¹⁶⁸ [show me] your documents.” (María A, batey 8)

Second, everyone interviewed for this report lives in conditions of poverty on the margins of Dominican society. They live primarily in the Baoruco and Independence provinces in the Enriquillo region. Enriquillo has historically been a community of persons of Haitian descent, mainly because of its proximity to Haiti.¹⁶⁹ Its diverse landscape provides many options for cultivation: sugar cane, coffee, bananas, in addition to all the earning possibilities from manual labor and other sectors dominated by the Haitian labor force.¹⁷⁰ In this region, 69.5% of families live in poverty, the highest rate in the country.¹⁷¹ In the district of El Palmar de Neiba the number climbs to 88.2% of families.¹⁷² Meanwhile, the Dominican State’s investment in education for the year 2014 in the Enriquillo province was \$1,166.71 million pesos, the third lowest figure out of the country’s ten regions.¹⁷³

168 Dark-skinned woman.

169 See, e.g., Mary Jane Camejo, Alejandro Miguel Garro, Ellen Zeisler, “A Troubled Year: Haitians in the Dominican Republic” page 24, 26 (Human Rights Watch 1992).

170 See, e.g. “Barahona: Dominican Republic has it all,” page 3, 15. Available at: <http://www.godominicanrepublic.com/wp-content/uploads/2013/10/DR-barahona-guide-LW-june7.pdf>; “Ecología: Enriquillo es la región del país con mayor cantidad de agua en el subsuelo, según agrónomo.” [Enriquillo is the region of the country with the largest quantity of water in the subsoil, according to an agronomist.] March 7, 2017. Available at: <http://acento.com.do/2017/ecologia/8437518-enriquillo-la-region-del-pais-mayor-cantidad-agua-subsuelo-segun-agronomo/>.

171 “El Mapa de la pobreza en la República Dominicana 2014,” [Map of the poverty in the Dominican Republic 2014] page 48, October 2014. Ministerio de Planificación, Economía y Desarrollo. Available at: http://economia.gob.do/mepyd/wp-content/uploads/archivos/uaaes/mapa_pobreza/2014/Mapa%20de%20la%20pobreza%202014%20informe%20general%20editado%20final2%20FINAL.pdf.

172 “El Mapa de la pobreza en la República Dominicana 2014,” [Map of the poverty in the Dominican Republic 2014] page 48, October 2014. Ministerio de Planificación, Economía y Desarrollo. Available at: http://economia.gob.do/mepyd/wp-content/uploads/archivos/uaaes/mapa_pobreza/2014/Mapa%20de%20la%20pobreza%202014%20informe%20general%20editado%20final2%20FINAL.pdf.

173 Boletín nro. 13 del “Observatorio del Presupuesto en Educación,” [Bulletin No. 13 of the Office of the Education Budget] page 13. Foro Socio-Educativo, 2015. Available at: https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0ahUKewiPs5yWzXTAhWKVxQKHauEBZwQFggjMAA&url=http%3A%2F%2Fforosocioeducativo.org.do%2Findex.php%2Fpublicaciones%2Fboletines%3Fdownload%3D14%3Aboletin-no-13&usq=AFQjCNHx6FNFrV7_q0EVCCc4gey5drFKww&sig2=qr40PxJ5yUMrxQoMhQFNKA

OF THE 24 PEOPLE THAT PARTICIPATED IN THE FOCUS GROUPS AND INTERVIEWS:

- **20** are children of Dominican mothers and fathers.
- **4** are children of a Dominican mother and a father who is a Haitian migrant.
- **23** have a *cédula* identity card but these documents were void when this report was published. As a result, they cannot undertake any legal action without this document.
- **1** person has been able to resolve the situation of his void *cédula* identity card by himself. Another was able to resolve his voided *cédula* identity card with the support of an attorney.

It is worth noting that none of the children of the people in “Group A” we interviewed had their *cédula* identity card or electoral identification even though they had reached the age of majority. For multiple reasons, they were still in the process of getting their *cédula* identity cards, a process that has been too slow according to them. The Central Electoral Board (JCE) has not expressly denied them documentation, but after many obstacles and many years, the JCE has not given them their documents either. Law 169-14 has neutral language that applies to all descendants of “foreigners in transit” in the Dominican Republic.¹⁷⁴ The coincidence of these racial and socioeconomic characteristics with an individual’s inability to obtain valid identity documents demonstrating their right to Dominican citizenship underscores the long history of racial discrimination and xenophobia that is at the root of these policies.

iii. The Voices of Victims in “Group A”

Individuals in “Group A” tell a consistent story: Law 169-14 has not followed through on its own terms. The Central Electoral Board (JCE) has failed to recognize the original identity documents of many people who belong to “Group A” and are not on the list of 53,827 people, and has not issued new ones to those who need them. As a result, there is overwhelming confusion about who is included in “Group A,” what documents they are entitled to, and what their citizenship status is. Interviews with people in “Group A” reveal that the obstacles and discrimination they face from the Dominican State match the serious concerns expressed by local and international advocacy communities.

The immediate and overarching impact of Judgment 168-13 and, subsequently, of Law 169-14 were the feelings of abuse, disrespect, violation, and prejudice that Dominicans of Haitian descent in “Group A” experienced. Individuals in “Group A” feel shame about their lack of legal status in the Dominican Republic.

“In this country, I am not Dominican, I’m not Haitian, I’m not French, I’m not anything because I don’t exist, this leaf that you have in your hands means more than we do.” (Genaury, batey 8)

“I feel like a person that... how do I explain it to you? Someone who doesn’t have papers is equal to a dog.” (Soraida, batey 8)

*“What do I feel? Shame, because if you don’t have a *cédula* [identity card] you are nobody in society, in society you are less than nothing.” (Yafreisi, batey 8)*

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 174 Ley No. 169-14 [Law 169-14] May 23, 2014. Available at: <http://www.refworld.org/docid/53882dea4.html>; 7 Días, “datos de la JCE confunden sobre impacto que tendrá sentencia del TC,” [Figures from the JCE lead to confusion about the impact the judgment of the TC (Constitutional Tribunal) will have] November 17, 2013. Available at: http://www.7dias.com.do/portada/2013/11/17/i151834_datos-jce-confunden-sobre-impacto-que-tendra-sentencia-del.html#WMBCvUrxE.

“Without a cédula [identity card], without documents, I tell you, I feel bad, bad. My daughter can’t register her daughter because of my problem.” (Altagracia, batey 4)

Judgment 168-13 changed the legal status of Dominicans of Haitian descent by taking away their constitutional entitlement to Dominican citizenship. But nationality is a complex and layered concept that is not captured solely by a legal grant or withholding of citizenship. We interviewed people in “Group A” and asked them what it meant to them to “be Dominican” and whether they felt integrated into their national community.

Some of the responses based the concept of nationality on having been born in the Dominican Republic:

“For me, it means everything because when someone is born in a country, one has all of his or her life in the country all of your life in this country.” (María A, batey 8)

or on the their parents’ and grandparents’ places of origin:

“My mother is Dominican, I am Dominican too, because when someone is born that’s their country, I was born in Santo Domingo, my mom was born in Santo Domingo, my dad was arrayano,¹⁷⁵ they were Dominicans, I am Dominican because this is my flag.” (Yulisa, batey 5).

But they also expressed their Dominican nationality as a negation; they are Dominican because they were not born in Haiti:

“It’s an honor to be one (to be Dominican) because we were not born in Haiti, I studied here, I don’t know where else to link myself, only here in this country.” (Margot, batey 4).

The majority of Dominicans of Haitian descent interviewed for this report were born in the Dominican Republic to Dominican parents and were entitled to birthright citizenship under the Dominican Constitution at the time of their birth. Judgment 168-13 robbed them of their legal right to citizenship. However, even without access to valid identity documents, they are Dominican because the Dominican Republic is the only homeland they have known and being Dominican is part of their identity.

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175 Of Haitian and Dominican descent by being a child of mixed parentage.

iv. Obstacles to Receiving Documents under Law 169-14.

The tangible effects of the right to nationality are identity documents that prove citizenship and facilitate an individual's participation in civil activities. Law 169-14 restored nationality to those in "Group A" and granted them the right to official identity documents, regardless of whether they had these documents prior to Judgment 168-13. Without valid and functional documents, Dominican citizenship is an empty promise.

The Central Electoral Board (JCE), as the state agency that controls issuance of birth certificates and *cédula* identity cards, is tasked with implementing the documents provisions of Law 169-14.¹⁷⁶ Exercising its wide discretion, the JCE unilaterally created a special registration book, the *Libro de Transcripción* ("Transcription Book" in English) that was not contemplated nor authorized under Law 169-14 or other legislation.¹⁷⁷ This book included all the persons who, according to the audit, met the definition of "Group A" under the terms of Law 169-14.¹⁷⁸ However, by having a separate book solely for all citizens in "Group A," the JCE created an unnecessary distinction between those citizens in "Group A" and all other Dominican citizens.

The creation of this separate book also introduced additional divisions and discrepancies in the registration records of those in "Group A."¹⁷⁹ Many people were re-transcribed in the new "*Libro de Transcripción*" with different information than what was in their original identity documents. The JCE also began canceling, invalidating, suspending, or disabling existing documents held by those in "Group A," without notifying affected persons.¹⁸⁰ Moreover, the JCE did not notify them that they needed to come to the JCE to obtain new documentation. In addition to the discrepancies in the local *oficialías*, discrepancies often existed in the records kept by the JCE in the capital, Santo Domingo, when compared to those kept in local *oficialías*.

The creation of the JCE's *Libro de Transcripción* and subsequent cancelation or invalidation of original identity documents has meant that many Dominicans of Haitian descent are without valid identity documents verifying their Dominican citizenship despite a law that guarantees them these documents. "Group A" has been called "a legally segregated citizenry vulnerable to further abuse."¹⁸¹ Local advocacy group Reconoci.do has expressed great concern that Dominicans of Haitian descent are unaware of potential effects of the JCE's creation of a separate registry book, the *Libro de Transcripción*, that clearly sets them apart from other Dominican citizens.¹⁸²

This section highlights some of the main obstacles those in "Group A" have faced in their attempts to obtain documents from the JCE that authenticate their Dominican citizenship.

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176 Central Electoral Board, "Filosofía de la organización" [Philosophy of the Organization], Available at: <http://jce.gob.do/Filosofia-Organizacional>.

177 See, e.g., Human Rights Watch, "We are Dominican: Arbitrary Deprivation of Nationality in the Dominican Republic," (July 1, 2015). Available at: <https://www.hrw.org/report/2015/07/01/we-are-dominican/arbitrary-deprivation-nationality-dominican-republic>; Ley No. 169-14 [Law 169-14], May 23, 2014. Available at: <http://www.refworld.org/docid/53882dea4.html>; El Día, "Reconoci.do denuncia JCE actúa al margen Ley 169-14," [Reconoci.do denounces JCE as acting at the margins of Law 169-14] October 21, 2014. Available at: <http://eldia.com.do/reconoci-do-denuncia-jce-actua-al-margen-ley-169-14/>.

178 Acento.com, "JCE publica en Hoy y Listín 184 páginas con dominicanos favorecidos con restitución de documentos," [JCE publishes in Hoy and Listín 184 pages of Dominicanos eligible for restoration of their documents] June 26, 2015. Available at: <http://acento.com.do/2015/actualidad/8261619-jce-publica-lista-de-dominicanos-que-podran-retirar-sus-actas-de-acuerdo-a-la-ley-169-14/>; El Día, "Reconoci.do denuncia JCE actúa al margen Ley 169-14," [Reconoci.do denounces JCE as acting at the margins of Law 169-14] October 21, 2014. Available at: <http://eldia.com.do/reconoci-do-denuncia-jce-actua-al-margen-ley-169-14/>.

179 See, e.g., Human Rights Watch, "We are Dominican: Arbitrary Deprivation of Nationality in the Dominican Republic," (July 1, 2015). Available at: <https://www.hrw.org/report/2015/07/01/we-are-dominican/arbitrary-deprivation-nationality-dominican-republic>; see, e.g. Amnesty International, "Without Paper, I am No One: Stateless People in the Dominican Republic," AMR 27/2755/2015, page 28, November 19, 2015. Available at: <https://www.amnesty.org/en/documents/amr272755/2015/en/>.

180 The individuals interviewed tended to use these terms interchangeably.

181 See, e.g. Human Rights Watch, "We are Dominican: Arbitrary Deprivation of Nationality in the Dominican Republic," (July 1, 2015). Available at: <https://www.hrw.org/report/2015/07/01/we-are-dominican/arbitrary-deprivation-nationality-dominican-republic>. See also Amnesty International, "Without Paper, I am No One: Stateless People in the Dominican Republic," AMR 27/2755/2015, page 28, November 19, 2015. Available at: <http://reliefweb.int/sites/reliefweb.int/files/resources/AMR2727552015ENGLISH.pdf>.

182 El Día, "Reconoci.do denuncia JCE actúa al margen Ley 169-14," [Reconoci.do denounces JCE as acting at the margins of Law 169-14] October 21, 2014. Available at: <http://eldia.com.do/reconoci-do-denuncia-jce-actua-al-margen-ley-169-14/>.

