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Naturalisation law: a step in the right direction, but still a long way to justice in the Dominican Republic

The naturalization law recently passed in the Dominican Republic is a long-awaited step in the right direction, but the way to full restoration of Dominican nationality for everyone who has been arbitrarily deprived of it could be long and full of obstacles if the government does not address comprehensively this critical human rights issue, Amnesty International said today in an open letter (<http://ow.ly/xqwKm>) sent to President Danilo Medina.

The country's controversial denationalization policy reached a peak in September 2013 when the Constitutional Court established that Dominican children of irregular migrants born in the Dominican Republic between 1929 and 2010 had never been entitled to Dominican nationality and had to be stripped of it.

"This new law is to be welcomed as an attempt by the Dominican authorities to solve the dramatic problem they have created with their discriminatory policies, affecting thousands of individuals - the vast majority Dominicans of Haitian origin – whose lives have been on hold for years. But it is a first step only, as the law still leaves many stuck in a legal limbo with their human rights denied," said Erika Guevara Rosas, director for the Americas at Amnesty International.

The naturalization law (Nr 169-14) creates two categories: those who at some point were registered in the Dominican civil registry, and those whose birth was never declared.

"It seems the Dominican authorities are only looking at the tip of the iceberg. The law is a positive step for those registered in the civil registry, but for the others it is totally inadequate. Unfortunately, the vast majority of Dominicans of Haitian descent falls in the second category, and include some of the poorest and most vulnerable people in the country."

None of the solutions brought by the law provide for an automatic restoration of Dominican nationality as requested by the Inter-American Commission on Human Rights. People affected therefore remain stateless until the process is completed without any protection from the State.

Even those who were already registered in the civil registry will only be able to re-access Dominican nationality once the Central Electoral Board carries out a regularization process.

Those who had never been registered face a lengthy and arduous legal process to reclaim citizenship from scratch. They only have 90 days to start the process leading to naturalization. If unable to start the procedure or found not to comply with the criteria set out by the law, they will face serious risk of deportation.

"Deportation would have catastrophic consequences for people who were born in the Dominican Republic and who, in most cases, have very little ties with their parents' country of origin".

Because of years of arbitrariness and discrimination against Dominicans of Haitian descent, there are families in which only some of the children could be registered in the civil registry. Therefore the law will produce the paradox that in the same family some children will have easier access to Dominican nationality and others will have to be registered as foreigners.

“It is also alarming that in both cases the Central Electoral Board will have such a prominent role in the implementation of the law. This body has proved to lack the impartiality needed to carry out the regularization and the naturalization processes in a fair and unbiased manner”, said Erika Guevara Rosas.

This is even more worrying given that the complexity and the ambiguities of the law open the door for injustices, such as a discretionary and discriminatory application of the law.

“The Dominican authorities must ensure due process and the right to a judicial review against any case of deprivation of nationality. They must set up an oversight committee that includes civil society organisations to ensure full and fair implementation of the law. If the Dominican authorities are serious about finding a solution they must ensure that arbitrariness and discrimination won’t be the rule anymore when Dominicans of Haitian descent try to access their rights.”

Amnesty International will remain vigilant on how the law will be implemented and will continue campaigning to ensure that the Dominican Republic fully respects its international human rights obligations, particularly in terms of fighting discrimination based on race, origin or any other condition and/or identity.

Background

The Dominican Republic’s Constitutional Court ruled in September 2013 that Juliana Deguis, who was born in the Dominican Republic in 1984 to Haitian parents, had been wrongly registered as Dominican at her birth. By the Court’s interpretation, as her parents could not prove their regular migration status in the Dominican Republic, she should have never had Dominican nationality.

The ruling effectively left her and thousands of other people – the vast majority being Dominicans of Haitian descent – stateless.

The Constitutional Court ruling was the latest of a number of administrative, legislative and judicial decisions that since the early 2000s have had the effect of retroactively depriving Dominicans of Haitian descent of their Dominican nationality.

Since 2007, the Central Electoral Board have been refusing to issue or renew identity documents to Dominicans of Haitian descent whose parents could not demonstrate their regular migration status in the country.

The refusal of identity documents has been devastating for Dominicans of Haitian descent. They are unable to exercise their human rights, including access to education, employment and health services, and the right to marry and start a family. Those without identity papers are also unable to register their own children as Dominicans, who are in practice being born stateless.

It is unclear how many people are affected by the law 169-14. A study carried out by the Central Electoral Board in November 2013 identified 24,392 people who had been “irregularly registered” between 1929 and 2007, 13,972 of whom were born to Haitian parents. However, a survey conducted by the National Statistics Office (ONE) in 2012 found that 244,151 people living in the Dominican Republic were born to foreign parents. Of these, 209,912 were of Haitian descent (father and/or mother born in Haiti).