

Joint Submission to the Committee on the Rights of the Child on the situation of children and adolescents in the Dominican Republic, with emphasis on the rights to a nationality, equality, non-discrimination, and access to education and health

Prepared by an ad-hoc coalition of civil society organizations:



INTRODUCTION

1. We appreciate the opportunity to submit this presentation to the Committee on the Rights of the Child (hereinafter, the Committee) regarding the compliance of the Dominican Republic with the Convention on the Rights of the Child (hereinafter, the CRC) and the right of all child to acquire a nationality under Article 7 and preserve their nationality under Article 8. This report also provides information and comments on State compliance with the CRC Guiding Principles, especially protection against discrimination (Article 2) and the best interests of the child (Article 3). The report pays special attention to the consequences of limitations on the right to nationality in relation to the right to health (Article 24) and education (Article 28).
2. This submission is based on the experience and efforts of the submitting organizations to achieve respect for all the rights of children and adolescents (NNA) in the Dominican Republic and covers the following topics:

I - The rights of stateless children or children at risk of statelessness: the violation and non-application of Law 169-14 and its consequences for children, as well as the deficiencies in the universalization of access to birth registration that contribute to the risk of statelessness;

II – Children’s rights in situations of human mobility the impacts that the most restrictive policies on migration have had on children, such as expulsions and persecution of migrants in the Dominican Republic;

III – The rights of the most vulnerable children and adolescents to education, social protection and family environment: as a result of various policies presented in sections I. and II., education, health, and social protection of children and adolescents in vulnerable situations have suffered setbacks.

IV - Anti-immigrant hate and criminalization of migrants and their descendants: the direct impacts that these phenomena have on the health of migrant children and descendants of migrants.

ABOUT THE CO-SUBMITTING ORGANISATIONS

3. The following organizations participated in the development of this report:
 - a. The Scalabrinian Association at the Service of Human Mobility (ASCALA) was established in 2004 to respond to the social problems present in the bateyes of the eastern region of the Dominican Republic, with work directed to the areas of legal assistance, education, local development , social service and institutional strengthening.¹

¹ <https://ascala2.wordpress.com/ascala/>

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- b. The Center for Sustainable Development (CEDESO) leads citizen participation processes and promotes sustainable local development with a rights-based approach, in the provinces of the Enriquillo Region in the South of the Dominican Republic since 2002.²
 - c. The Caribbean Migrants Observatory (OBMICA) has 12 years of investigative work on migrations that concern the Dominican Republic from a gender perspective and a rights approach, working in networks and towards political advocacy, to generate positive public opinion and public policies favorable to the human rights of migrant populations in the Caribbean.³
 - d. CEJIL is a regional human rights non-governmental organization that focuses on strategic engagement with international human rights organizations, primarily the Inter-American Human Rights System. CEJIL has represented a large number of victims of human rights violations in various countries of the American continent, including some in the Dominican Republic.⁴
 - e. The Institute on Statelessness and Inclusion (ISI) is the first and only human rights NGO dedicated to working on the right to nationality globally. ISI's mission is to promote inclusive societies by realizing and protecting everyone's right to a nationality. Addressing child statelessness is one of ISI's core thematic priorities. As part of this work, ISI submitted around 20 different country reports to the Committee⁵ and developed a series of resources on the right of children and adolescents to a nationality and against child statelessness.⁶
4. The organizations submitting this report hope that the Committee will base itself on this presentation to raise the question of the realization of the right of every child to acquire a nationality in its Concluding Observations to the Government of the Dominican Republic. The report suggests questions for the Government and for the Committee to consider and include in its interactive dialogue. The final section includes suggested recommendations, which the Committee can use in formulating its Concluding Observations.

THE DOMINICAN REPUBLIC'S INTERNATIONAL OBLIGATIONS

² <https://www.cedeso.org/quienes-somos/>

³ <http://obmica.org/>

⁴ <https://www.cejil.org/>

⁵ <https://www.institutesi.org/pages/committee-on-the-rights-of-the-child>.

⁶ <https://www.institutesi.org/projects/children>.

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5. In addition to the Convention on the Rights of the Child (CRC), the Dominican Republic is party to the main international human rights treaties. This includes the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Elimination of All Forms of Racial Discrimination (ICERD). In addition, the Dominican Republic is obliged to guarantee all the rights enshrined in the International Covenant on Economic, Social and Cultural Rights (ICESCR) without discrimination of any kind, including for reasons of "*race, colour... national or social origin... birth or other condition.*" Finally, the Dominican Republic has the obligation to respect and guarantee the right to nationality provided in Article 20 of the American Convention on Human Rights and included in Article 15 of the Universal Declaration of Human Rights.
6. The Dominican Republic has not signed the 1954 Convention on the Status of Stateless Persons, nor the 1961 Convention for the Reduction of Statelessness, despite having signed said the Convention in 1961.
7. In accordance with the obligations established in the aforementioned Conventions, the Dominican Republic must respect and guarantee the following obligations in relation to the children's right to a nationality and to prevent childhood statelessness.
8. Several international organizations in charge of monitoring the compliance of the States with the human rights treaties listed above have repeatedly expressed their concern about the arbitrary deprivation of nationality of people born in the Dominican Republic to parents of Haitian descent and the discrimination that facing this segment of the population. This situation has continued for decades and has repercussions on violations of the human rights of children and adolescents affected by the discriminatory policies of the State towards migrants and their descendants. More recently, the Committee on Economic, Social and Cultural Rights,⁷ the Human Rights Committee,⁸ and the Committee for the Elimination of Discrimination against Women⁹ have expressed similar concerns regarding the denial of the right to nationality after the Sentence of the Constitutional Court TC/0168/13, and the deficiencies of Law 169-14, which was

⁷ Committee on Economic, Social and Cultural Rights, Concluding observations of the fourth periodic report of the Dominican Republic (October 21, 2016), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2FC.12%2FDOM%2FCO%2F4&Lang=en.