1. Ignorance of Registration Status

A consistent theme among those interviewed is that many people in “Group A” are unaware of whether their existing documents are valid, whether or not they are registered by the Central Electoral Board (JCE) in the *Libro de Transcripción*, or whether they need new documents. People would find out by chance or when they were barred from some activity, as with José.

“Here in the region, if they send a demand for nullification it’s very rare that the persons know that it’s a demand to invalidate their documents because they don’t have information, no inspector comes to their house to tell them. At least when the person goes to the oficialía and they give him a document that says that their documents are being demanded because they are invalid. But for the people to know this they have to go to the oficialía. And many times they go to the oficialía and they don’t tell them anything.” (Estefani, activist).

For example, Edison discovered through a friend that he was on the list of Dominicans that supposedly had the right to retrieve their documents according to the JCE. He was also told to tell the rest of his community that they should come to receive their documents so that their situation would be resolved too.

Interviewer: “How were you notified that you were on the list of the 55,000 if they never canceled your documents?”

Edison: “Well, I don’t know because when they put out the list a friend went to [the local oficialía in] Galván and said to me: ‘I saw you there on the list of people they put out,’ and I went and I was really there. Right then, I asked for a birth certificate to check and they gave it to me. That’s how it was. When I arrived I said that I came to get a birth certificate and they went and they looked and told me that I was there, but that my situation was already resolved and they gave me the certificate. And they told me (in the oficialía): ‘look, all these people here are from your community, you can tell them to come, that their problem is resolved. They told me like that.” (Edison, batey 4)

2. Lack of Information and Support to Navigate the Process of Obtaining Documents

The JCE has not provided those in “Group A” with precise information about the steps for retrieving their identity documents. Those interviewed also reported that at times the JCE authorities were simply not willing to offer information. In addition, those in “Group A” often lacked any type of legal support to help them understand the process and advocate for their rights before the JCE authorities. The more poignant descriptions of this lack of support and indifference by authorities came from attorneys who witnessed the plight of many others while trying to help their clients.

“The obstacles that we found in the process were the denials in the different oficialías we went to. No one wanted to attend to the people, they didn’t want to give the documents to the people, they didn’t want to give an exact explanation of what was the problem with the person.” (Berenice Anderson, lawyer)

The community leader David Pérez underscores her statement,

“Since they enacted the Law (169-14) a long time has passed for the law to be publicized. Moreover, they have not given the space and the required support to people affected by the Judgment and the solution [offered by Law 169-14] so that they can take advantage of the law. As a result, many people were not able to take advantage of the benefits of the law.”

“As a lawyer, I have had to accompany many people to the oficialías to get their birth certificates. Many times I had to hear the officials say to the people that they could not give them their birth certificates because there was a restriction imposed by the JCE. Many times we were witnesses to this while accompanying [our clients], so that we saw and shared the frustration with many people not receiving their documents.” (David Pérez, community leader).

When problems do arise with applications, individuals in “Group A” may be told by JCE officials to seek the help of a lawyer, placing an additional and disproportionate burden on these individuals.

Interviewer: “Are you on the list of the 55 thousand that the JCE has registered?”

José: “If I were on the list I would have my document right now. I am not on the list because I looked at the list in the local government office in Tamayo where it’s kept and I’m not there. I went to the oficialía in Santo Domingo and the hard part of the situation is that in the oficialía they don’t know how to explain to you why my documents are invalid. What they suggested to me is to find a lawyer and the lawyer gets an order from a judge requesting that the file [with the invalidated documents] is nullified, and ordering the JCE to immediately register me again and I’ll have the same cédula number.”

3. Discriminatory Treatment by Authorities and Dominican Police

In a majority of the cases, those affected by Law 169-14 complained of being treated badly by the staff at the *oficialías*. The officials often made reference to an individual’s skin color, or the fact that they were of Haitian descent when the person came to pick up their identity documents.

“When we go to the JCE they treat us badly, when one arrives at the JCE they say: A Haitian is here! Here [in the Dominican Republic] the authority that should be defending us doesn’t defend us.” (Genaury, batey 8)

In some cases, individuals had a general fear that they would be picked up on the way to the *oficialía* to retrieve their documents and the police or other state agents would deport them to Haiti simply based their skin color. Some refused to make the trip to the *oficialía* so as not to run the risk.

“I feel bad because once someone arrives at Vicente Noble [a central town] to head to the capital the first thing they ask you is for your cédula [identity card] and if I don’t have the cédula [identity card] they make you step down [from the bus]... I cannot do any transaction without the cédula [identity card].” (Erika, batey 4)

“You can’t go to the capital because at the checkpoints they take you off the bus. And the people live in fear.” (Estefani, activist).

These racist attitudes extended beyond the JCE and the police to other civic structures, including courts that could be used to challenge the JCE’s withholding of identity documents:

“I think the civil judge is a racist, the civil judge that is assigned to us from the town of Cristóbal... because he looks at us first based on the color of our skin.” (María A, batey 8)

4. Widespread Abuse of Discretion by JCE Authorities to Withhold Documents

Once individuals arrived at the *oficialías*, they reported that the JCE allows officials broad discretion to introduce additional requirements not included in Law 169-14 as a prerequisite to giving documents to individuals in “Group A.” The authorities have created obstacles that require individuals to provide hard-to-get information about their parents and sometimes questioned the validity of any documentation applicants were able to provide.

“Do you know what they did to me there in the JCE? A lady they call Luz Cruz there in the JCE inspection department sent me to look for all the children’s birth certificates, I didn’t have any money. I went to pawn a card that is still in the pawnshop to get the certificates of my children at 300 pesos¹⁸³ each one. I got it, I took it there to the JCE, they sent me to get my mother’s death certificate, a picture of the tomb where my mother and father are buried and still they don’t want to give me the cédula, those people in the inspection department... it’s there they are actually causing harm. I personally brought all my children, I paid my fare, they asked each one questions, the last thing they told me was that my mother isn’t my mother.” (Altagracia, batey 4)

“I went to the capital 2 times, they sent me to Galván, from Galván to Neyba. In the capital, they told me to look for my father’s death certificate, they told me that fathers don’t do registration, that it’s the mother [who was supposed to register me], my mother died when I was a little girl, it was my father who registered me and now they don’t want to declare me through his death certificate, they told me no. The cédula [identity card] is canceled because it’s my mother that had to register me, it was my dad who raised me, if I don’t have a mother I can’t get a cédula [identity card], he registered me without a mother and now they have come with this, what am I going to do if I don’t have a mother?” (Ana, batey 5).

“Each time I go there, they don’t tell me anything. I put the paper in the computer and they say that it has a problem and nothing is resolved (...) As a matter of fact, I went to the capital once and the man (JCE official) said that the man was not my father, but my stepfather. But I don’t know another person as my father. I was born into his hand. He married my mother when I was three months old, he raised me. He is my father. And he (JCE official) said that he is doing me a favor. And I said to him that it’s not a favor that this man is my father. And there he hit his hand on the table and told me that I had to go outside.” (Euclides, batey 4)

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183 Approximately \$6.34 USD.

Likewise, it was reported that JCE authorities have withheld documents or distinguish individuals' documents on the belief that they believed the person to be Haitian, without any more information or any proof.

“I was registered here in Galván, my book is 24^a, I was not declared in the foreign registry, I went many times and they never gave it to me, the original one (birth certificate) they marked with red tape, this signifies ‘don’t give it to her.’ They put red tape on it, they don’t ask you anything, they tell you that you are Haitian.” (Margot, batey 4)

5. Discrepancies in the JCE’s New Registry Book, the Libro de Transcripción

Although Law 169-14 did not order the transcription of birth records to a separate book, the JCE maintains that the registration books of the Dominican Civil Registry were reviewed according to Judgment 168-13, and as a result, people in “Group A” were subsequently included in the “*Libro de Transcripción*” and assigned a new identification number so they could get identity documents.¹⁸⁴ Registration of individuals in the new book is one of the recent practices that has generated the most concern, as it lacks legal basis.

“[These discrepancies are] an abuse they are committing against us because the JCE knows all of us who are here ... because they have come house by house, tired of coming to the batey, house by house, they know us by name, they come with our photo and they ask our neighbors.” (Altagracia, batey 4).

“Among these 55,000 people, there are definitely problematic cases because what we have realized by accompanying them is that the majority of these persons were registered. They were in a book and they passed them to another book [the Libro de Transcripción] with the same facts. But there is the problem that many of these persons at the moment of being registered, their father’s last name has been removed. So what happens is that the great majority of these persons, for example, in the case of adult males, these people have registered their children with the first surname of their father. When we go with them to the oficialía, at the moment the person does the transcription they remove the surname of the fathers and only leave the surnames of the mothers. Then the problem is that these persons in the documents they have now, after having registered their children with the surname of their parents, now the children have had two surnames in their documents, but the documents now show only one surname.” (Berenice Anderson, lawyer).

In other cases, the registry books in the *oficialías* contained discrepancies that caused *cédula* identity cards to be invalidated by JCE authorities.

Interviewer: “Why don’t you have documents at this moment?”

José: “Well, when they were bringing out the new card I went to get the card and the system says that it’s temporarily invalid.”

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184 See, e.g. Dominicanos por Derecho, “Transcripciones y cambios de datos en actas constituyen la continuidad más atroz de la desnacionalización en RD,” [Transcriptions and changes of the information in records constitute the most atrocious continuation of denationalization in RD (Dominican Republic)] January 28, 2015. Available at: <https://dominicanosxderecho.wordpress.com/2015/01/28/transcripciones-y-cambios-de-datos-en-actas-constituyen-la-continuidad-más-atroz-de-la-desnacionalizacion-en-rd/>.

Interviewer: “Why?”

José: “They say that supposedly the 63 B book in [the oficialía in] Galván has some irregularities. The JCE [in Santo Domingo] told me to go to Galván to get a birth certificate. When I went to Galván, the book is invalid because it has irregularities. I have heard it said that those that have been registered in the book were registered on a Sunday at three in the morning. This is completely absurd.”

The process the JCE uses to determine whether to include people in the “*Libro de Transcripción*” is unclear, lacks transparency, and legal basis. People often were not included in the books of the Civil Registry, even if their names appeared on the JCE’s list of 53,827 people.

“One of the difficulties that you have to confront is that regardless of whether persons appear on the list (of the 55,000) and when we go to make the request they tell us that they are still not in the system, that the person has to come back. It has not been a good experience.” (Estefani, activist).

6. Suspicious Suspension or Cancellation of Valid Documents

Although it is not clear from Law 169-14 that “Group A’s” existing identity documents were to be canceled or suspended,¹⁸⁵ many of those interviewed had this experience. Often, those affected would not know about the suspension or cancellation of existing documents until they went to the *oficialía* or otherwise attempted to use their documents. Many times, the affected persons would receive contradictory information about their situation when they go to the *oficialías* or even the main office of the JCE in Santo Domingo,

“I had my certificate in Galván and I went to register myself, they gave me the cédula [identity card], now they tell me that it is canceled, because they told me that the cédula had problems. I went to the JCE [in Santo Domingo] with the cédula [identity card] then they told me that the cédula [identity card] wasn’t from there. I was left with my hands empty, I had nothing in my hand, I returned here [to Galván] and when I got to Galván they gave me another certificate again, at that point I registered myself so that they would give me the cédula [identity card] [in the capital], there in the capital they told me that in 10 days they would have the cédula there, until now, since September, each time that I go to the JCE the cédula [identity card] is still being processed.” (Yulisa, batey 4)

The ambiguity and lack of transparency in the process on the part of the JCE gives rise to situations like the one experienced by Juan, who lived and worked with his *cédula* identity card for many years before it was canceled without explanation.

“I am fighting to get mine [cédula identity card] because each time that I looked for work I could not work because of the cédula [identity card], with my cédula [identity card] all these years I vote and now it does not work. Why doesn’t it work now? I don’t know why it’s canceled, I went to Cristóbal and one of them told me

185 Ley No. 169-14 [Law 169-14], May 23, 2014, Capítulo 1, “Del Regimen Especial,” [Chapter 1, Of the Special Regimen] Article 4. Available at: <http://www.refworld.org/docid/53882dea4.html>; El Día, “Reconoci.do denuncia JCE actúa al margen Ley 169-14;” [Reconoci.do denounces JCE as acting at the margins of Law 169-14] October 21, 2014. Available at: <http://eldia.com.do/reconoci-do-denuncia-jce-actua-al-margen-ley-169-14/>.

that this cédula [identity card] is worth nothing and in the capital it's canceled.”
(Juan, batey 5)

7. Identity Theft

In other cases, people in “Group A” went to obtain documents and were told that the Central Electoral Board (JCE) had given someone else their documents.

