



Submission by the United Nations High Commissioner for Refugees

for the Office of the High Commissioner for Human Rights' Compilation Report:

- Universal Periodic Review:

Dominican Republic

I. Background and Current Conditions

The Dominican Republic is a State party to the 1951 Convention on the Status of Refugees and its 1967 Protocol, and is one of only two Caribbean states¹ who have passed domestic implementing legislation and have established a formal national procedure for determining refugee status. In this sense, the Dominican Republic has the potential to exercise positive leadership in the area of refugee protection, especially vis-à-vis its Caribbean neighbours who by and large have no domestic refugee legislation. However, this leadership potential is unrealized due to the fact that the Dominican Government does not implement its own legislative provisions related to refugees. In practice the national refugee procedure does not function, and asylum seekers and refugees lack the protections foreseen in the 1951 Convention and 1967 Protocol.

At the present time, the total number of refugees and asylum seekers in the country is not confirmed. However, a comparison of a variety of governmental and civil society sources suggest that there are anywhere between 1,400 to 2,000 persons (400 to 600 cases) who have formally lodged asylum claims or who have been recognized as refugees in the past and who continue to live in the Dominican Republic. The vast majority of these individuals are citizens of the neighbouring country of Haiti, however, there are small numbers of asylum seekers and refugees of other nationalities as well.

Situation of refugees: In the 1980s and early 1990s, before the Government formally assumed responsibility for deciding refugee claims, these claims were decided directly by UNHCR under the agency's mandate. Today, many of those refugees who were previously granted status by UNHCR and who continue to reside in the Dominican Republic have gradually fallen into undocumented status, as the Government has not been renewing their

¹ The only other Caribbean state with domestic asylum legislation is Belize.

residency permits. As a result, refugees recognized by UNHCR have suffered a loss of rights and are living in a highly precarious state without the minimum rights and protections guaranteed under the 1951 Convention and its 1967 Protocol. It is of particular concern that the children of refugees face a range of obstacles to accessing education due to their parents' lack of legal documentation.

Situation of asylum seekers: The asylum seeking population is in an equally precarious situation as the Mandate refugee population, due to the fact that registered asylum seekers do not have access to fair and efficient status determination procedures. The domestic legislative framework stipulates a procedure through which refugee claims are received, documented, assessed and decided. The procedure proscribed by national legislation meets international standards in principle. However, in practice, this procedure does not function and is currently inactive. As a result, the vast majority of asylum seekers in the country at present have been waiting for their refugee claims to be processed anywhere from 4 to 9 years. Their stay in the country is generally tolerated, but they do not receive proper documentation demonstrating their status as asylum seekers and cannot exercise the minimum set of rights, including the right to work. As a result, many asylum seekers – especially single female heads of households and persons with specific vulnerabilities or special needs – live on the edge of survival. Some remain permanently in need of UNHCR material assistance for this reason. Children of asylum seekers, similar to refugee children, are not guaranteed access to education and may face obstacles to enrolment in school due to their parents' lack of legal status.

In relation to non-Haitian asylum seekers travelling in mixed migratory flows who may be intercepted or detained in Dominican territory, there are concerns that adequate safeguards are not in place to identify these individuals and to ensure their access to refugee status determination procedures. UNHCR is also concerned that victims of trafficking who might also qualify for refugee status due to a fear of persecution if repatriated to their home country, may not have access to the national refugee status determination procedure due to lack of inter-governmental coordination mechanisms in place. These are common challenges faced by countries throughout the hemisphere, and are not only specific to the Dominican Republic. In the case of the Dominican Republic, as in many other countries, more training is needed to ensure that all Immigration, border and other government officials have the capacity to identify asylum seekers and have clear instructions as to where to channel these cases for the proper attention.

II. Challenges and Constraints

The migratory environment in the Dominican Republic is highly complex and, like in most countries, tends to generate intense political debate. This presents a challenge in the management of refugee issues which, unfortunately, tend to be mired in these political debates rather than treated separately as a humanitarian and apolitical issue.

The other main challenge in the Dominican Republic is the need for further capacity-building and training in relation to International Refugee Law and the standards and procedures for determining refugee status.

Given that the size of the refugee and asylum seeking population in the Dominican Republic is relatively small, all of the aforementioned challenges could be overcome through enhanced cooperation between the Dominican Government and UNHCR, including through receiving of UNHCR's technical support and advice in relation to determining the protection needs of the existing refugee and asylum seeking population.

III. Recommendations

It is recommended that the Government of the Dominican Republic take the following steps in order to come into compliance with minimum obligations under the 1951 Convention on the Status of Refugees and its 1967 Protocol:

- Issue legal residency documents for all long-staying refugees recognized under UNHCR's mandate who have fallen into undocumented status, and ensure that this population is able to exercise the basic rights to which refugees are entitled, especially the right to work and the right to education;
- Reactivate the national refugee status determination procedure in order to take decisions on the backlog of pending refugee claims, in consultation with UNHCR. While the pending claims are being determined, ensure that asylum seekers receive temporary identity documents which will ensure their protection from *refoulement*;
- Ensure that all Immigration and border officials receive training regarding the difference between a refugee and an economic migrant, and have clear instructions with regard to how to treat undocumented asylum seekers who are intercepted or detained, including where to channel these cases;
- Enhance communication, information-sharing, and cooperation with UNHCR, including through receiving training in International Refugee Law and technical assistance in relation to determining refugee status;
- Cooperate with UNHCR to jointly develop a comprehensive durable solutions plan for the refugee population.

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