⁸ Human Rights Committee, Concluding observations of the sixth periodic report of the Dominican Republic (November 27, 2017), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FDOM%2FO%2F6&Lang=en.

⁹ Committee for the Elimination of Discrimination against Women, Final observations on the eighth periodic report of the Dominican Republic, (March 1, 2022), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FDOM%2FCO%2F8&Lang=en.

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adopted to mitigate the impact of TC/0168/13; as well as the systemic discrimination faced by people of Haitian descent.

9. During the last cycle of the Universal Periodic Review of the Dominican Republic, concluded in April 2019,¹⁰ multiple States indicated their recognition of statelessness as a root cause of various human rights violations and 21 recommendations were issued pertinent to the elimination of statelessness and the guarantee of the right to nationality.¹¹ The State accepted only two of these recommendations, committing to reinforce the institutional framework for birth registration so that all persons born in the Dominican Republic are registered without delay (94,160) and to continue promoting policies that allow the population to effectively register the births of non-discriminatory manner (94,161).¹² At the same time, the State accepted 14 of the 18 recommendations related to children's rights. The State affirmed, on this occasion, its assertion that there is no statelessness in the Dominican Republic, although it recognized that the Sentence TC 168/13 had created the risk of statelessness for certain affected groups.¹³

THE STATE PARTY REPORT

10. The State party report explains the measures taken to implement the Committee's previous recommendations on birth registration and every child's right to acquire a nationality. The State provides data on the results of the implementation of the National Plan for the Regularization of Foreigners (PNRE), such as having regularized the immigration status of *"249,948 foreigners, of which 9,044 belong to the child and adolescent population."* Likewise, the State identifies as results of the PNRE the delivery, until 2018, of birth certificates to a total of 61,132 people who belong to Group A defined in Law 169-14. Regarding the population of children in human mobility, the State offers information about the National Survey of Immigrants (ENI) carried out in

¹⁰ Human Rights Council, Report of the Working Group on the Universal Periodic Review of the Dominican Republic, (April 18, 2019), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/110/73/PDF/G1911073.pdf?OpenElement>.

¹¹ Numbers extracted from the Report of the Working Group, <https://www.ohchr.org/en/hr-bodies/upr/do-index>.

¹² All recommendations associated with statelessness and the right to nationality can be reviewed in the ISI database, [https://database.institutesi.org/?field_country_target_id\[\]=231&field_un_body_target_id=41&field_reporting_cycle_target_id_1=292&field_recommendation_accepted_no_value=All&field_specific_special_procedure_target_id_1=All&field_reference_to_statelessness_value=All](https://database.institutesi.org/?field_country_target_id[]=231&field_un_body_target_id=41&field_reporting_cycle_target_id_1=292&field_recommendation_accepted_no_value=All&field_specific_special_procedure_target_id_1=All&field_reference_to_statelessness_value=All).

¹³ Report of the Working Group on the Universal Periodic Review for the Dominican Republic, Addendum: Observations on the conclusions and/or recommendations, voluntary commitments and responses of the State under review (May 27, 2019), <https://www.ohchr.org/en/hr-bodies/upr/do-index>, paras. 15 y 25.

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2017 and reports on inter-institutional collaborations carried out in order to guarantee the rights of minors affected by migration in border areas.

11. Although Law 169/14 and measures taken in connection with such law and the PNRE represented a response to the consequences of the Sentence TC 168-13, it is concerning that, in its communications to the Committee, the State does not mention that, within the last three years, the current administration has stopped implementing the PNRE, has closed the offices within the Ministry of Interior and Police responsible for the application of the PNRE, and announced the launch of a general audit process of the PNRE that has frozen the procedures of many of the beneficiaries of the Plan who belong to Group B.¹⁴
12. It is striking that, in responding to the Committee's question regarding measures to address statelessness among children, the State does not even use the word "statelessness."¹⁵
13. In terms of the universalization of birth registration, the State reports on the entry into force of Law 04-23, Organic Law of Civil Status Acts, in January 2023.¹⁶ It is argued that the new law extends *"the term for the declaration of 60 to 180 days, as well as the jurisdictions before which the birth registration can be carried out."*¹⁷ At the same time, the law grants the father and mother equal rights to declare births, and establishes that the National Council for Children and Adolescents (CONANI) is the body responsible for managing the registration of abandoned children and adolescents in the civil registry.¹⁸ This Law represents an important advance and has the potential to facilitate the universalization of birth registration in the country. However, many of the key details of how it would be implemented have been left to regulation, and the Law went into effect immediately in January. Article 214 of the Law instructs that *"within a period of 180 days from the entry into force of this law, the Central Electoral Board will issue the corresponding application regulations."* Although the Central Electoral Board has

¹⁴ Santana Nina, Patricia M. "Investigación Sobre Implementación de La Ley 169-14." Santo Domingo: Participación Ciudadana, Octubre 2022: 35, <https://pciudadana.org/wp-content/uploads/2022/10/Informe-Ley-169-14-2.pdf>

¹⁵ See Annex 2; Committee on the Rights of the Child, Responses of the Dominican Republic to the list of issues related to its sixth periodic report (unedited version), CRC/C/DOM/RQ/6, July 5, 2023, para. 34.