“I have my certificate, when I went to get the cédula [identity card], another person had stolen my identity, I have 5 kids and I haven't been able to register them because I don't have a cédula [identity card].” (Erika, batey 4)

“I came to realize the problem with my cédula [identity card] when I went to get the new one (...) they told me that someone had stolen my identity and that I have to go with my mother and father to the capital. I went with them and they told me that this person had already come to get the cédula [identity card] and my mother told him that she doesn't know this person and the documents are mine, one of the people who worked there told me that they have to reopen the case, that they have to send a letter to the President of the JCE so they could reopen the case again and investigate if the documents are mine.” (Kiko, batey 5)

8. Economic Hardship in Obtaining Documentation

The cost of obtaining identity documents is also a big obstacle for people that live in poverty, a reality for the majority of people affected by Judgment 168-13. The cost of obtaining documentation perpetuates the cycle of lack of documentation; few people can sustain the schedule that the JCE imposes to travel to the local *oficialías* or to the JCE central office in Santo Domingo to check in periodically on the state of their application.

“Among this population are the mothers of small children with the dilemma of not being able to register their child at the moment of birth as you would normally do. Or having to submit the family and the documents of this child to a process of investigation where the mother has to pass through a series of difficulties, from having economic costs because she has to travel constantly to know what's the situation of her child's or her own document.” (Berenice Anderson, lawyer)

Identity documents are necessary for people to find stable employment but it costs a lot to apply for and obtain them. Those in “Group A” have to spend money to allow them to obtain documents to be able to provide a better life for them and their children.

Interviewer: “What does the process to obtain new documents cost?”

José: “The main process [...] is to get a paper from the mayor, that costs 250 pesos.¹⁸⁶ You have to get a paper from the church, that costs 200 pesos. I have to get an official birth certificate for legal purposes that costs 450 pesos in the oficialía. All of the steps the lawyer gives me I have to cover.”

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186 Approximately \$5.30 USD. 250 pesos is the amount a worker receives for 8 hours of work.

Interviewer: “How much does the lawyer cost more or less?”

José: “More or less from 25 – 30 thousand pesos.”¹⁸⁷

9. Multiple Obstacles in Obtaining Documents

The obstacles that those in “Group A” face seldom fall neatly into one of these categories. More often than not, an individual will face many different issues, and when there is success at one stage, another hurdle will appear.

“It’s a chain. One problem leads to another. Already it’s not simply that because of the Judgment [168-13] they canceled that person’s document (...) Because I have to wait for an inspector to come to my house to ask me a series of questions or investigate the entire community. What reasons do they have? Well, on one hand perhaps it could be, but it’s a totally traumatic process to have to hand in a file and wait two or three years for them to give me a response. Or for them to tell me: yes! We are going to give you your birth certificate. You are going to be able to register yourself. And many of these cases these are people that are adults who have children.” (Berenice Anderson, lawyer)

Estefani, the activist, summarizes the obstacles that someone confronts with the denials of documents:

“When you accompany someone knowing they already have documents and the official tells you that I cannot give it to them, that this person is under investigation, or that they are going to send an inspector to investigate. These are the most frequent obstacles we find. Or when they tell the person that they have not received the documents from the person. Or when they receive the documents that they don’t give them responses. Or when you go to the oficialía and they tell you to come back within 15 days to look for an office and when you go and they look and they look, they call the capital and it’s not there because they never sent it. Then among all the papers that are in the oficialía they confuse the papers, the documents. Then they don’t know if they are here or in the capital. The denial is more than one obstacle.” (Estefani, activist)

10. Problems with Documentation for Children of those in Group A

Worryingly, issues with obtaining identity documentation often pass to subsequent generations. Even if a parent in “Group A” receives his or her documentation, it provides no guarantee that his or her child will receive their documentation or be able to use existing documents without issue. Edison received his documents and was told that his problems were resolved but in spite of having his documents returned, his children now suffer from “suspension” of their documents.

Edison: “All of my children were registered at the appropriate time. And when they go to get some document they told them that they were suspended for the time being. They don’t give it to them.”

.....
187 Approximately \$528 to \$635 USD. 30 thousand pesos is equivalent to 6 months of uninterrupted work for an informal worker.

Interviewer: “How long is the process for your children to get their documents?”

Edison: “Around 3 years.” (Edison, batey 4)

Edison’s example is not an isolated case; it’s a prevalent problem in other communities in the region.

“For example, in batey 4 we have a family that the parents were audited as part of the 55,000. It was believed that their problem was resolved but all the children’s birth certificates were invalid. The problem isn’t just one case anymore. The problem repeats over and over in the different communities. I see it as negative that at the moment of going to accompany someone to the oficialía or the JCE or to the passport office they tell me that this person is not going to obtain their documents for such or such reason or because the parents or grandparents were of Haitian nationality.” (Berenice Anderson, lawyer)

11. Harmful Narratives that Group A’s Situation has been Resolved

Widespread local and international perception that, due to Law 169-14, the situation of “Group A” has now been resolved detracts attention from the harsh realities that many of these people face everyday.¹⁸⁸ The persons interviewed for that investigation have confirmed that there is still uncertainty about who qualifies as “Group A”:

“Another extremely important thing that we have seen is that according to the oficialías the audit has not ended, when the JCE has already said that they are 55,000 people and no more. And I had the experience yesterday of going with a young woman that submitted her file for a declaration three years ago and she has her complete file. And the response they gave me yesterday is that her mother is being audited. And I ask: ‘Wasn’t the audit complete after the 55,000 people?’ And they tell me: ‘No.’ We still have particular cases of people that are being audited.” (Berenice Anderson, lawyer)

Lack of attention to or knowledge of the problems that “Group A” experiences robs them of support for their cause. It also allows the government of the Dominican Republic to continue to violate their rights unnoticed and not be attentive to the general problem of persons affected by Judgment 168-13 in its entirety.

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 188 See, e.g., Human Rights Brief, “El Derecho a la Nacionalidad en la República Dominicana” [The Right to Nationality in the Dominican Republic], November 2, 2015. Available at: <http://hrbrief.org/hearings/el-derecho-a-la-nacionalidad-en-la-republica-dominicana/>.

v. Consequences of Not Having Identity Documents

The lack of a resolution to the problems that continue affecting people in “Group A” and their descendants in obtaining their identity documents has a profound effect on their daily lives. Like people in “Group B,” identity documents are essential for survival and the exercise of basic rights, including:

1. Declaring their children as Dominican citizens;

“I feel bad because I have 6 children that I have not been able to register, their father has documents but it has to be me that registers them, their father can’t register them on his own and for this I feel bad.” (Masili, batey 8).

2. Registering children in school;

“There’s the case of a woman that has two children in school, because of the fact that the woman has not obtained her documents, she has not been able to register her two children. Then there is a constant threat by the headmaster of the school where her kids are: a little boy and little girl studying are being threatened with being left out of school.” (David Pérez, community leader).

3. Attending university;

“You feel bad and discredited and the part that affects me is that because of these papers I have not been able to enter the university and it will continue to affect me because I have not found work, but when I do they are going to ask me for my cédula [identity card] and it’s going to affect me much more.” (Wilfrido, batey 8)

4. Finding formal and stable employment;

“One of the main difficulties that they face has been not being able to find stable work (...). No one gives you work without cédula. No one will give you a job with a piece of paper saying your name. Immediately, they ask for your cédula. Even to work in someone’s house, if the people go there to seek work, they will ask you for your cédula. Then the main difficulty that these persons face is not being able to find a job and not being able to travel freely.” (Estefani, activist).

5. Accessing social services;

“With as long as I have had the cédula [identity card], how can there be problems? They will still cover my social security, I am working with it, last week they sent me a letter from the AFP [pension office] and I can’t believe that a person with 35, 40, 60 years using a cédula, and now there is a problem with the cédula ... In which country is this done? A group of people that have spent all their life with a cédula, and now they are saying that it has problems.” (Enrique, batey 5)

6. Getting married;

“In church the pastor asks me for the documents because I am a Christian and I have to get married and I can’t get married without documents.” (María P, batey 7).

and any other civil activity. Without documentation, Dominicans of Haitian descent also fear arbitrary deportation by State authorities.

“If I have my documents I can aspire to have a job and help out my family, do something, I can leave without them stopping me at the checkpoints, each time that they stop me in the checkpoint, each time that I go to the capital when I see that the police are there I am nervous, because since I have this color skin [...] since they see you you must show your documents.” (María A, batey 8)

Finally, and most troubling, without documentation, those in “Group A” are unable to have dreams for their futures or the futures of their children.

“I dream of being a professional, to go to university, that my daughter has her certificate, that they don’t discriminate against her for not having it as they are discriminating against me, that she doesn’t go through what I am going through.” (Yafreisi, batey 8).

“Right now my dream is to have my documents to register my two little kids, and to go to the capital to look for a job.” (María P, batey 7)

“I don’t dream. What will I use to dream? What papers? When I have the papers I will be able to say ‘I am going to do this, I am going to do this’ ... if I don’t have papers, what will I use to dream?” (Soraida, batey 8).

Their inability to get their identity documents condemns them to a life of uncertainty, a lack of opportunity, and strife.

IV. THREE YEARS LATER: CONTINUED ADVOCACY EFFORTS & ADDITIONAL BARRIERS

As seen in Section III above, Dominicans of Haitian descent in “Group A” continue to face challenging bureaucratic barriers and widespread discrimination in their attempts to obtain their identity documents. Unfortunately, Law 169-14 has exacerbated the situation of Dominicans of Haitian descent because it has instituted complicated processes that have made obtaining identity documents incredibly difficult.

The years following Judgment 168-13 and Law 169-14 have also changed the landscape of advocacy for the rights of Dominicans of Haitian descent. For many, Judgment 168-13 and Law 169-14 were the latest embodiment of more than a century of discrimination against this population.

i. Advocacy of Civil Society Groups

Local civil society organizations have always been very active in fighting against discrimination against Dominicans of Haitian descent. For example, the *Movement of Dominican Haitian Women* (Movimiento de Mujeres Dominico-Haitianas, MUDHA for its acronym in Spanish), has addressed the social exclusion of Dominicans of Haitian descent by focusing on the rights of women, children, and the elderly since the 1980s.¹⁸⁹ Similarly, the *Socio-Cultural Movement for Haitian Workers* (Socio-Cultural para los Trabajadores Haitianos, MOSCTHA for its acronym in Spanish) was founded in 1985, initially to provide healthcare to sugarcane cutters who were primarily Haitians.¹⁹⁰ As the legal struggle over the right to nationality of Dominicans of Haitian descent escalated, these organizations began to focus on statelessness of Dominicans of Haitian descent to ensure the larger goal of social integration and inclusion of Haitians and Dominicans of Haitian descent.¹⁹¹

The Constitutional Tribunal’s Judgment 168-13 on September 23, 2013 was a watershed moment for civil society. The blatant disregard for violations of the constitutional and human rights of Dominicans of Haitian descent gave local advocacy communities a new target in their historic struggle. Newer organizations have joined older ones like MUDHA and MOSCTHA, forming a large civil society network to advocate for the human rights of Dominicans of Haitian descent in the Dominican Republic. For example, local organizations led by Dominicans of Haitian descent like Reconoci.do (“Recognized” in English), emerged to “fight so that the Dominican State gives us back our identity documents and recognizes our nationality as legitimate children of the Dominican Republic.”¹⁹²

Individuals in “Group A” have also been proactive about the fight to get their identity documents, demanding that the state respect their rights.

The lawyer Berenice Anderson has been witness to several changes for the better:

“Yes, I’ve noticed that persons from the affected communities are willing to find solutions to their problems. People before did not realize that they had a problem. When the Judgment [168-13] happened, many people were impacted but they did

189 See MUDHA, “El movimiento de Mujeres Dominico-Haitiana,” [The Movement of Dominican-Haitian Women]. Available at: <http://mudha.org/en/#>.

190 MOSCTHA, Movimiento Socio-Cultural Para Los Trabajadores Haitianos. Available at: <http://www.mosctha.org>.

191 MUDHA, “La Líder Sonia Pierre” [Leader Sonia Pierre]. Available at: <http://mudha.org/la-lider-sonia-pierre/>.

192 Reconoci.do, “Movimiento,” [Movement]. Available at: http://reconoci.do/?page_id=5.

not even realize. And these days we've noticed that people are interested in going to the oficialías to see whether their documents are being processed.” (Berenice Anderson, lawyer)

Persons affected by the law, women especially, have taken important decisions on both an individual level and as a community to change the state of things that currently affects their documentation. María A explains her decision when she was confronted with the offer to “resolve” her lack of identification documentation by applying as “Group B” under Law 169-14, which required her to self-report as a foreigner in her own country:

“Because they told me once that I had to get the cédula [identity card] from immigration, then they were going to give a Dominican cédula within 2 years, I told him that I was never going to accept it because I am from here. My parents are from here, their parents are from here, then this would be denying myself the same nationality. I said that I was not going to accept it and I have to struggle to get my documents here, to be Dominican means a lot to me.” (María A, batey 8)

Estefani’s experience offers a gauge for the rise in feelings of empowerment among persons in “Group A,”

“And the experience of being a leader, of being part of a movement, as young people, on the one hand this is a beautiful experience. On the other hand, you know that things are not always so rosy, because as a leader sometimes you are confronted with a situation where maybe people think you are being paid to accompany someone to get their documents. And not everyone thinks that you are doing things out of love or because someone else was also affected or because you are also part of this group. And as a leader, when you accompany someone [to the oficialía] and that person obtains their documents, this brings you incredible joy.” (Estefani, activist)

Advocates have used many different tools to defend the right to Dominican nationality, including organizing local protests to demonstrate widespread rejection of Judgment 168-13 and Law 169-14,¹⁹³ and appearing before international fora like the Inter-American Commission on Human Rights and the CERD Committee.¹⁹⁴ In 2015, a documentary entitled “Our Lives in Transit” was created to document the lives of Dominicans of Haitian descent and to call international attention to the failures of Judgment 168-13 and the specific issues facing the affected population.¹⁹⁵ Other documentaries have also been released more recently on the themes of statelessness and the migrant population.¹⁹⁶ Advocates have consistently requested that the Inter-American Commission on Human Rights present public hearings on human rights and statelessness in the Dominican Republic.¹⁹⁷ In the most recent hearing on “Statelessness in

193 See, e.g., Hoy Digital, “Grupo Reconoci.do Protesta Nueva Vez Frente al Palacio,” [Renococi.do Protests Again In Front of the Palace] May 9, 2014. Available at: <http://hoy.com.do/grupo-reconoci-do-protesta-nueva-vez-frente-al-palacio/>; For a record of media coverage of Reconoci.do’s advocacy see El Día, “Reconoci.do.” Available at: <http://eldia.com.do/etiquetas/reconoci-do/>.

