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**Via Mail**

The Honorable Rex Tillerson  
Secretary of State  
U.S. Department of State  
2201 C Street NW  
Washington, DC 20520

**Re: Denationalization and Discriminatory Mistreatment of Dominican Individuals of Haitian Descent**

Dear Secretary Tillerson:

I write on behalf of the New York City Bar Association to urge the United States to act more forcefully in response to serious, ongoing concerns that arise from the denationalization and discriminatory mistreatment of Dominican individuals of Haitian descent. Hundreds of thousands of people were rendered stateless in 2013 after the Dominican Constitutional Court stripped them of Dominican citizenship that they have held since birth—and in many instances have held for generations. We urge the United States to take stronger action to help bring an end to these human rights violations in our own region.

The Association is an independent nongovernmental organization of over 24,000 lawyers, judges, law professors, and government officials from the United States and over 50 other countries. Throughout its 147-year history, the Association has maintained that respect for fundamental rights and the rule of law is essential in all jurisdictions. Through the work of its Committee on International Human Rights, the Association has long investigated and reported on human rights concerns around the world, including within the United States. The Association also has a long history of advocating for the rights of immigrants, refugees, and displaced persons in the United States and other countries.

The current crisis in the Dominican Republic arises from a 2013 ruling by the Constitutional Court holding that descendants of undocumented migrants born in the Dominican Republic no longer qualify for birthright citizenship.<sup>1</sup> Because the Court applied this interpretation retroactively to children born within the Dominican Republic as early as 1929, at least 133,000 individuals—including an estimated 100,000 children—were summarily stripped of their Dominican citizenship.<sup>2</sup> Individuals whose families have held Dominican citizenship for generations suddenly lost legal status in their home country. The ruling primarily affects Dominicans of Haitian descent, marking a particularly egregious step in a long history of state-sanctioned racial discrimination and marginalization of Dominicans of Haitian descent.

As both the Inter-American Court of Human Rights and Inter-American Commission on Human Rights have concluded, the Dominican Constitutional Court's ruling constitutes an arbitrary deprivation of nationality in violation of international human rights law.<sup>3</sup> The right to nationality is recognized in the Universal Declaration of Human Rights and reiterated and codified in five international treaties that the Dominican Republic has ratified.<sup>4</sup> Regionally, the right to nationality—including the right to nationality at birth when no other nationality is available—is guaranteed by the American Convention on Human Rights, to which the Dominican Republic is also a party.<sup>5</sup> The American Convention also specifically protects individuals against the arbitrary deprivation of nationality.<sup>6</sup>

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<sup>1</sup> Tribunal Constitucional de la República Dominicana, Sept. 23, 2013, Sentencia No. 168-13.

<sup>2</sup> UNHCR, Mid-Year Trends 2015, at fn. 18, available at <http://www.unhcr.org/statistics/unherstats/56701b969/mid-year-trends-june-2015.html>.

<sup>3</sup> *Expelled Dominicans & Haitians v. Dominican Republic*, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 282, ¶ 325 (Aug. 28, 2014), [http://corteidh.or.cr/docs/casos/articulos/seriec\\_282\\_ing.pdf](http://corteidh.or.cr/docs/casos/articulos/seriec_282_ing.pdf); INTER-AM. COMM'N H.R., SITUATION OF HUMAN RIGHTS IN THE DOMINICAN REPUBLIC 87–117 (2015), <http://www.oas.org/en/iachr/reports/pdfs/DominicanRepublic-2015.pdf>.