¹⁶ Ley Orgánica de los Actos del Estado Civil, núm. 4-23. Deroga la Ley núm. 659 del año 1944. G. O. No. 11096 del 20 de enero de 2023, https://observatoriojusticiaygenero.poderjudicial.gob.do/documentos/PDF/normativas/NOR_Estado_Civil_deroga_la_Ley_659..pdf

¹⁷ Replies of the Dominican Republic to the list of issues relating to its sixth periodic report (unedited version), para. 33.

¹⁸ Ibid. para. 36.

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created a technical work group for the application of the new Law,¹⁹ to date a draft has not been circulated nor has the contribution of members of civil society been requested regarding the elaboration of this important normative.²⁰

14. Regarding the situation of children in a situation of human mobility (migrant children or descendants of migrants), the State shares information about various training programmes and awareness activities that have recently been carried out to train the personnel of the immigration authorities in matters related to child protection.²¹ In addition, the State reports that CONANI has carried out 1,420 awareness-raising activities that have benefited a total of 50,805 people.²² However, it is not clear if CONANI officers who operate at the border and inside the detention centres receive training on the specific needs of migrant and asylum-seeking children and how the best interests of children are evaluated and guaranteed in procedures of cross-border family reunification.
15. Even more worrying is that the State does not address the issue related to its specific actions aimed at safeguarding the rights of children and adolescents and preventing their arbitrary detention, deportation or expulsion.²³ As can be seen in this report, the rights of children and adolescents, both as subjects of international protection (under the Convention on the Status of Refugees, among others) and as minors, are being constantly and arbitrarily violated as a result of an explicit migration securitization policy that seeks to eliminate the legal means of entry and stay in the country, especially for minors from Haiti.
16. **In light of the above information, the Committee is requested to urge the Dominican Republic, during its review, to further elaborate its Periodic Report as follows:**
 - a. **Please share information about the state measures taken to prevent and reduce statelessness among children. If you do not have information in this regard, please explain why you do not have such information.**

¹⁹ JCE, Acta de Sesión Administrativa Ordinaria 1-2023, https://jce.gob.do/DesktopModules/Bring2mind/DMX/Download.aspx?EntryId=25045&Command=Core_Download&language=es-ES&PortalId=1&TabId=190

²⁰ This lack of coordination with civil society is concerning, regardless of whether the 180 days are interpreted as business days or not. In the first case, the 180-day period ends on October 6, 2023.

²¹ Ibid. para. 119.

²² Ibid. para. 25 (The topics of these activities mentioned by the State include “the rights and duties of children and adolescents; prevention of adolescent pregnancy; eradication of child labour; parental responsibility; my body my decision; positive parenting; prevention of abuse and child labour”).

²³ Question 13.b) of the CDN.

- b. **What is the status of the audit process of the National Regularization Plan for Foreigners announced by the National Migration Council in October 2021? When do you plan to complete the audit? What measures have you taken to guarantee access to the rights of people who have been affected by the freezing of identity document renewal processes during the audit period?**
- c. **The State cites several documents of public interest that have not been published or shared with civil society, such as the "Protocol for the Identification, Care and Protection of Children and Adolescents on the Move." How does the State justify this lack of transparency and collaboration with civil society?**

I – THE RIGHTS OF STATELESS CHILDREN AND THOSE AT RISK OF STATELESSNESS²⁴

- 17. Following the issuance of the Sentence TC-168-13 (2013) that massively denationalized Dominicans of Haitian descent, the Dominican State approved Law 169-14 (2014), which seeks to create procedures to access Dominican nationality for the population affected by the sentence.²⁵ The inherent deficiencies of Law 169-14, the violation and non-application of its provisions, as well as the deficiencies in the universalization of access to birth registration contravene the obligations of the State under Articles 7, 8, and 9 of the Convention.
- 18. The categories established by the Law generate segregation and insecurity, and the lack of measures and political will to address cases of stateless persons and unattended situations further aggravates the situation.²⁶ In addition, as explained below, with the passage of time, new profiles of statelessness of children of people affected by the Judgment emerge, making the problem more complex.
- 19. The lack of public data on the number of affected individuals who have not been able to recover their nationality is alarming. It is worth highlighting the fact that, among "Group A" (people who were registered in the country prior to the issuance of the Sentence TC-

²⁴ Given the State's denial of the reality of statelessness in the country, organizations such as UNHCR use the euphemistic expression "People in search of a nationality solution" to refer to cases of statelessness. See: "People in search of a nationality solution," UNHCR Dominican Republic, <https://help.unhcr.org/dominicanrepublic/acnur-en-rd/personas-en-busqueda-de-una-solucion-de-nacionalidad/https%3A%2F%2Fhelp.unhcr.org%2Fdominicanrepublic%2Facnur-en-rd%2Fpersonas-en-busqueda-de-una-solucion-de-nacionalidad%2F>.

²⁵ Santana Nina (2022), p. 14.

²⁶ The deficiencies of Law 169-14 have been thoroughly analysed above. An early example comes from the Inter-American Commission on Human Rights, which recommended that in order to safeguard human rights, the State must prevent what is "provided by articles 6, 8 and 11 of Law No. 169-14 from continuing to produce legal effects", <http://www.oas.org/es/cidh/informes/pdfs/RepublicaDominicana-2015.pdf> (para. 331).

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168-13), there are at least 34,000 people who did not obtain identity documents through the procedure that the Law establishes and whose "transcripts" of their birth certificates are found in a separate book in the official registry, perpetuating discriminatory treatment against this group of Haitian descent compared to other Dominican nationals. Regarding "Group B" (people who were not registered in the country), some 7,000 people who registered with the Dominican government after the approval of Law 169-14 continue without access to naturalization and have not been able to renew their documents. This lack of guarantee of identity documents and the right to a nationality leaves this group of people at risk of arbitrary detention and deportation.