194 Veá, por ejemplo Audiencia República Dominicana: Derechos políticos de Dominicanos de ascendencia haitiana. April 8, 2016 Hearing on Statelessness in the Dominican Republic. Available at: <https://www.youtube.com/watch?v=gudl8JwplvI>. IACHR Hearing on Situation of Human Rights Defenders in the Dominican Republic, December 6, 2016. Video Available at: <https://www.youtube.com/watch?v=9NkNBgDQJjw>; Georgetown Law Documentary Screening and Panel on Third Anniversary of Judgment 168-13, September 23, 2016. Available at: <http://www.law.georgetown.edu/academics/centers-institutes/human-rights-institute/events/index.cfm>.

195 Minority Rights, “Our Lives in Transit – documentary sheds light on harsh realities faced by ‘legal ghosts’ in Dominican Republic,” September 3, 2016. Available at: <http://minorityrights.org/2016/03/09/our-lives-in-transit-documentary-sheds-light-on-harsh-realities-faced-by-legal-ghosts-in-dominican-republic/>.

196 See Si Bondye Vle, Yuli (Si Dios quiere, Yuli). Available at: <https://www.souppjournoufilms.com/si-bondye-vle-yuli/>; “Hashtag – Entrevista con el director de ‘Hasta la raíz’ Juan Carlos González” [Interview with the director of “To the root” Juan Carlos Díaz.] Available at: <https://www.youtube.com/watch?v=8KghTd7bHjE>.

197 For a full list of all hearings on The Dominican Republic, including hearings on the Situation of Human Rights Defenders in the Dominican Republic, Human Rights and Statelessness in the Dominican Republic and the Political Rights of Dominican Persons of Haitian Descent in the Dominican Republic, See IACHR, Hearings on the Dominican Republic. Available at: <https://www.oas.org/es/cidh/audiencias/advanced.aspx?lang=en>.

the Dominican Republic,” in December 2016, the Inter-American Commission lamented the absence of the Dominican Republic from the discussions and called for a table of dialogue where the Dominican State, civil society organizations, and the Inter-American Commission could speak freely and attempt to find solutions to the problem.¹⁹⁸

Dominican activists have also visited the U.S. to speak with members of the U.S Congress and State Department. As a result, the State Department has spoken out against the deportations that were happening in August 2015¹⁹⁹ and several legislators²⁰⁰ have written letters urging the Dominican government to protect the rights of Dominicans of Haitian descent.

The international advocacy community has also mobilized around the issue of the right to nationality for Dominicans of Haitian descent since Judgment 168-13. Several organizations, including the co-authoring organizations, Amnesty International, and Human Rights Watch have advocated against the arbitrary deprivation of the right to nationality in the Dominican Republic and the issue has been the subject of various reports and awareness campaigns.²⁰¹ International networks on statelessness in the Dominican Republic work with the local groups to seek change and support at every level.²⁰² Civil society groups from all over the world have also joined the cause of Dominicans of Haitian descent, participating in protests outside Dominican consulates.²⁰³

Across the board, groups have called for proper implementation of Law 169-14 to ensure that Dominicans of Haitian descent in “Group A” have their nationality restored fully, quickly, and without issue.²⁰⁴ These groups also call on the government of the Dominican Republic to address the racial discrimination and xenophobia that many believe is at the root of the policies that denationalize Dominicans of Haitian descent.²⁰⁵

198 IACHR, “Hearing on Situation of Human Rights Defenders in the Dominican Republic,” December 6, 2016. Video available at: <https://www.youtube.com/watch?v=9NkNBgDQ1jw>

199 Mark C. Toner, Deputy Department Spokesperson, Dominican Republic: Start of Deportations, Office of Press Relations, Washington, DC, August 14, 2015. Available at: <https://staging-pa3.state.gov/releases/81039>.

200 Schakowsky Statement on Letter to Secretary Kerry Ahead of Dominican Republic Elections, May 10, 2016. Available at: <https://schakowsky.house.gov/press-releases/schakowsky-statement-on-letter-to-secretary-kerry-ahead-of-dominican-republic-elections/>.

201 See, e.g., Celso Perez, “Dominican Republic’s Tortured Relationship with its Haitian Minority,” Human Rights Watch, June 9, 2015. Available at: <https://www.hrw.org/news/2015/06/19/dominican-republics-tortured-relationship-its-haitian-minority-0>; Amnesty International, Submission to the UN Human Rights Committee, December 2015. Available at: http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/DOM/INT_CCPR_NGS_DOM_22471_E.pdf; Human Rights Watch, “We are Dominican: Arbitrary Deprivation of Nationality in the Dominican Republic,” July 1, 2015. Available at: <https://www.hrw.org/report/2015/07/01/we-are-dominican/arbitrary-deprivation-nationality-dominican-republic>.

202 See, e.g. Americas Network on Nationality and Statelessness (Red ANA). Available at: <http://www.americasns.org/>.

203 The Internationalist, “Down with the Racist Dominican Nationality Law – For Haitian Dominican Workers Solidarity,” June 2015. Available at: <http://www.internationalist.org/dominicanrepublicstopexpulsionhaitians1506.html>; Miami Herald, “Miami protesters rail against Dominican Republic’s threatened deportations of Haitians,” June 25, 2015. Available at: <http://www.miamiherald.com/news/nation-world/world/americas/haiti/article25536019.html>. Association of Haitian Professionals, March to the Dominican Republic Embassy Washington DC, Monday June 22, 2015. Available at: <https://www.facebook.com/events/471426049692430/>.

204 See, e.g. El Día, “Reconoci.do denuncia JCE actúa al margen Ley 169-14,” [Reconoci.do denounces JCE as acting at the margins of Law 169-14] October 21, 2014. Available at: <http://eldia.com.do/reconoci-do-denuncia-jce-actua-al-margen-ley-169-14/>.

205 See, e.g. Foreign Policy, Celso Perez, “Dominican Republic’s Tortured Relationship with its Haitian Minority,” Human Rights Watch, (June 9, 2015). Available at: <http://foreignpolicy.com/2015/06/19/the-dominican-republics-haiti-migrants-expulsion-human-rights/>; Amnesty International, Submission to the UN Human Rights Committee, AMR 27/2978/2015, December 2015. Available at: http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/DOM/INT_CCPR_NGS_DOM_22471_E.pdf; Human Rights Watch, “We are Dominican: Arbitrary Deprivation of Nationality in the Dominican Republic,” July 1, 2015. Available at: <https://www.hrw.org/report/2015/07/01/we-are-dominican/arbitrary-deprivation-nationality-dominican-republic>.

ii. Threats and Attacks against Human Rights Defenders and Journalists

Unfortunately, efforts to champion the rights of Dominicans of Haitian descent have led to an increase in threats and attacks against human rights defenders and journalists who defend this cause. The Inter-American Commission on Human Rights has reported on the increased incidence of such threats and attacks since Judgment 168-13.²⁰⁶ In November 2013, soon after Judgment 168-13 was issued, civil society organizations, journalists, attorneys, judges and others who criticized the Court's judgment were publicly accused of being "traitors of their homeland" and in a protest organized by an ultra-nationalist group on November 4th, human rights defenders and journalists were declared "anti-nationalist."²⁰⁷

During the November 4th protest, a pamphlet entitled "The Treason Album," which contained the names and photos of journalists who were supportive of Dominicans of Haitian descent was circulated.²⁰⁸ Nationalist groups also filed a complaint to investigate journalists Huchi Lora, Juan Bolívar Díaz, Roberto Álvarez and Rosalía Sosa on suspicions of "treason and inciting defiance of the Constitutional Court's judgment."²⁰⁹ Since then, several journalists who use their platforms to advocate for the rights of Dominicans of Haitian descent have been called "traitors to the homeland."²¹⁰ In 2015, journalists Huchi Lora, Juan Bolívar Díaz, Roberto Cavado, and Amelai Deschamps held a press conference to publicly denounce the death threats they continued to receive through comments to articles they published and through comments to articles they published and reactions to television shows on which they appeared.²¹¹ Despite these threats, these journalists have continued their work denouncing the the impact of denationalization policies on Dominicans of Haitian descent, as well as the inadequate implementation of Law 169-14.²¹²

The situation of human rights defenders who work to vindicate the rights of Dominicans of Haitian descent is equally concerning. In 2011, the Inter-American Commission's Special Rapporteur's Report on the Situation of Human Rights Defenders in the Americas noted threats against human rights defenders who fought on behalf of Dominicans of Haitian descent, and particularly the case of Sonia Pierre, who was targeted in response to her participation in a hearing before the Inter-American Commission.²¹³ The Inter-American Commission's Office of the Special Rapporteur on Freedom of Expression also commented on attacks, threats and harassment against journalists and human rights defenders, including those who work on behalf of Dominicans of Haitian descent.²¹⁴ More recently, human rights defenders expressed that they have been the subject of insults, including being "accused of being traitors and anti-patriotic, of profiting from the Haitians [and that] the harassment is constant."²¹⁵

In its report on human rights in the Dominican Republic in 2015, the Commission reiterated that these attacks "pose a serious danger to [the] lives and personal integrity"²¹⁶ of human rights defenders,

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206 IACHR, "Preliminary Observations from the IACHR's Visit to the Dominican Republic, Intolerance and Incitement to Violence." December 6, 2013. Available at: http://www.oas.org/en/iachr/media_center/preleases/2013/097a.asp.

207 IACHR, "Report on the Situation of Human Rights in the Dominican Republic," para. 490-91, (2015). Available at <http://www.oas.org/en/iachr/reports/pdfs/dominicanrepublic-2015.pdf>.

208 IACHR, "Report on the Situation of Human Rights in the Dominican Republic," para. 490-91, (2015). Available at: <http://www.oas.org/en/iachr/reports/pdfs/dominicanrepublic-2015.pdf>.

209 IACHR, "Report on the Situation of Human Rights in the Dominican Republic," para. 497, (2015). Available at: <http://www.oas.org/en/iachr/reports/pdfs/dominicanrepublic-2015.pdf>.

210 IACHR, "Report on the Situation of Human Rights in the Dominican Republic," para. 497, (2015). Available at: <http://www.oas.org/en/iachr/reports/pdfs/dominicanrepublic-2015.pdf>.

211 Lery Laura Piña, "Periodistas denuncian que reciben amenazas de muerte de grupos neonacionalistas," [Journalists reveal they are receiving death threats from neo-nationalist groups] 7días.com.do, February 2, 2015. Available at: http://www.7dias.com.do/portada/2015/02/02/181458_periodistas-denuncian-que-reciben-amenazasmuerte-grupos-neonacionalistas.html#VN4gorDF9OI.

212 Lery Laura Piña, "Periodistas denuncian que reciben amenazas de muerte de grupos neonacionalistas," [Journalists reveal they are receiving death threats from neo-nationalist groups] 7días.com.do, February 2, 2015. Available at: http://www.7dias.com.do/portada/2015/02/02/181458_periodistas-denuncian-que-reciben-amenazasmuerte-grupos-neonacionalistas.html#VN4gorDF9OI.

213 IACHR Special Rapporteur on Human Rights Defenders, "Report on the Situation of Human Rights Defenders in the Americas" (2011), para 46. Available at <http://www.oas.org/en/iachr/defenders/docs/pdf/defenders2011.pdf>.

214 IACHR, "Annual Report of the Office of the Special Rapporteur on Freedom of Expression," para. 1084 (2015). Available at: <http://www.oas.org/en/iachr/expression/docs/reports/annual/AnnualReport2015RELE.pdf>.

215 IACHR, "Report on the Situation of Human Rights in the Dominican Republic," para. 498 (2015). Available at <http://www.oas.org/en/iachr/reports/pdfs/dominicanrepublic-2015.pdf>.