<sup>4</sup> Universal Declaration on Human Rights, G.A. Res. 217A, art. 15, U.N. GAOR, 3d Sess., 1st Plen. Mtg, U.N. Doc. A/810 (Dec. 12, 1948); International Covenant on Civil and Political Rights, art. 24(3), Dec. 16, 1966, 999 U.N.T.S. 171 (ratified by the Dominican Republic Apr. 1, 1978); International Convention on the Elimination of All Forms of Racism, art. 5(d)(iii), Mar. 7, 1966, 660 U.N.T.S. 19 (ratified May 25, 1983); Convention on the Rights of the Child, arts. 7-8, Nov. 20, 1989, 1577 U.N.T.S. 3 (ratified Nov. 6, 1991); Convention on the Elimination of All Forms of Discrimination Against Women, art. 9, Dec. 18, 1979, 1249 U.N.T.S. 13 (ratified Sep. 2, 1982); Convention on the Right of Persons with Disabilities, art. 18, Dec. 27, 2009, G.A. Res. 61/106, Annex I, U.N. GAOR, 61st Sess., Supp. No. 49, at 65, U.N. Doc. A/61/49 (ratified Aug. 18, 2009).

<sup>5</sup> American Convention on Human Rights, art. 20, Nov. 22, 1969, O.A.S.T.S. No. 36, 1144 U.N.T.S. 123. Shortly after the Inter-American Court's binding decision in *Expelled Dominicans*, the Dominican Constitutional Court issued a decision that rejected the Inter-American Court's jurisdiction as unconstitutional. Tribunal Constitucional de la República Dominicana, Sentencia No. TC-256-14, Nov. 4, 2014. Under international law, however, the Court's decision does not constitute a valid withdrawal of the Dominican Republic from the American Convention, and the government continues to be bound by the treaty's provisions and the Inter-American Court's decisions. See Inter-Am. Comm'n H.R., *IACHR Condemns Judgment of the Constitutional Court of the Dominican Republic*, Press Release, Nov. 6, 2014, [http://www.oas.org/en/iachr/media\\_center/PReleases/2014/130.asp](http://www.oas.org/en/iachr/media_center/PReleases/2014/130.asp).

<sup>6</sup> American Convention on Human Rights, *supra* note 5, art. 20(3).

The vast majority of individuals who lost citizenship through the Constitutional Court's ruling have also been rendered stateless in violation of international law norms. The 1954 Convention Relating to the Status of Stateless Persons defines a stateless person as someone "who is not considered as a national by any State under operation of its law," and the 1961 Convention on the Reduction of Statelessness prohibits the deprivation of nationality if it would have the effect of rendering a person stateless.<sup>7</sup> The UN General Assembly has called on states to reduce statelessness by preventing the arbitrary deprivation of nationality, and in 2014, the UN launched a Campaign to End Statelessness within ten years.<sup>8</sup> The Dominican Republic's retroactive revocation of citizenship violates these principles and has created the fifth largest group of stateless people in the world—marking an alarming setback in the global efforts to reduce statelessness.<sup>9</sup>

Under international human rights law, the principal remedy for the arbitrary deprivation of nationality is restoration of nationality.<sup>10</sup> In 2013, in response to widespread international criticism of the Constitutional Court's ruling, the Dominican government enacted Law 169-14 to create a pathway to renationalization. However, the law imposed onerous and burdensome documentation and registration requirements that in practice made it impracticable for the vast majority of the affected populations to reinstate Dominican nationality, in violation of the Dominican Republic's human rights treaty obligations. Specifically, the law introduced two separate pathways to renationalization for Dominican-born individuals depending on whether they possessed Dominican birth certificates. In the case of those whose births were registered in the national registry ("Group A"), authorities are auditing their original entries and then "transcribing" them into a separate civil registry, creating a segregated class of citizens of foreign descent that is vulnerable to further discrimination.<sup>11</sup>

Moreover, many of those who lost citizenship as a result of the court ruling were never recorded in the national registry, as authorities have for decades systematically denied Dominicans of Haitian descent birth certificates and proper registration in the national registry. Under Law 169-14, these unregistered Dominican-born individuals ("Group B") only had the option of registering as foreigners and then they have to wait two years until they may qualify for

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<sup>7</sup> Convention Relating to the Status of Stateless Persons, Sept. 28, 1954, 360 U.N.T.S. 117; Convention on the Reduction of Statelessness, art. 8(1), Aug. 30, 1961, 989 U.N.T.S. 175 (signed by the Dominican Republic Dec. 5, 1961).