20. The problem deepens when it is observed that PNRE beneficiaries do not reflect all the people eligible to participate in the plan. Thanks to an informal census carried out by UNHCR through 2019, the existence of "Group B2," or people who fall under the established profile of "Group B" but failed or did not choose to register with the Dominican government after approval of Law 169-14. This "Group B2" includes at least 23,000 people who could not register in the PNRE.²⁷
21. In addition to this scenario of lack of access to identity and nationality documents for both members of "Group A" and "Group B," the presidential naturalization decrees issued in 2020 and 2021 were not fully implemented, leaving out to eligible persons and raising concerns of a possible second denationalization, if the decrees are not executed as a result of the aforementioned PNRE audit.²⁸
22. The closure of the Unit of Law 169-14, in charge of collecting, analysing and processing the naturalization application files of the beneficiaries of Group B as of 2020 has further aggravated the problem,²⁹ together with the lack of transparent information about the process and acts of discrimination, even towards people already naturalized and sworn.³⁰
23. The consequences of these situations have a direct impact on children and adolescents. Intergenerational statelessness affects children of people who have been denationalized and children born after 2010, the year in which an amendment was

²⁷ Santana Nina (2022), p. 38.

²⁸ According to ASCALA's representatives, 38 of the 50 cases naturalized by Decree 297-21 issued in May 2021 have been sworn in. According to them, there is no information on the number of people naturalized through decree 262-20 issued by President Danilo Medina on July 16, 2020 and which granted naturalization to 749 children and adolescents at the time of the application.

²⁹ Santana Nina (2022), p. 34.

³⁰ According to what has been documented by ASCALA, even the simple transcription of the birth certificates of the newly sworn-in involves a procedure that can last up to 45 days and that the Central Electoral Board has not yet defined.

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adopted in the Dominican Constitution that established that people born in the country to non-resident parents do not They have the right to Dominican nationality.

24. It is estimated that 46,235 children born between 2010 and 2017 lack identity documents, and are at risk of statelessness.³¹ Many of these people born after 2010 are the children of mothers whose birth in the country was not registered (“Group B” of the PNRE). When the documents issued to women registered in the so-called Group B expire, they lose the ability to register the birth of their children, regardless of the nationality of the parents.
25. The limitation of access to nationality also affects minors abandoned in the country, since, according to observations from national organizations, CONANI refuses to issue declarations of abandonment for those boys and girls perceived to be of Haitian origin in their custody.³²
26. **In light of the above information, the Committee is requested to urge the Dominican Republic, during its review, to respond to the following questions:**
 - a. **Why was the Law 169-14 Unit closed? How does the Dominican State currently process pending naturalization applications submitted by members of Group B?**
 - b. **What is the reason for the non-swearing of people naturalized under the decree of former President Medina issued in 2020 and the decree of President Abinader in 2021?**
 - c. **The State indicates that the Central Electoral Board is in the process of preparing the regulations for Law 04-23. Are there plans to ensure prior consultation with civil society within the framework of this administrative process, as contemplated in Law No. 107-13 on the Rights of Persons in their Relations with the Administration and Administrative Procedure? G. O. No. 10722 of August 8, 2013, in its article 31?**

II – CHILDREN’S RIGHTS IN SITUATIONS OF HUMAN MOBILITY

³¹ Espinal, Rosario: Complementary Study “Descendants of Immigrants in the Dominican Republic”. Second National Survey of Immigrants ENI-2017. United Nations Population Fund, UNFPA, 2nd ed., Santo Domingo, 2019, p. 97

³² Observation shared by ASCALA’s representatives, July 2023. In the municipality of Consuelo, ASCALA has observed that CONANI - whose responsibility is the declaration of abandonment - simply ceases to manage the cases of children and adolescents perceived as children of migrants after handing them over to a home of passage For an informal description of the process of obtaining a declaration of abandonment, see, CONANI, “In Contraportada, Kenia Lora shares achievements of childhood and adolescence in the governments of Danilo Medina,” March 5, 2020, <https://conani.gob.do/en-contraportada-kenia-lora-comparte-logros-de-la-infancia-y-adolescencia-en-los-gobiernos-de-danilo-medina/>.

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27. The impacts of the recent more restrictive immigration policies, as well as arbitrary arrests, collective expulsions and persecutions, violate the rights of children and violate the obligations of the State under articles 2, 7, 22, 36, 37.b. and d., of the CRC.
28. The year 2021 marked a notorious tightening of migration policies in the country. This translated into an increase in the militarization of the border with Haiti and a focus on national security over all other considerations. Immigration restrictions were intensified, and an audit of the PNRE was announced, which resulted in considerable difficulties for the renewal of documents, a process already frozen by the pandemic.
29. An alarming aspect is the persecution, detention and arbitrary expulsion of people, especially children and adolescents. Despite the context of insecurity in Haiti, the economic and public health impacts of the COVID-19 pandemic, and the demands of national and international organizations, there has been a historic increase in deportations.³³
30. Further, the Dominican authorities prevented the entry of Haitian migrants in search of regular ways to enter the country due to the humanitarian and economic crisis in Haiti. One of the restrictive measures was taken by a meeting of the National Migration Council.³⁴
31. The suspension of student visas and the border card programme (stagnant) were also part of these measures.³⁵
32. Immigration operations often show abuse and excessive use of force; they are carried out in neighbourhoods identified by their high migrant population, in public health centres, hospitals, primary schools and government offices.³⁶ As a general rule, it is

³³ Yoana Kuzmova, New Challenges for Due Process in Deportations from the Dominican Republic, OBMICA and CEDES, *Trato Digno*, February 2023, <http://tratodigno.obmica.org/index.php/2023/03/15/nuevo-estudio-de-ceseso-y-obmica-analiza-desafios-y-buenas-practicas-en-materia-deportaciones/>.