216 IACHR, "Report on the Situation of Human Rights in the Dominican Republic," para. 512 (2015). Available at <http://www.oas.org/en/iachr/reports/pdfs/dominicanrepublic-2015.pdf>.

journalists and other advocates, particularly as the actions elicited no response from the Dominican authorities.²¹⁷ The Inter-American Commission called on the “highest State authorities to speak out, in consistent, clear, public, and firm terms advocating the legitimacy and value of the defense of human rights and the profession of journalism [... and] vigorously condemn the attacks committed against persons who contribute to the public discourse.”²¹⁸

On September 25, 2016, amidst a series of public events and protests commemorating the third anniversary of Judgment 168-13, human rights defender Genaro Rincon was verbally and physically assaulted in Santo Domingo while he was riding on a public bus.²¹⁹ His attackers shouted insults about Haitians and those of Haitian descent at Rincon, and identified him as one of the people who worked to defend those communities.²²⁰ Rincon was able to fend off his attackers and he ultimately escaped.²²¹ He suffered a severe injury to his head, and other wounds to his lips, chest, legs and feet.²²²

In addition to physical threats, attacks, and instances of intimidation, civil society organizations report that there has also been a trend of discrediting, threatening and persecuting human rights defenders through social networks and the media in order to impede the work of human rights defenders who work on the right to nationality.²²³ Defenders reported that their names and pictures were put on social networks, along with their home and work addresses and places they frequented.²²⁴ Such posts requested that the public find them and attack them for being anti-Dominican, pro-Haitian, and traitors to the State.²²⁵ Moreover, advocates report that the Dominican State is complicit in such acts of intimidation because none of these events have been investigated and there has been complete impunity since 2013.²²⁶

In a December 6, 2016 hearing before the IACHR on the *Situation of Human Rights Defenders in the Dominican Republic*, civil society organizations reiterated that nationalist forces continued to threaten them using social media, making specific reference to their work on behalf of Dominicans of Haitian descent, and labeling them “anti-Dominican.”²²⁷

217 IACHR, “Report on the Situation of Human Rights in the Dominican Republic,” para. 513 (2015). Available at <http://www.oas.org/en/iachr/reports/pdfs/dominicanrepublic-2015.pdf>.

218 IACHR, “Report on the Situation of Human Rights in the Dominican Republic,” para. 518 (2015). Available at <http://www.oas.org/en/iachr/reports/pdfs/dominicanrepublic-2015.pdf>.

219 Amnesty International, “Help Protect Human Rights Defender After Attack,” September 28, 2016. Available at: <http://www.amnestyusa.org/get-involved/take-action-now/help-protect-human-rights-defender-after-attack-dominican-republic-ua-22016>.

220 Amnesty International, “Help Protect Human Rights Defender After Attack,” September 28, 2016. Available at: <http://www.amnestyusa.org/get-involved/take-action-now/help-protect-human-rights-defender-after-attack-dominican-republic-ua-22016>.

221 Amnesty International, “Help Protect Human Rights Defender After Attack,” September 28, 2016. Available at: <http://www.amnestyusa.org/get-involved/take-action-now/help-protect-human-rights-defender-after-attack-dominican-republic-ua-22016>.

222 Amnesty International, “Help Protect Human Rights Defender After Attack,” September 28, 2016. Available at: <http://www.amnestyusa.org/get-involved/take-action-now/help-protect-human-rights-defender-after-attack-dominican-republic-ua-22016>.

223 See Hearing before the Inter-American Commission on Human Rights on The Situation of Human Rights Defenders in the Dominican Republic. (December 6, 2016). Available at: <https://www.youtube.com/watch?v=9NkNBgDQJjw>.

224 See Hearing before the Inter-American Commission on Human Rights on The Situation of Human Rights Defenders in the Dominican Republic. (December 6, 2016). Available at: <https://www.youtube.com/watch?v=9NkNBgDQJjw>.

225 See Hearing before the Inter-American Commission on Human Rights on The Situation of Human Rights Defenders in the Dominican Republic. (December 6, 2016). Available at: <https://www.youtube.com/watch?v=9NkNBgDQJjw>.

226 See Hearing before the Inter-American Commission on Human Rights on The Situation of Human Rights Defenders in the Dominican Republic. (December 6, 2016). Available at: <https://www.youtube.com/watch?v=9NkNBgDQJjw>.

227 See Hearing before the Inter-American Commission on Human Rights on The Situation of Human Rights Defenders in the Dominican Republic. (December 6, 2016). Available at: <https://www.youtube.com/watch?v=9NkNBgDQJjw>; Acento “Rompen Cristales de Abogada de Oficina de Defensora de Los Derechos Humanos Noemi Mendez Castro,” [They Broke the Windows of the Office of the Lawyer for Human Rights Defender Noemi Mendez Castro] December 13, 2016. Available at: <http://acento.com.do/2016/actualidad/8410186-rompen-cristales-oficina-abogada-defensora-los-derechos-humanos-noemi-mendez-castro/>.

iii. Other Issues

In this section, we identify some of the worrisome themes that have emerged recently for Dominicans of Haitian descent, and for those in “Group A” in particular. These are themes that are still developing and are demanding of attention and follow-up.

a. The expulsion of Dominicans of Haitian descent from the Dominican Republic

Local advocacy organizations report that there has been a noticeable increase in the arbitrary detention and expulsion of Dominicans of Haitian descent after Law 169-14, especially after the expiration of the period for those in “Group B” to register.²²⁸ Individuals were targeted because of their “Haitian appearance.”²²⁹ Although victims would have been able to provide identity documents proving their Dominican citizenship, many were not asked to provide them. In some cases, victims were told that their documentation was invalid.²³⁰

b. Judicial affirmation of the annulling of birth certificates and other identity documents

In Section III, people in “Group A” described the cancelation and suspension of their documents without notification. The broad discretion afforded to Central Electoral Board (JCE) authorities also led to the creation of policies that negate the purpose of Law 169-14 or otherwise facilitate its selective implementation. In some of their cases, JCE authorities issued new documents, some with names left out, different identifying information, or other discrepancies that present problems for their holders. Without documents or with documents that contain errors, individuals are barred from a range of civil life. The situation becomes more difficult for those in “Group A” when courts affirm the annulment of the individuals’ original documents, and in effect, the JCE’s arbitrary and discriminatory practices.²³¹

In January 2017, the Civil, Commercial and Labor Chamber of the Court of First Instance of the Judicial District of Monte Plata affirmed the annulment of the original birth certificate of Juliana Deguis Pierre, the petitioner in the infamous Judgment 168-13.²³² After Judgment 168-13, Juliana Deguis Pierre was issued a new birth certificate with numbers that differed from her original one.²³³ The Monte Plata court declared the birth certificate null because “two birth certificates in the name of the same person cannot exist and because it was clear that [the original birth certificate] contained irregularities and defects at the time of its issuance, because her parents were not legal residents in the country.”²³⁴ The court’s reasoning contradicts what was publicized as Law 169-14’s solution for Dominicans of Haitian affected by Judgment 168-13.²³⁵

228 Human Rights Watch, “We are Dominican: Arbitrary Deprivation of Nationality in the Dominican Republic,” (July 1, 2015). Available at: <https://www.hrw.org/report/2015/07/01/we-are-dominican/arbitrary-deprivation-nationality-dominican-republic>; Amnesty International, “Haiti/Dominican Republic: Reckless deportations leaving thousands in limbo,” June 15, 2016. Available at: <https://www.amnesty.org/en/latest/news/2016/06/haiti-dominican-republic-reckless-deportations-leaving-thousands-in-limbo/>.

229 Human Rights Watch, “We are Dominican: Arbitrary Deprivation of Nationality in the Dominican Republic,” (July 1, 2015). Available at: <https://www.hrw.org/report/2015/07/01/we-are-dominican/arbitrary-deprivation-nationality-dominican-republic>.

230 Human Rights Watch, “We are Dominican: Arbitrary Deprivation of Nationality in the Dominican Republic,” (July 1, 2015). Available at: <https://www.hrw.org/report/2015/07/01/we-are-dominican/arbitrary-deprivation-nationality-dominican-republic>.

231 See, for e.g., El Caribe, “Tribunal anula acta a haitiano Winet que demandó a RD ante la CIDH-OEA,” [Court annuls certificate of Haitian Winet who brought a case against the Dominican Republic before the IACHR-OAS] April 8, 2015. Available at: <http://www.elcaribe.com.do/2015/08/04/tribunal-anula-acta-haitiano-winet-que-demando-ante-cidhoea>.

232 La Cámara Civil, Comercial y de Trabajo del Juzgado de Primera Instancia del Distrito Judicial de Monte Plata, Sentencia civil número 425-2016-SCIV-00337. NCI núm. 42425-13-00293. Expediente núm. 425-13-00293.

233 La Cámara Civil, Comercial y de Trabajo del Juzgado de Primera Instancia del Distrito Judicial de Monte Plata, Sentencia civil número 425-2016-SCIV-00337. NCI núm. 42425-13-00293. Expediente núm. 425-13-00293, page 21.

234 La Cámara Civil, Comercial y de Trabajo del Juzgado de Primera Instancia del Distrito Judicial de Monte Plata, Sentencia civil número 425-2016-SCIV-00337. NCI núm. 42425-13-00293. Expediente núm. 425-13-00293, page 21.

235 See, e.g. 7dias.com.do, “Jesuitas ponderan aportes de la Ley de convalidación y naturalización,” [Jesuits ponder support of the Law of Validation and Naturalization], May 26, 2014. Available at: http://www.7dias.com.do/portada/2014/05/26/164746_red-jesuitas-pondera-aportes-ley-naturalizacion-regulacion.html#.WPGbAmkrJ0w; Dominicanos por Derecho, “Transcripciones y cambios de datos en actas constituyen la continuidad más atroz de la desnacionalización en RD,” [Transcriptions and changes of the information in records constitute the most atrocious continuation of denationalization in RD (Dominican Republic)] January 28, 2015. Available at: <https://dominicanosxderecho.wordpress.com/2015/01/28/transcripciones-y-cambios-de-datos-en-actas-constituyen-la-continuidad-mas-atroz-de-la-desnacionalizacion-en-rd/>.

In the annulment decision, the court affirmed the reasoning of Judgment 168-13. The judge also confused the provisions of restoration and naturalization of citizenship in Law 169-14, declaring incorrectly that Ms. Deguis Pierre received her birth certificate through the process of naturalization that actually pertains to “Group B.”²³⁶ Lastly, the court did not address arguments that Ms. Deguis Pierre’s new birth certificate was illegally issued by the JCE.

Ms. Deguis Pierre is not the only person who has been affected by an irregular annulment of her birth certificate.²³⁷ By issuing new birth certificates that differ from the original birth certificates to Ms. Deguis Pierre and others in the same situation, the JCE has created a separate category of citizens whose legal status remains unclear under domestic law.²³⁸ The judgment of the Monte Plata court seems to condone this practice, causing confusion and concern about Law 169-14’s impact on Dominicans of Haitian descent. Moreover, the confusion that the court displayed about the the different processes in Law 169-14 demonstrates the widespread lack of clarity that exists at all levels of government.

Those we interviewed for this report took stock of the possible opportunities to strengthen advocacy efforts of civil organizations that promote the rights of Dominicans of Haitian descent to raise awareness of the issues.

“I think that the persons directly affected, the institutions and organizations that work on behalf of these persons, we should focus a little more on raising awareness of our complaints in the press, of our demands so that the international community as well as the national community know that despite the efforts that have been made with the enactment of this law, it is not being 100 per cent implemented.” (David Pérez, community representative)

As well as the activities that could be put forward to strengthen the Central Electoral Board (JCE),

“An alternative would be to train the very government agents who work in the oficialías but also those from the JCE (...) so that they know that the law requires that all the persons who were affected the law establishes that they should be given back their documents so that oficialías facilitate this process. I suggest that there should be a change in personnel and whether there is new personnel appointed or the current personnel remains, they should be trained on this issue. Another solution would be to involve everyone in the process. Not only the affected population, but also those who are not impacted so that they know their status and their rights.” (Berenice Anderson, lawyer)

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236 La Cámara Civil, Comercial y de Trabajo del Juzgado de Primera Instancia del Distrito Judicial de Monte Plata, Sentencia civil número 425-2016-SCIV-00337. NCI núm. 42425-13-00293. Expediente núm. 425-13-00293, page 21.

237 El Caribe, “Tribunal anula acta a haitiano Winet que demandó a RD ante la CIDH-OEA,” [Court annuls certificate of Haitian Winet who brought a case against the Dominican Republic before the IACHR-OAS] April 8, 2015. Available at: <http://www.elcaribe.com.do/2015/08/04/tribunal-anula-acta-haitiano-winet-que-demando-ante-cidhoea>.

238 El Día, “Reconoci.do denuncia JCE actúa al margen Ley 169-14,” [Reconoci.do denounces JCE as acting at the margins of Law 169-14] October 21, 2014. Available at: <http://eldia.com.do/reconoci-do-denuncia-jce-actua-al-margen-ley-169-14/>.

V. CONCLUSIONS & RECOMMENDATIONS

As of the date this report is published, José has yet to obtain officially recognized documents. His dreams of registering for university are deferred until his situation is truly resolved.

It has been more than three years since Judgment 168-13 stripped Dominican nationality from tens of thousands of Dominicans of Haitian descent. Law 169-14, touted as a “solution,” has not fulfilled its mission and, as a result, the harsh reality of Judgment 168-13 continues to affect thousands of people. Those interviewed reveal that despite Law 169-14’s promise, its implementation has led to many obstacles to obtaining their identity documents and, consequently, their ability to access civic life. When attempting to participate in the complex, opaque processes of the Central Electoral Board (JCE), many Dominicans of Haitian descent continue to experience hostile treatment from the authorities showing that of discrimination against people of Haitian descent still persists in the Dominican Republic.

Unfortunately, and in spite of its obligations under international law, the government of the Dominican Republic shows no sign of remedying the situation. Impunity exists for those who attack journalists and defenders of Dominicans of Haitian descent. The judgments that affirm the nullifications of the original identity documents for those in “Group A” serve only to reinforce the wrongs present in Judgment 168-13. These facts indicate a lack of political will on the part of the state to right these wrongs.

Without documentation, the legal status of José and others like him in “Group A” remains unclear and is far from being resolved. With the passage of time, the situation worsens as parents may pass their lack of status to their children. At the same time, there continues to be a vibrant domestic movement of human rights defenders, many of them Dominicans of Haitian descent themselves, working to protect and defend the rights of Dominicans of Haitian descent. These groups bravely face these challenges and the struggle continues on.

In light of the findings of this report, we recommend the following:

1. To the Government of the Dominican Republic

- a. Establish a formal and permanent space for public conference, discussion and evaluation of the implementation of Law 169-14 and the situation of persons it has affected. Ensure that a diverse group of stakeholders are invited to the table, including representatives from the community of Dominicans of Haitian descent and civil society organizations working on their behalf.
- b. Eliminate the practice of using a separate registration book, the “*Libro de Transcripción*” for those in “Group A.” Commit to a system that is free from discrimination and distinction and ensure State agents take responsibility for ensuring the right to nationality for Dominicans of Haitian descent.
- c. Establish a process that guarantees effective and efficient access to the Civil Registry for those attempting to establish their legal status and obtain their identity documents.
- d. Ensure that the police, armed forces, and other state agents refrain from harassment and discrimination against Dominicans of Haitian descent, including any use of means of coercion, intimidation, disproportionate use of force, or expulsion.

- e. Publicly denounce threats and intimidation directed at human rights defenders and journalists, including those who work to defend the right to nationality of Dominicans of Haitian descent.
- f. Investigate in a timely manner all former and current cases of attacks, threats or intimidation against human rights defenders and journalists.
- g. Address the longstanding racial and xenophobic discrimination that has permeated many sectors of Dominican society and which is at the root of the policies of denationalization of Dominicans of Haitian descent.

Specific recommendations for the Central Electoral Board (JCE)

- a. Clarify the requirements for persons in “Group A” to obtain their documents in an expedited manner, including firm deadlines for receipt of documents.
- b. Ensure members of “Group A” can obtain their documents in the local *oficialía* where they reside and are not required to travel to Santo Domingo to enquire about the status of their documents or copies.
- c. Cease using the “Transcription Book,” and ensure that the persons in “Group A” are recognized in the Civil Registry and they can maintain the information they were registered with initially. Abstain from annulling the original birth certificates of those in “Group A.”
- d. Ensure timely information, frequent training, and sanctions to those authorities that deliberately or arbitrarily attempt to circumvent the rights of persons in “Group A” to their documents.
- e. Establish a mechanism to receive and address complaints from citizens who experience violations of their rights while attempting to obtain their documentation.
- f. Ensure due process in all decisions regarding the issuance of documentation to Dominicans of Haitian descent.

2. To the International community

- a. Support local and international civil society groups in their efforts to protect the rights of Dominicans of Haitian descent, including those in “Group A.”
- b. Call on the Dominican Republic to recognize and respect its obligations under international law and implement procedures to restore full citizenship and documentation to individuals in “Group A.”
- c. Denounce the existing violations of the rights of Dominicans of Haitian descent, including those in “Group A”, and call on the Dominican government to implement restorative proceedings.
- d. Call on the Dominican government to publicly address the entrenched culture of racial discrimination in the country that serves as the foundation for many violations of the rights of Dominicans of Haitian descent and support them in these efforts, including with financial support.

GLOSSARY

Annulment or Annulled (“nullificación” o “nullidad”) – people in “Group A” reported that their original documents (usually their birth certificate) have been annulled by the Central Electoral Board (JCE), meaning the original document was no longer valid to apply for and receive social services.

Batey – communities or settlements historically built on or around Dominican sugar mills where sugarcane cutters, most of them Haitians or Dominicans of Haitian descent, live and raise their families. Residents of the *bateyes* often refer to them by number (batey 8, 9, etc.) Today, many descendants of sugar cane workers still live in *bateyes* even with the closing of many of the sugar mills.

Birth certificate (“acta de nacimiento”) – official birth certificate issued by the Civil Registry that serves as the primary form of identification for children under the age of 18. This document is required to apply for a passport and to obtain social services, including an official marriage license, health care, and school enrollment. The birth certificate is required to obtain the *cédula* identification card.

Book of Foreigners or Foreign Registry or “Pink Book” (“Libro de extranjería” o “Libro Rosado”) – A separate registry created by the 2004 General Migration Law to register children born to foreign mothers who are not “residing” in the Dominican Republic at the time of the child’s birth. It is commonly referred to as the “pink book” because the birth certificates issued to children of foreigners are a distinctive pink color, visually distinct from regular birth certificates issued from the Civil Registry.

Cancellation or Cancelled (“Cancelación” o “cancelado”) – many people in “Group A” reported that their existing identity documents (usually their *cédula* identification card) had been canceled by the Central Electoral Board (JCE). After Judgment 168-13, the JCE audited the Civil Registry to determine the legal status of those affected by the judgment, they transcribed at least hundreds of individuals to a different registration book, sometimes with different information and numbers from their initial registration information. The initial documents were sometimes canceled and no longer valid. Those interviewed for this report use “canceled”, “suspended,” or “disabled” to refer to this concept.

Cédula identity card or “cédula” – The *cédula* is the main form of state identification for citizens once they turn 18 and it is required for legal employment, opening a bank account, registration for social security, and many other civic activities.

Central Electoral Board or JCE – Junta Central Electoral, which translates to the Central Electoral Board. It is referred to by its acronym in Spanish, JCE. The JCE is the state agency that oversees the local offices of the Civil Registry (*oficialías*) in the Dominican Republic. As the agency responsible for issuing birth certificates, national *cédula* identity cards and other identity documents, the JCE implements the constitutional amendments and laws with respect to nationality. The JCE published a list of 53,827 names of people who were entitled to restoration of their Dominican citizenship under Law 169-14 as part of “Group A.” The list is commonly referred to as “the List of the 55,000.” Some people who meet the legal definition of “Group A” under the law were not included in the list, causing additional problems.

Children of those in “Group A” – direct descendants of Dominicans of Haitian descent who were not registered in the Civil Registry when Law 169-14 was issued.

Civil Registry (“Registro Civil”) – the Dominican entity run by the Central Electoral Board (JCE), which is tasked with registering and overseeing civil acts, including births, marriages, divorces, and deaths.

Certificate of live birth (“Constancia de nacimiento”) – certificate of live birth issued by a medical center where a child is born in the Dominican Republic. Medical centers are required to issue this document to parents who can prove that they are Dominican. If the parents cannot prove that they are Dominican, the medical center must issue a pink “foreigner” certificate of live birth. The certificate of live birth (constancia de nacimiento) is necessary to obtain the official birth certificate (acta de nacimiento).

Disabled (“inhabilitado”) – many people in “Group A” reported that their existing identity documents (usually their *cédula* identity card) had been disabled. After Judgment 168-13, the JCE audited the Civil Registry to determine the legal status of those affected by the Judgment, they transcribed hundreds of individuals to a different registration book, sometimes with different information and numbers from their initial registration information. The initial documents were sometimes disabled and no longer valid. Those interviewed for this report use “canceled,” “suspended, or “disabled” to refer to the same concept.

Dominicans of Haitian descent (“personas dominicanas de ascendencia haitiana”) – this report uses “Dominicans” to refer to all Dominican citizens and “Dominicans of Haitian descent” to refer specifically to Dominican citizens of Haitian descent, thousands of whom were stripped of their Dominican nationality after Judgment 168-13. We refer to “Dominicans of Haitian descent” as “Dominicans” to underscore their right to Dominican nationality, although Judgment 168-13 deemed them foreigners in their own country.

“Group A” (“Grupo A”) – the first of the two groups of people affected by Judgment 168-13 as defined by Law 169-14. “Group A” refers to people who were born in the Dominican Republic prior to 2010 and were entitled to birthright citizenship who were registered as Dominican citizens in the Civil Registry before Judgment 168-13 was passed on September 23, 2013. Under Law 169-14 people in “Group A” are entitled to have their Dominican citizenship restored, recognition of their identity documents, and the right to have their identity documents issued.

“Group B” (“Grupo B”) – the second of the two groups of people affected by Judgment 168-13 as defined by Law 169-14. “Group B” refers to people who were born in the Dominican Republic prior to 2010 and were entitled to birthright citizenship but were not registered as Dominican citizens in the Civil Registry before Judgment 168-13 was passed on September 23, 2013. Under Law 169-14, people in “Group B” could have registered themselves in the foreign registry book (self-reporting as foreigners despite their eligibility for birthright citizenship) within 90 days of the law’s passage and are eligible for naturalized Dominican citizenship after two years.

Judgment 168-13 (“Sentencia 168-13”) – Judgment issued by the Constitutional Tribunal of the Dominican Republic, the highest court in the country, on September 23, 2013, which affirmed the retroactive application of a constitutional amendment denying birthright citizenship to children of “foreigners in transit” to Dominicans born in the country to foreign parents between 1929 and 2010.

Jus soli nationality – Principle of nationality law whereby citizenship is granted to people born within the territory of a certain country. It is an unconditional automatic grant of citizenship. It is common to almost all countries in the Americas.

Jus sanguinis nationality – Principle of nationality law whereby citizenship is granted by parentage rather than place of birth. This principle may imply some restrictions. It is not the common principle in the Americas, but it is prevalent in the rest of the world.

Law 169-14 (“Ley 169-14”) – Law issued by the Dominican legislature on May 23, 2014 categorizing individuals affected by Judgment 168-13 into two groups: “Group A,” those who are entitled to restoration of their Dominican citizenship and recognition or provision of their identity documents, and “Group B,” those who may elect to register as foreigners to regularize their status in the country and apply for citizenship via naturalization after two years.

Oficialía – local offices of the Civil Registry where Dominicans go to register births of their children, marriages, divorces, and deaths. The *oficialías* are the local offices of the Central Electoral Board (JCE.)

Suspended (“Suspendida”) – many people in “Group A” reported that their existing identity documents had been suspended by the JCE. After Judgment 168-13, the JCE audited the Civil Registry to determine the legal status of those affected by the Judgment, they transcribed hundreds of individuals to a different registration book, sometimes with different information and numbers from their initial registration information. Those interviewed for this report use “canceled,” “suspended,” or “disabled” to refer to the same concept.

Transcription (“Transcripción”) – The process by which the Central Electoral Board (JCE) transferred individuals in “Group A” to a separate registry book, the “*Libro de Transcripción*,” sometimes changing the information in an individual’s registration record or assigning individuals a new registration number that is different from the number on their official original documents.

“Libro de Transcripción” (Transcription Book) – A different registry book created by the JCE where many people in “Group A” had the information from their original registration records transferred.

NATIONALITY IN THE DOMINICAN REPUBLIC: TIMELINE

1865

The first inclusion of *jus soli* nationality in the Constitution of the Dominican Republic. “Dominicans are: all persons who have been born or were born in the territory of the Republic, whatever the nationality of their parents.”²³⁹

1929

The Dominican Constitution is amended to include two exceptions to *jus soli* citizenship. As of this year, children who are born to “foreign diplomats” and “foreigners in transit” are excluded.²⁴⁰

1939

Migration Regulation No. 279 is passed that stipulates “Foreigners endeavoring to enter the Dominican Republic with the principal purpose of proceeding through the country towards another country shall be granted the privileges of ‘transients.’ These privileges shall be granted even though the foreigner is not admissible as an immigrant, provided his entry is not contrary to public order and health. Generally “a period of 10 days shall usually be considered sufficient to be able to pass through the Republic [...] (emphasis added).”²⁴¹ “Foreigners in transit” is now understood to encompass visitors to the country, persons working on board ships or aircraft, temporary workers and their families, and “transients” who were expected to be in the Dominican Republic for a period of 10-days or less.²⁴²

1978

The Dominican Republic accedes to the International Covenant on Civil and Political Rights (ICCPR)²⁴³ and ratifies the American Convention on Human Rights.²⁴⁴ Both instruments guarantee children the right to acquire a nationality. The American Convention on Human Rights also prohibits arbitrary and discriminatory deprivation of nationality.²⁴⁵

239 IACHR, “Report on the Situation of Human Rights in the Dominican Republic,” para. 146, (2015). Available at: <http://www.oas.org/en/iachr/reports/pdfs/dominicanrepublic-2015.pdf>.