³⁴ The key paragraph of the CNM meeting minutes says: *"The Dominican State will take all necessary measures, in compliance with the Law, to prevent the entry into the Dominican Republic of any citizen of foreign nationality that implies an unreasonable burden for public finances, including women who are in a state of proven pregnancy equal to or later than six months."* In addition to being interpreted very broadly, this decision raised the rejection of the Dominican Medical Association, since it would force service providers to violate their social commitment and work ethic. N Digital, "New president of the CMD dismisses as 'criminal' the treatment of Haitian pregnant women in the DR in recent days." N Digital (blog), 16.11.2021, <https://n.com.do/2021/11/16/nuevo-presidente-del-cmd-tacha-de-criminal-trato-a-embarazadas-haitianas-en-rd-en-ultimos-dias/>.

³⁵ Proceso.com.do, "Haitian students in the DR deny they are a threat to Dominicans." 4.11.2021, <https://proceso.com.do/2021/11/04/estudiantes-de-haiti-en-rd-niegan-sean-una-amenaza-para-los-dominicanos/>; Flowers, Xavier. "The Government indefinitely suspends the delivery of cards to Haitian border residents." listindiario.com, 2.9.2022, <https://listindiario.com/la-republica/2022/02/09/708386/el-gobierno-suspende-indefinidamente-la-entrega-de-carnet-a-los-habitantes-%20border-haitians.html..html>.

³⁶ Blog Trato Digno, "Militaries break down doors, attack Dominicans and migrants in bateyes in the South. A minor and Dominicans were detained with documentation in hand," 5.30.2023,

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observed that the authorities verify documents after having detained the presumed migrants, who often carry valid Dominican documents or are people affected by the PNRE audit who consequently do not have valid documents; evidencing the arbitrary and discriminatory nature of these raids and detentions.³⁷ Thus, the detentions and expulsions that are carried out are arbitrary for various reasons, including the racial profiling used to carry out the detention, the excessive use of force in the detentions, the absence of an individualized deportation procedure and even the ignorance and breaking of valid identity documents and the lack of access to due process and international protection procedures. In the case of children, accompanied and unaccompanied, this situation is even more serious because it ignores the principles of the best interests of the child, family unity and access to international protection.³⁸

33. In early October 2021, a significant spike in the number of arrests and deportations of pregnant and parturient women was documented. This trend continued through the year 2022, causing great concern.³⁹

34. In November 2022, the issuance of Presidential Decree 668-22 sought to justify interference in the residences of individuals.⁴⁰ The decree provides that the National Police establish a specialized unit for the prevention and prosecution of invasions and irregular occupations of private and State property. The decree emphasizes the occupation of property by foreigners and establishes punitive measures against foreigners found illegally occupying the property of others. It is clear that the decree is specifically directed at foreigners, since four of its five articles deal with the consequences of irregular occupation of property by foreigners. It should be noted that this decree is issued in a national context in which a large percentage of the population does not have legal title to the land where their houses are built; however, the State proposes a punitive response and specifically directed against non-Dominicans, instead of a response that favours the regularization of property titles. Observers and jurists

<http://tratodigno.obmica.org/index.php/2023/05/30/militares-rompen-puertas-agreden-a-dominicanos-y-migrantes-en-bateyes-del-sur-se-llevaron-detenido-un-menor-de-edad-y-dominicanos-con-documentacion-en-mano/>.

³⁷ Blog Trato Digno, "The immigration policy of the Dominican government in summary: disproportionate, ineffective and unsustainable immigration operations," 11.22.2022,

<http://tratodigno.obmica.org/index.php/2022/11/22/posicionamiento-del-proyecto-trato-digno-la-politica-migratoria-del-gobierno-dominicano-en-resumen-operativos-migratorios-desproporcionados-ineficaces-e-insostenibles/>.

³⁸ Blog Trato Digno, "Family reports ordeal of deportation, loss of baby, while DR expels Haitians," 1.28.2022,

<http://tratodigno.obmica.org/index.php/2022/01/28/familia-relata-calvario-de-deportacion-perdida-de-bebe-mientras-rd-expulsa-a-haitianos/>.

³⁹ Report "Unworthy Deportations", 2021, <https://www.youtube.com/watch?v=MoIV4WNU2M>.

⁴⁰ Presidency of the Dominican Republic, "Decree 668-22" (2022), <https://presidencia.gob.do/decretos/668-22>.

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expressed their alarm at the legal and constitutional defects that are noted in its provisions.⁴¹

35. The figures support the increase in these deportations, including cases of minors.⁴² Shocking examples were presented, such as the separation of a child from her mother while she was away from home,⁴³ as well as the apprehension of minors in communities,⁴⁴ often with the use of violence. State responses to the detention of minors lacked an adequate understanding of the principles of the Best Interest of the Child.⁴⁵
36. The deficiencies in the management of cases of unaccompanied minors seeking asylum became evident due to the lack of competence on the part of CONANI. In seeking the fastest possible reunification, CONANI often hands over unaccompanied children to their IBESR counterparts in Haiti, without taking into account the international protection needs of informally deported minors.⁴⁶
37. The centralization of the asylum system hinders access to adequate detection of protection needs for these minors at the border. In contrast to what was reported by the State in its responses to the Committee's list of issues, where it is indicated that there were no minor asylum seekers between 2015 and 2023, UNHCR-DR has indicated that, up to April 2023, there were 1,792 boys and girls refugees, asylum seekers or with other international protection needs in the Dominican Republic.