240 Judgment 168-13, Constitutional Tribunal of the Dominican Republic, September 23, 2013, page 51, para. 2.16, “Decide Tercero” [Third Decision]. Available at: <http://tribunalconstitucional.gob.do/sites/default/files/documentos/Sentencia%20TC%200168-13%20-%20C.pdf>; IACHR, “Report on the Situation of Human Rights in the Dominican Republic,” para. 146, (2015). Available at <http://www.oas.org/en/iachr/reports/pdfs/dominicanrepublic-2015.pdf>.

241 Dominican Republic, “Reglamento de Migración” [Migratory Regulation] No. 279, May 12, 1939. Available at: <http://www.acnur.org/fileadmin/Documentos/BDL/2001/0241.pdf?view=1>.

242 Dominican Republic, “Reglamento de Migración” Migratory Regulation No. 279, May 12, 1939. Available at: <http://www.acnur.org/fileadmin/Documentos/BDL/2001/0241.pdf?view=1>; See also IACHR, “Report on the Situation of Human Rights in the Dominican Republic,” para. 148-49, (2015). Available at: <http://www.oas.org/en/iachr/reports/pdfs/dominicanrepublic-2015.pdf>.

243 The Dominican Republic accedes to the ICCPR on January 4, 1978. Ratifications & Accessions of the *International Covenant on Civil and Political Rights*. Available at: https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-4&chapter=4&clang=_en.

244 The Dominican Republic ratifies the American Convention on Human Rights on January 21, 1978. American Convention on Human Rights, “Signatory Countries,” <http://www.cidh.oas.org/basicos/english/Basic4.Amer.Conv.Ratif.htm>.

245 American Convention on Human Rights, art. 20, Nov. 22, 1969, OAS Treaty Series No. 36; *International Covenant on Civil and Political Rights*, December 16, 1966, [entered into force March 23, 1976] United Nations, Treaty Series, vol. 999, Art. 20(3). “No one shall be arbitrarily deprived of his nationality or of the right to change it.” Available at: <http://www.cidh.oas.org/basicos/english/basic3.american%20convention.htm>.

1984

Juliana Deguis Pierre is born in the Dominican Republic to Haitian parents. Her mother and father, both Haitian migrants living in the Dominican Republic, register her birth in the Civil Registry. Ms. Deguis Pierre is included in the Dominican Civil Registry and is issued a birth certificate.²⁴⁶

2004

The government passes Law 285-04, expanding the Constitution’s “foreigners in transit” exception to birthright citizenship.²⁴⁷ The new law denies birthright citizenship to children born in the Dominican Republic to “non-residents” – a broad category which includes undocumented migrants and persons who cannot prove legal residency.²⁴⁸ In practice, the law is used discriminatorily to deny identity documents to older Dominicans of Haitian descent whose Dominican nationality was previously recognized and cannot be changed by the new law.²⁴⁹ This General Law on Migration also introduced a different “constancia de nacimiento” (certificate of live birth) for children of “non-resident” foreigners that included the issuance of a pink “constancia de nacimiento” (emphasis added) that was distinctive from the birth form that was used for Dominican citizens.²⁵⁰

2005

The Inter-American Court of Human Rights decides the case of *Yean and Bosico* on September 8. The case concerns two Dominican girls of Haitian descent who were born prior to the 2004 law and entitled to birthright citizenship, but were denied Dominican birth certificates.²⁵¹ The girls were denied birth certificates because they were the children of Dominican mothers of Haitian descent whom the Dominican state deemed as “foreigners in transit.” The Court reasons that the Dominican state must “understand that a foreigner who develops connections in a State cannot be equated to a person in transit.”²⁵² The Court finds that the Dominican Republic has violated the girls’ rights to nationality and juridical personality under the American Convention of Human Rights.²⁵³

On December 14, two months after the *Yean and Bosico* decision, the Supreme Court of the Dominican Republic rules that the expansion of the “in transit” exception to birthright citizenship in 2004’s Law 285-04 is constitutional, in express defiance of the Inter-American Court’s decision in *Yean and Bosico*.²⁵⁴

246 See, e.g. Judgment 168-13, Tribunal Constitucional de República Dominicana, September 23, 2013, pag. 3, par. 21. Available at [https://presidencia.gob.do/haitianosinpapeles/docs/TC-168-13-\(english\).pdf](https://presidencia.gob.do/haitianosinpapeles/docs/TC-168-13-(english).pdf); IACHR, “Report on the Situation of Human Rights in the Dominican Republic” (2015), paras. 169-73. Available at <http://www.oas.org/en/iachr/reports/pdfs/dominicanrepublic-2015.pdf>.

247 Ley General de Migración [General Law on Migration], No. 285-04 (August 15, 2004), Article 36. Available at: [https://www.oas.org/dil/Migrants/Republica%20Dominicana/1.Ley%20sobre%20migración%20N%20285%20del%2015%20de%20agosto%20de%202004%20\(reemplaza%20la%20Ley%2095%20de%201939\).pdf](https://www.oas.org/dil/Migrants/Republica%20Dominicana/1.Ley%20sobre%20migración%20N%20285%20del%2015%20de%20agosto%20de%202004%20(reemplaza%20la%20Ley%2095%20de%201939).pdf).

248 Ley General de Migración [General Law on Migration], No. 285-04 (August 15, 2004), Article. 36. Available at: [https://www.oas.org/dil/Migrants/Republica%20Dominicana/1.Ley%20sobre%20migración%20N%20285%20del%2015%20de%20agosto%20de%202004%20\(reemplaza%20la%20Ley%2095%20de%201939\).pdf](https://www.oas.org/dil/Migrants/Republica%20Dominicana/1.Ley%20sobre%20migración%20N%20285%20del%2015%20de%20agosto%20de%202004%20(reemplaza%20la%20Ley%2095%20de%201939).pdf).

249 See State Department, 2011 Human Rights Reports: Dominican Republic, at “Stateless Persons.” Available at: <http://www.state.gov/j/drl/rls/hrrpt/2011/wha/186510.htm>.

250 Ley General de Migración, [General Law on Migration] No. 285-04, de 15 de Agosto de 2004, Article 28. Available at: [https://www.oas.org/dil/Migrants/Republica%20Dominicana/1.Ley%20sobre%20migración%20N%20285%20del%2015%20de%20agosto%20de%202004%20\(reemplaza%20la%20Ley%2095%20de%201939\).pdf](https://www.oas.org/dil/Migrants/Republica%20Dominicana/1.Ley%20sobre%20migración%20N%20285%20del%2015%20de%20agosto%20de%202004%20(reemplaza%20la%20Ley%2095%20de%201939).pdf); see also State Department, 2013 Human Rights Reports: Dominican Republic, pages 22 -23. Available at: <http://www.state.gov/documents/organization/220649.pdf>.

251 *Case of the Girls Yean and Bosico vs. Dominican Republic*. Case on the Merits. Inter-Am. Ct. H. R., Judgment of Sept. 8, 2005. Series C, No. 130. Available at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_130_%20ing.pdf.

252 *Case of the Girls Yean and Bosico vs. Dominican Republic*. Case on the Merits. Inter-Am. Ct. H. R., Judgment of Sept. 8, 2005. Series C, No. 130, para. 157. Available at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_130_%20ing.pdf.

253 *Case of the Girls Yean and Bosico vs. Dominican Republic*. Case on the Merits. Inter-Am. Ct. H. R., Judgment of Sept. 8, 2005. Series C, No. 130, operative paras. 2-4. Available at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_130_%20ing.pdf.

254 Sentencia No. 9 de la Corte Suprema de Justicia [Judgment No. 9 of the Supreme Court of Justice] December 14, 2005, described by the Dominican Republic Constitutional Court in its Declaration. Available at: <https://www.tribunalconstitucional.gob.do/node/1815>.

2007

The Central Electoral Board (*Junta Central Electoral*, or JCE) issues *Circular 017* which directs civil registry officials not to expedite, process, sign, or issue copies of identity documents to children of “foreign parents,” on the assumption that any such individuals obtained their documents in an irregular manner.²⁵⁵ A subsequent instruction, *Resolución 12-2007*, instructs registry officers to abstain from issuing any birth certificate that may have irregularities and grants them the power to provisionally suspend birth certificates without the judicial supervision required under Dominican law.²⁵⁶

In light of these two policies, the JCE starts to record children born to non-resident parents in a separate registration book (known as the “Pink Book of Foreigners”), denying them *jus soli* (birthright) Dominican nationality.²⁵⁷

2008

JCE officials confiscate Juliana Deguis Pierre’s birth certificate as “irregular”²⁵⁸ when she goes to apply for her national *cédula* identity card. Ms. Deguis Pierre challenges the seizure of her birth certificate in court and requests that her *cédula* identity card be issued.²⁵⁹

2010

The Dominican Republic adopts a revised Constitution that includes the expanded “in transit” exception to birthright citizenship in the 2004 Law 285-04. The Dominican Constitution now denies birthright citizenship to those children born to “foreigners in transit or residing illegally in the Dominican territory.”²⁶⁰

2013

On September 23, the Constitutional Court, the highest court in the Dominican Republic, issues Judgment 168-13 ruling in the case of Juliana Deguis Pierre. The Court surprisingly applies the broader “in transit” exception contained in the 2010 Constitutional amendment to Ms. Deguis Pierre,²⁶¹ holding that she is not entitled to Dominican nationality because she is the daughter of undocumented migrants who are “foreign citizens in transit.”²⁶² The Court orders that Ms. Deguis Pierre be given a birth certificate that reflects her foreign status and a special pass for a “temporary stay”²⁶³ in the Dominican Republic. The Court also applies the decision to thousands of other

255 Circular No. 017 from the JCE, HoyDigital, August 26, 2008. Available at: <http://hoy.com.do/circular-no-017-de-la-jce/>.

256 Junta Central Electoral, Resolución [Resolution] 12-2007, (December 10, 2007) (Dom. Rep.). Available at <http://www.acnur.org/t3/fileadmin/Documentos/BDL/2012/8899.pdf?view=1>.

257 See State Department, *2013 Human Rights Reports: Dominican Republic*, at ‘Stateless Persons,’ page 19. Available at <http://www.state.gov/documents/organization/220649.pdf>.

258 See, e.g. IACHR, ‘Report on the Situation of Human Rights in the Dominican Republic,’ para. 170 (2015). Available at <http://www.oas.org/en/iachr/reports/pdfs/dominicanrepublic-2015.pdf>.

259 IACHR, ‘Report on the Situation of Human Rights in the Dominican Republic,’ para. 171 (2015). Available at <http://www.oas.org/en/iachr/reports/pdfs/dominicanrepublic-2015.pdf>.

260 See Constitución Política de la República Dominicana [Political Constitution of the Dominican Republic], January 26, 2010, art. 18(3). Published in la Gaceta Oficial No. 10561, January 26, 2010. Available at: <http://www.ifrc.org/docs/idrl/75IES.pdf>.

261 Sentencia 168-13, Tribunal Constitucional de República Dominicana, September 23, 2013, page 98, “Decide Tercero” [Third Decision]. Available at: <https://www.tribunalconstitucional.gob.do/sites/default/files/documentos/Sentencia%20TC%200168-13%20-%20C.pdf>; Constitución Política de la República Dominicana [Political Constitution of the Dominican Republic], January 26, 2010, art. 18(3). Published in la Gaceta Oficial No. 10561, January 26, 2010. Available at: <http://www.ifrc.org/docs/idrl/75IES.pdf>.

262 Sentencia 168-13, Tribunal Constitucional de República Dominicana, September 23, 2013, page 98, “Decide Segundo” [Second Decision]. Available at: <https://www.tribunalconstitucional.gob.do/sites/default/files/documentos/Sentencia%20TC%200168-13%20-%20C.pdf>.

263 Sentencia 168-13, Tribunal Constitucional de República Dominicana, September 23, 2013, page 99, “Decide Tercero” [Third Decision]. Available at: <https://www.tribunalconstitucional.gob.do/sites/default/files/documentos/Sentencia%20TC%200168-13%20-%20C.pdf>

Dominicans of Haitian descent who are in Ms. Deguis Pierre's situation.²⁶⁴ These Dominicans of Haitian descent are now considered "foreigners" in the Dominican Republic.

On November 29, the government approves a "National Regularization Plan" for Dominicans of Haitian descent whose Dominican nationality was stripped from them in Judgment 168-13, now "foreigners" to the Dominican government, to regularize their legal status in the Dominican Republic.²⁶⁵ Individuals must appear in person with their documents to register within 18-months or face deportation.²⁶⁶ The plan also refers to individuals born in the Dominican Republic to foreign parents who have the right to "naturalization" through another process.²⁶⁷

2014

On May 23, the Dominican government adopts a "Naturalization Law," Law 169-14, for persons born in the country to parents who are lacking civil registration and whose parents were irregular migrants.²⁶⁸ The law divides these persons into 2 groups. The first group, "Group A," consists of those, like Ms. Deguis Pierre, who were born in the Dominican Republic and were registered in the Civil Registry as Dominican citizens at birth at the time Judgment 168-13 was issued.²⁶⁹ The Law ostensibly restores Dominican citizenship to these individuals and assures their access to valid identity documents.²⁷⁰ The second group, "Group B," consists of persons who were born in the Dominican Republic but who were not registered as Dominican citizens at the time Judgment 168-13 was issued.²⁷¹ Those in "Group B" must self-report as foreigners within 90 days to be able to apply for naturalized citizenship after 2 years.²⁷²

On August 28, the Inter-American Court of Human Rights rules that Judgment 168-13 and Naturalization Law 169-14 violate the rights of Dominicans of Haitian descent in the *Case of Expelled Dominican and Haitian Persons vs. the Dominican Republic*.²⁷³ The Court orders the Dominican government to take immediate steps to ensure that Judgment 168-13 and provisions of Law 169-14 no longer have legal effects.²⁷⁴

On November 5, The Constitutional Court of the Dominican Republic rejects the Inter-American Court's decision in *Case of Expelled Dominican and Haitian Persons vs. the Dominican Republic* and invalidates the country's recognition of the Inter-American Court's jurisdiction.²⁷⁵ The government proceeds with implementation of Law 169-14.

264 Sentencia 168-13, Tribunal Constitucional de República Dominicana, September 23, 2013, page 98, "Decide Tercero" [Third Decision]. Available at: [https://presidencia.gob.do/haitianosinpapeles/docs/TC-168-13-\(english\).pdf](https://presidencia.gob.do/haitianosinpapeles/docs/TC-168-13-(english).pdf).

265 "Plan Nacional de Regularización de Extranjeros en Situación Migratoria Irregular," [National Plan for the Regularization of Foreigners in an Irregular Migratory Situation] November 29, 2013. Available at: <http://www.refworld.org/pdfid/52fc984.pdf>.

266 Plan Nacional de Regularización de Extranjeros en Situación Migratoria Irregular," [National Plan for the Regularization of Foreigners in an Irregular Migratory Situation], page. 4. November 29, 2013. Available at: <http://www.refworld.org/pdfid/52fc984.pdf>.

267 Plan Nacional de Regularización de Extranjeros en Situación Migratoria Irregular," [National Plan for the Regularization of Foreigners in an Irregular Migratory Situation], page 6. November 29, 2013. Available at: <http://www.refworld.org/pdfid/52fc984.pdf>.

268 Ley No. 169-14 [Law 169-14], May 23, 2014. Available at <http://www.refworld.org/docid/53882dea4.html>.

269 Ley No. 169-14 [Law 169-14], May 23, 2014, Article 2. Available at: <http://www.refworld.org/docid/53882dea4.html>.

270 Ley No. 169-14 [Law 169-14], May 23, 2014, Article 4. Available at: <http://www.refworld.org/docid/53882dea4.html>.

271 Ley No. 169-14 [Law 169-14] May 23, 2014, Article 6. Available at: <http://www.refworld.org/docid/53882dea4.html>.

272 Ley No. 169-14 [Law 169-14] May 23, 2014, Article 6. Available at: <http://www.refworld.org/docid/53882dea4.html>.

273 Inter-Am. Ct. H.R., *Case of Expelled Dominicans and Haitians v. Dominican Republic*. Preliminary Objections, Merits, Reparations and Costs. Judgment of August 28, 2014. Operative Paragraphs, para. 512. Series C No. 282. Available at: http://corteidh.or.cr/docs/casos/articulos/seriec_282_ing.pdf.

274 Inter-Am. Ct. H.R., *Case of Expelled Dominicans and Haitians v. Dominican Republic*. Preliminary Objections, Merits, Reparations and Costs. Judgment of August 28, 2014. Operative Paragraphs, para. 512. Series C No. 282. Available at: http://corteidh.or.cr/docs/casos/articulos/seriec_282_ing.pdf.

275 Judgment TC/0256/14 of the Constitutional Court of the Dominican Republic, November 4, 2014. Available at: <http://www.tribunalconstitucional.gob.do/sites/default/files/documentos/Sentencia%20TC%200256-14%20C.pdf>.

2015

On June 26, the JCE publishes a list of 53,827 Dominican-born individuals who were born in the Dominican Republic and were registered in the Civil Registry at prior to Judgment 168-13.²⁷⁶ These individuals are eligible to have their Dominican citizenship restored and identity documents issued. However, many people who were previously registered by the Civil Registry and meet all the criteria for “Group A” outlined in Law 169-14 are not included on the JCE’s list.²⁷⁷

2016

Dominican journalists and human rights defenders report an increase in threats and harassment against them in response to their work on behalf of Dominicans of Haitian descent.²⁷⁸

In November, a new set of JCE Commissioners is elected to serve a 4-year term with the mandate to implement constitutional laws with respect to nationality.²⁷⁹

2017

The JCE’s annulment of Juliana Deguis Pierre’s original birth certificate is upheld by the Civil, Commercial and Labor Chapter of the First Instance Court in the Monte Plata Judicial District.²⁸⁰ Her lawyers appeal the decision.

276 Dominican Republic, JCE, Informe de Auditoria al Registro Civil desde 1929 al 2007 [JCE, Report of the Audit of the Civil Registry from 1929 - 2007], May 26, 2015. Available at: <http://jce.gob.do/Noticias/informe-auditoria-registro-civil-1929-2007-tc0168-13-ley169-14>.

277 See Section III; Georgetown Law Human Rights Institute Fact-Finding Project, Legal Update *Left Behind: How Statelessness in the Dominican Republic Limits Children’s Access to Education*, page 12 (September 23, 2016). Available at <http://www.law.georgetown.edu/academics/centers-institutes/human-rights-institute/fact-finding/upload/Legal-Update-Left-Behind-Report-09-23-2016.pdf>.

278 The Huffington Post, “Dominican Journalists Claim Death Threats for Covering Citizenship Debate,” February 12, 2015. Available at: http://www.huffingtonpost.com/2015/02/12/dominican-journalists-death-threats_n_6674160.html.

279 El Caribe, “¿Quién es quién en la nueva Junta Central Electoral?” [Who is who in the new Central Electoral Board?] November 18, 2016. Available at: <http://www.elcaribe.com.do/2016/11/18/quien-quien-nueva-junta-central-electoral#sthash.14Hf2Es6.dpuf>

280 La Cámara Civil, Comercial y de Trabajo del Juzgado de Primera Instancia del Distrito Judicial de Monte Plata, Sentencia civil número 425-2016-SCIV-00337 [The Civil, Commercial and Labor Chapter of the First Instance Court in the Monte Plata Judicial District Civil Judgment No. 425-2016-SCIV-00337], NCI núm. 42425-13-00293. Expediente núm. 425-13-00293.

METHODOLOGY

The primary source material used in this report is the result of a collaborative project with the Centro de Desarrollo Sostenible (Center for Sustainable Development, CEDES0 for its acronym in Spanish). It uses CEDES0’s existing work and relationships in the different *bateyes*²⁸¹ in the provinces where they undertook the project: “Towards A Political Culture Based on Dominicans of Haitian Descent’s Right to Political Participation” with funds from the United Nations Democracy Fund (UNDEF).

The work of documenting the personal experiences in the Dominican Republic was done by a team of consultants from Patio Común. The stories and quotes we included were obtained from first hand interviews in the *bateyes* done by Ivrance Martin and Juan Carlos González Diaz (Patio Común) in coordination with the team from CEDES0. Martin and González Diaz worked with CEDES0 to prepare and approve the questionnaires and the list of interviewees. The research team conducted a 3-day visit to the country in October 2016 where they held three focus groups in *bateyes* 4, 5, and 8, each of which is located in the town of Tamayo, in Enriquillo province, in the southwest of the country. In total, there were 24 adults, 16 women and 8 men who participated in the focus groups. The research team also conducted in-depth interviews with 6 people: 3 of them are people affected by the Dominican Republic’s naturalization policies and 3 are advocates who work on behalf of Dominicans of Haitian descent. A digital tape recorder was used to record the focus groups and all interviews.²⁸²

Robert F. Kennedy Human Rights, El Centro de Desarrollo Sostenible (CEDES0), and the American Jewish World Service (AJWS) co-authored this report based on Patio Común’s field research, and additional research and analysis of relevant international human rights standards.

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281 Bateye is the name given to the settlements on sugar cane plantations where plantation workers traditionally lived. See Inter-American Commission of Human Rights, “Situation of Human Rights in the Dominican Republic 2015,” para. 99, available at: <http://www.oas.org/en/iachr/reports/pdfs/dominicanrepublic-2015.pdf>.

282 The full summary of their field visit is included as an annex to the Spanish translation of this report.

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This report was researched and drafted by Kacey Mordecai (Robert F. Kennedy Human Rights) with contributions from Juan Carlos Gonzalez Diaz and Ivrance Martine (Patio Común.) The report was edited by Beneco Enecia (CEDES), Ronnate Asirwatham (AJWS), Angelita Baeyens and Wade McMullen (Robert F. Kennedy Human Rights).

The authors wish to extend our sincere thanks to the community of Dominicans of Haitian descent in Tamayo who shared their personal struggles with us in the hope that we could draw attention to their plight, and to Patio Común for conducting the focus groups and recording all the interviews. Without your contributions, this report would not have been possible.

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Graphic Design: Jennifer Kakalettris Design — Jennifer Kakalettris and David Sankey

THE CO-AUTHORING ORGANIZATIONS

The co-authoring organizations work to defend and protect the right to nationality for all persons affected by the Dominican Republic's denationalization policies.

American Jewish World Service (AJWS)

AJWS was founded in 1985 by American Jews who wanted to join together as global citizens to help some of the poorest and most oppressed people around the globe. Today, AJWS is the only Jewish organization dedicated solely to ending poverty and promoting human rights in the developing world.

Centro de Desarrollo Sostenible (CEDES)

The Center for Sustainable Development (CEDES) is an organization based in Tamayo, which guides its actions for the promotion and advocacy of community development based on principles of solidarity, tolerance and equality, promoting and implementing initiatives that contribute to local development; focusing on promoting sustainable local development in the Enriquillo Region and the border zone.

Robert F. Kennedy Human Rights

Robert F. Kennedy Human Rights was founded in 1968 by Robert Kennedy's family and friends as a living memorial to carry forward his vision of a more just and peaceful world. The team of attorneys that make up Partners for Human Rights, the organization's advocacy and training arm, litigate and advocate for the protection of human rights throughout Africa, the Americas and Asia. Since 1984, 45 partnerships have been established in 29 countries. The organization has worked on the issue of the right to nationality for Dominicans of Haitian descent for more than a decade.

Produced with the support of the United Nations Democracy Fund (UNDEF).

THE PERSONS WE INTERVIEWED

We held two focus groups with individuals in “Group A” and interviewed three individuals to learn how Judgment 168-13 and Law 169-14 have affected them. We also interviewed a lawyer and community advocates who work on behalf of those in “Group A” to ensure their rights are recognized.

Focus Group 1 took place at a community center in Batey 4. Seven women from “Group A” between the ages of 27 and 59 took part.

Focus Group 2 was held at a community center in Batey 8 and included children of Dominicans in “Group A” who were born in the Dominican Republic. These children have not been able to get identity documents because their parents do not have documents themselves or, if their parents do have documents, the documents have been voided. There were a total of 9 participants, 5 women and 4 men.

Focus Group 3 was held in a Christian church in Batey 5 and consisted of Dominicans of Haitian descent in “Group A.” There were 9 total participants, 5 women and 4 men, between 21 and 67 years of age.

Interview #1, CEDESOS Office, Tamayo. Berenice Anderson is a lawyer who works for CEDESOS on behalf of individuals in “Group A” from the different *bateyes*.

Interview #2, Batey Cuchilla. Estefani Félix is a Dominican of Haitian descent who had identity documents prior to Judgment 168-13 and was not affected by Judgment 168-13 or Law 169-14. She has her birth certificate and *cédula* identity card. She is a community leader and activist in the Reconoci.do movement.

Interview #3, Batey 8. David Pérez is a community representative and leader, lawyer, and evangelical pastor. He has supported CEDESOS in their work on behalf of persons in Group A and has offered legal advice to them.

Interview #4, Batey 4 – Edison is a Dominican of Haitian descent. He has had identity documents in the past and retains them now. He has never had problems with identity documents, but appears in the list published by the JCE. His 9 children are registered but the JCE has only given the *cédula* identity card to three of them. Additionally, they have not yet given these three children copies of their birth certificates.

Interview #5, CEDESOS offices, Tamayo – José is the son of a Dominican of Haitian descent who has a *cédula* identity card, but it’s disabled. He cannot undertake any legal transaction. He does not appear on the list published by the JCE.

Interview #6, Batey 4 – is a Dominican of Haitian descent and child of Dominican parents of Haitian descent. He has no identity documents because he was never given them. He has not been able to register his children.

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