⁴¹ Reconoci.do, "ORGANIZATIONS CONDEMN DEPORTATIONS AND DECREE 668-22," 11.14.2022, <https://www.reconoci.do/organizaciones-condenan-deportaciones-y-decreto-668-22/>.

⁴² OBMICA's interview with an official of the International Organization for Migration (IOM) in the Dominican Republic, April 2023 (according to the OIM, in 2022 1,776 minors were deported according to their statistics compared with the official numbers of the DGM).

⁴³ Caitlin Hu and Etant Dupain, "Dominican Republic Deports Minors to Haiti Without Their Families," cnn.com, 11.21.2022, <https://cnnespanol.cnn.com/2022/11/21/exclusiva-republica-dominicana-expulso-menores-haiti-deportacion-trax/>.

⁴⁴ El Caribe, "6 Haitian minors are deported in La Vega when they went to school," 1.20.2022, <https://www.elcaribe.com.do/destacado/deportan-a-6-menores-haitianos-en-la-vega-cuando-iban-al-colegio/>.

⁴⁵ One of the witnesses of an immigration operation in Batey Libertad on November 30, 2022 shared his testimony with representatives of the Yspaniola organization that works in the community: *"I woke up because I heard the noise of doors breaking and padlocks breaking. I started calling friends on the phone to warn them. I looked outside and saw a lot of people running around in a panic, crying and screaming. I heard one of the soldiers say "Oh, do you have a machete?" There were three of them and they began to beat him. I heard him asking them in Spanish to "stop hitting me". When I found out that they had taken two small children who I know have no parents in the community, I went out. I wanted to try to give them some money, but the soldiers wouldn't let me, they told me to leave. I saw that they had taken the younger brother of my work colleague dressed only in a shirt and underpants, and they had used plastic straps to hold his hands behind his back. The soldiers were acting very aggressively."* Testimony compiled by members of Yspaniola, Report on raid, detention, family separations, and expulsion carried out in Batey Libertad on November 30, 2022.

⁴⁶ OBMICA's interview with UNHCR-DR protection officers held in April 2023.

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38. The concept of the Best Interest of the Child is not applied uniformly by the State in the context of migration control. At least in and around Jimaní, CONANI does not make adequate child best interest assessments in its custody determinations.⁴⁷
39. In addition, other institutions involved in the migration process, such as the National Police, lack training in this crucial area but participate in migration operations.⁴⁸ Meanwhile, the State continues to allege that crucial protocols such as the DGM action protocol or the previously mentioned “Protocol for the Identification, Care and Protection of Children and Adolescents on the Move” must be kept as State secrets.⁴⁹
- 40. In light of the above information, the Committee is urged to ask the Dominican Republic, during its review, to respond to the following questions:**
- a. **How do you ensure respect for the rights of children and adolescents and the principle of the best interests of the child and the rights of children to international protection in the context of immigration operations and procedures?**
 - b. **What measures does the Dominican State take to value the principle of family unity in deportation proceedings? To assess the best interests of the child in deportation proceedings for unaccompanied minors?**

III- THE RIGHTS OF THE MOST VULNERABLE CHILDREN AND ADOLESCENTS TO EDUCATION, SOCIAL PROTECTION AND FAMILY ENVIRONMENT

41. The State policies described in the previous sections violate the obligations of the Dominican Republic under articles 3 and 28 of the CRC, particularly regarding migrant children, street children, and victims of trafficking.

⁴⁷ Observations shared by social worker John Hanley, whose organization shelters unaccompanied children in the town of Jimaní, on the border with Haiti.

⁴⁸ Observations shared by John Hanley about the use of the National Police in immigration operations in Puerto Plata; see also, Santo Domingo Norte Municipal Council, “ASDN and MIGRATION Detain 166 Illegal Haitians Slumping Public Highways: Santo Domingo Norte Municipal Council,” 02.06.2022, <https://alcaldiasdn.gob.do/asdn-y-migracion-detienen-166-haitianos-ilegales-arrahalizaban-la-via-publica/>.

⁴⁹ Yoana Kuzmova, Trato Digno, Annex D, Response of the General Directorate of Migration to the Request for Access to Public Information dated November 4, 2022, p. 130.

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42. There is a restriction in access to free education, a right protected by the Constitution.⁵⁰ A provision of the Ministry of Education (MINERD) that was presented for the 2022/2023 school year, and applied in a discretionary manner, is generating obstacles in access to education for children from Haiti.⁵¹ In a series of cases, Sor Leonor Gibb Elementary School in Consuelo, San Pedro de Macorís, did not refuse to enrol the student, but stated that enrolment could only take place after meeting each of the requirements on the list of the MINERD, which include (1) multiple visa (evidence of immigration status), (2) duly legalized birth certificate; and (3) official certification of primary education. The application of this list of requirements is unconstitutional and creates barriers for those foreign or undocumented children who are studying in the Dominican Republic and wish to continue in the country's public education system.
43. The provision also affects children of mixed couples, including those with pending declaration processes, who encounter difficulties when trying to enrol in schools. This situation of blocking access to education has become more evident with the increase in migrant children in the last two years, and is aggravated by the increase in hate speech, tolerated by the State.
44. This provision contrasts with recent statements by MINERD that - in compliance with the Dominican Constitution - students are enrolled in schools without requesting birth certificates.⁵² At the same time, these statements by MINERD have aroused alarm on the part of ultranationalist factions.⁵³
45. In the field of social protection, progress in the creation of CONANI municipal offices and boards for the protection and restitution of rights is insufficient. Although in the east, as in San Pedro de Macorís, a protection commission with a board of directors was established in 2018, this commission never met again.⁵⁴ On the other hand, in Jimaní, the decisions of the board for the protection and restitution of rights do not operate transparently. Even so, this board is the authority that CONANI turns to when it decides to take children and adolescents to the border for what are informally considered

⁵⁰ Article 63(3) of the Constitution of the Dominican Republic, Voted and Proclaimed by the National Assembly on June thirteen (13), 2015 Official Gazette No. 10805 of July 10, 2015.

⁵¹ MINERD: Directorate of Accreditation and Degree of Studies, Validation Section, INSTRUCTIONS AND REQUIREMENTS TO REQUEST VALIDATION AND APPROVAL OF STUDIES CARRIED OUT IN THE REPUBLIC OF HAITI. The document was delivered to ASCALA in the context of accompanying a recently arrived migrant family to enrol her daughter in school.

⁵² Socorro Arías, "Minerd will register those who do not have a birth certificate," *Diario Libre*, 7.27.2023, <https://www.diariolibre.com/actualidad/nacional/2023/07/26/ano-escolar-2023-2024-acogera-a-carentes-de-actas/2414952>.

⁵³ *El Nacional*, "FNP will appeal registration measure without records," *El Nacional*, 2.8.2023, <https://elnacional.com.do/fnp-recurrira-medida-inscripcion-sin-actas/>.

⁵⁴ Information provided by ASCALA relevant to San Pedro de Macorís.

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expulsions.⁵⁵ In other words, CONANI erroneously treats expulsions of children as ways to guarantee the best interests of children.⁵⁶ Shelter facilities for unaccompanied children in Haiti near the border with the Dominican Republic fill up with children sent there by the Dominican authorities because there is a lack of shelters for children on the Dominican side of the border.⁵⁷

46. In light of the above information, the Committee is urged to ask the Dominican Republic, during its review, to respond to the following questions:

- a. What are the documents required for the registration of a primary school student from Haiti? Why are these requirements required?**
- b. What explains the lack of transit homes operated by CONANI in the border provinces of the Dominican Republic?**

IV – ANTI-IMMIGRANT HATE AND CRIMINALIZATION OF MIGRANTS AND THEIR DESCENDANTS

47. Anti-immigrant hate and criminalization of undocumented people generate direct and harmful impacts on the rights of migrant children and migrant descendants. This topic corresponds to the obligations of the State under article 4 and 24 of the CRC.

48. Over the last three years, there has been a worrying increase in the levels of hatred, xenophobia and racism directed towards people of Haitian origin and perceived as Haitian in society.⁵⁸

49. This hate speech, endorsed by state agents, has materialized in acts of violence perpetrated by ultranationalist groups.⁵⁹ People of Haitian origin have been victims of

⁵⁵ Information provided by John Hanley, social worker in Jimaní.

⁵⁶ OBMICA's interview with UNHCR-DR protection officers held in April 2023 (explaining that the State rejects accusations that it detains and deports children, explaining that when it comes to unaccompanied children, CONANI first looks for ways to reunify with relatives in the DR; when it comes to accompanied children, their deportation is considered a voluntary departure imposed by the need to preserve the family nucleus with the deported parents).

⁵⁷ Fundación Zanmi Timoun. "La Commune de Belladère, Aux Abois Des Rapatriements, Déportations et Refoulements Massifs Provenant de La République Dominicaine". 05.11.2023, <https://www.zanmitimoun.org/la-commune-de-belladere-aux-abois-des-rapatriements-deportations-et-refoulements-massifs-provenant-de-la-republique-dominicaine/>.

⁵⁸ CONVERSATION REPORT ON MIGRATION AND XENOPHOBIA DOMINICAN REPUBLIC, <https://xenofobiacero.org/sites/default/files/2022-05/Reporte%20Xenofobia%20Cero%20-%20Rep%20Dom.pdf> ; Hogla Enecia Pérez, "Haitians with visas and those deported by the DR are similar," *El Caribe*, 07.08.2023, <https://www.elcaribe.com.do/panorama/pais/haitianos-visados-y-deportados-por-rd-son-similares-que-hay-detras-de-las-cifras/>.

⁵⁹ *Bajo La Consigna "HAITIANS OUT" Manny Solano AND PATRIOTAS Protested In Ciudad Juan Bosch*, 2022, <https://www.youtube.com/watch?v=GnSqQL0WhS4>.

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attacks that have even set their homes on fire, leaving many families in precarious situations.⁶⁰ Unfortunately, the State has shown a lack of response to these acts and impunity prevails in many cases.⁶¹

50. The authorities have even carried out persecutions and attacks against civil society organizations and activists who defend the rights of people of Haitian origin.⁶²
51. In the health system, the situation is equally worrying. The decision of the National Migration Council (CNM) to deny access to health services to people in an irregular situation and non-residents, as well as to prevent the entry of people perceived as an "unreasonable burden" has had a profound impact, especially for children and adolescents. In the eastern region of the country, ASCALA observed at least three cases in which boys and girls born in the Dominican Republic were denied access to paediatric services because they were migrant children. The explanation offered was that according to the Ministry's orders, undocumented people were not accepted as patients.⁶³
52. Pregnant or lactating women who are perceived as Haitian or of Haitian origin also face limitations in accessing health services.⁶⁴ Since the beginning of his term, the President has made statements that suggest the inability of the health system to care for pregnant women of Haitian origin.⁶⁵ Inspections and raids on hospitals and homes have increased

⁶⁰ Blog Trato Digno, "Military kill migrant and set fire to houses in Bahoruco," 21.06.2022, <http://tratodigno.obmica.org/index.php/2022/06/21/militares-dan-muerte-a-migrante-e-incendian-viviendas-en-bahoruco/>; Hogla Enecia Pérez, "Migration agents looted the house of Haitian migrants," 12.03.2022, <https://www.elcaribe.com.do/destacado/denuncian-que-agentes-de-migracion-saquearon-casa-de-migrantes-haitianos/>.

⁶¹ CDN 37, *Haitians Denounce Mistreatment by Migration Agents, Ask Authorities to Intervene*, 2023, <https://www.youtube.com/watch?v=j-VZ9NHXwLE>.

⁶² Hoy Digital, "Roudy Joseph Describes his Detention by Immigration in Ciudad Juan Bosch as Arbitrary," Hoy Digital, 24.5.2022, <https://hoy.com.do/roudy-joseph-califica-de-arbitraria-su-detencion-por-migracion-en-ciudad-juan-bosch/>; Dominicanos por Derecho, "Plataforma Dominican@s por Derecho condena allanamiento de MUDHA," *Dominican@s x Derecho* (blog), 12.01.2023, <https://dominicanosxderecho.wordpress.com/2023/01/12/plataforma-dominicans-por-derecho-condena-allanamiento-de-mudha/>.

⁶³ Interview with ASCALA's representatives, June 2023.

⁶⁴ Blog Trato Digno, "Dominican authorities increase deportations of groups protected by law," 21.7.2022, <http://tratodigno.obmica.org/index.php/2022/07/21/autoridades-dominicanas-incrementan-deportaciones-de-grupos-protegidos-por-ley/>.

⁶⁵ Agencia EFE, "Luis Abinader says that the DR cannot finance Haitian deliveries", *Periódico el Dinero*, 25.11.2020, <http://eldinero.com.do/128712/luis-abinader-dice-que-rd-no-puede-financiar-partos-de-haitianas/>.

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the vulnerability of black women.⁶⁶ A sad example is the case of a pregnant Dominican teenager who faced significant obstacles in receiving the medical care she needs.⁶⁷

53. The problem is compounded by cases of obstetric violence, where pregnant women are denied access to hospitals, putting the health and well-being of mothers and babies at risk.⁶⁸

54. In light of the above information, the Committee is urged to ask the Dominican Republic, during its review, to respond to the following questions:

- a. **How does the State reconcile restrictions on access to health care for vulnerable children and mothers with its constitutional commitment to children's rights?**

RECOMMENDATIONS

Based on the content of this report, the following recommendations are made, which we hope the Committee will consider when urging the Government of the Dominican Republic to make full compliance with the rights of children and adolescents a reality:

Guarantee the Right to a Nationality and the Universalization of the Civil Registry

- Implement a legal framework that restores the nationality of all persons affected by the Sentence TC/0168/13 in a rapid and standardized manner that respects their human rights and includes all affected persons (including Group A, Group B and their descendants) without discrimination and without requiring them to legally become foreigners and subsequently acquire Dominican nationality through a naturalization procedure.
- Approve legislation against discrimination to legally guarantee equal access to human rights for all children and adolescents in the Dominican Republic, regardless of their ethnic origin, nationality, socioeconomic status, sexual preference or gender.

⁶⁶ Agencia EFE, "Deported to Haiti with a Child in the Womb", December 2021, <https://eldia.com.do/deportadas-a-haiti-con-un-hijo-en-el-ventre/>.

⁶⁷ Dominican@s por Derecho, "Pregnant Dominican teenager was detained and about to be expelled by Migration", *Dominican@s x Derecho* (blog), 01.12.2021, <https://dominicanosxderecho.wordpress.com/2021/12/01/adolescente-dominicana-embarazada-estuvo-detenido-y-a-punto-de-ser-expulsada-por-migracion/>.

⁶⁸ Clara Morel, "Deportation of pregnant and lactating women dismays the Dominican Republic," *Trato Digno* (blog), 24.11.2021, <http://tratodigno.obmica.org/index.php/2021/11/24/deportacion-de-mujeres-embarazadas-y-lactantes-consterna-a-republica-dominicana/>.

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Childhood and Migration

- Ensure full application of the principle of the best interests of the child and of family unity in all proceedings that may lead to the deportation, expulsion or removal of a child and adolescent to a foreign country.
- Ensure the collection of complete and disaggregated statistics on deportations and expulsions, disaggregated among others by age, country of origin and situation of vulnerability.
- Fully operationalize care routes for migrant children and adolescents who are victims of human trafficking or smuggling in accordance with the principle of best interest and the international protection needs of each child.

Education, health and social protection

- Finalize a cooperation and collaboration agreement between CONANI and the Institute for Social Welfare and Research of Haiti (IBESR, for its acronym, CONANI's counterpart in Haiti) with the purpose of formalizing their inter-institutional relations at a binational level.
- Make the administrative requirements for registration and recognition of qualifications more flexible for migrant children and adolescents, including undocumented persons.
- Create and expand regular pathways for migrant children in vulnerable situations, as well as establish regularization mechanisms for migrant children to ensure long-term protection of their rights during the migration process and within the host country.
- Develop initiatives to protect children in human mobility, particularly support services on migratory routes, especially in border areas. Support the development of safe places, suggested on the northern border, learning from good practices in the matter.

Acronyms

ASCALA	Scalabrinian Association at the Service of Human Mobility
CEDESO	Center for Sustainable Development
CNM	National Migration Council
CONANI	National Council for Children and Adolescents
DGM	National Directorate of Migration
IBESR	Institute for Social Welfare and Research of Haiti
JCE	Central Electoral Board
MINERD	Ministry of Education of the Dominican Republic
OBMICA	The Caribbean Migrants Observatory
PNRE	National Plan for the Regularization of Foreigners