<sup>8</sup> G.A. Res. 50/152, ¶ 16, Feb. 9, 1996; UN High Commissioner for Refugees, *A Campaign to End Statelessness: Launched on the 60th Anniversary of the 1954 Convention Relating to the Status of Stateless Persons* (Feb. 2014), <http://www.unhcr.org/53174df39.html>.

<sup>9</sup> UN High Commissioner for Refugees, *Dominican Republic Urged Not to Deport Stateless Persons*, June 19, 2015, <http://www.unhcr.org/5584221a6.html>; Leah Libresco, *The Dominican Republic's Revocation of Citizenship Creates 200,000 Stateless Persons*, FIVETHIRTYEIGHT, June 17, 2015, <http://fivethirtyeight.com/datalab/the-dominican-republics-revocation-of-citizenship-creates-200000-stateless-people/>.

<sup>10</sup> UN High Commissioner for Refugees (UNHCR), Expert Meeting - Interpreting the 1961 Statelessness Convention and Avoiding Statelessness resulting from Loss and Deprivation of Nationality ("Tunis Conclusions"), March 2014, available at: <http://www.refworld.org/docid/533a754b4.html>.

<sup>11</sup> HUMAN RIGHTS WATCH, WE ARE DOMINICAN: ARBITRARY DEPRIVATION OF NATIONALITY IN THE DOMINICAN REPUBLIC 16-22 (2015), available at <https://www.hrw.org/report/2015/07/01/we-are-dominican/arbitrary-deprivation-nationality-dominican-republic>.

naturalization. They were only allowed 180 days to enroll in the foreign registry and become lawful residents. Only 8,755 individuals were able to do so within that short time frame due to lack of information, long wait times, and burdensome and expensive application requirements.<sup>12</sup> In 2014, the Inter-American Court of Human Rights ruled that this process violates the right to a nationality.<sup>13</sup>

Far from remedying the international law violations effected by the Court's ruling, Law 169-14 thus reinforces those violations by unnecessarily delaying and denying full enjoyment of citizenship. According to official figures, only 13,495 of those who lost citizenship as a result of the ruling had nationality documents as Dominicans as of January 2017,<sup>14</sup> with close to 90% of the affected population remaining stateless three years after the law was enacted. They continue to live in legal limbo, without the ability to claim basic rights. While international law requires that stateless individuals be able to access certain minimum protections,<sup>15</sup> human rights groups have documented that denationalization has severely limited their ability to enjoy many fundamental human rights, including the rights to health, education, work, voting and freedom of movement.<sup>16</sup>

Unless Dominican citizenship is restored, those rights violations will likely persist. Contrary to assertions by Dominican officials, denationalized Dominicans of Haitian descent often cannot claim Haitian citizenship. Although the Haitian Constitution provides a right to citizenship to individuals born to parents with Haitian nationality, Dominican-born individuals who have little or no connection to Haiti may not be able to prove their Haitian ancestry, since they would need to access Haitian birth registries to establish that their parents or grandparents held nationality at some point dating back to 1929.

Regardless, the possibility that some denationalized Dominican citizens of Haitian descent might eventually obtain Haitian citizenship does not mitigate the illegality of the Dominican government's actions. International law prohibits governments from revoking citizenship if it would leave individuals without a nationality—even if those individuals might theoretically qualify for some other country's citizenship at some point in the future.<sup>17</sup>

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<sup>12</sup> ROBERT F. KENNEDY HUMAN RIGHTS, DENATIONALIZED DOMINICANS AND HAITIAN MIGRANTS AT RISK OF DISCRIMINATORY EXPULSIONS IN DOMINICAN REPUBLIC 1-2 (2015), available at [http://rfkcenter.org/media/filer\\_public/9d/ef/9defbbf3-79d3-41c7-949e-72840f740aad/english.pdf](http://rfkcenter.org/media/filer_public/9d/ef/9defbbf3-79d3-41c7-949e-72840f740aad/english.pdf).

<sup>13</sup> *Expelled Dominicans*, ¶ 324.

<sup>14</sup> Statements by the President of the Central Electoral Board, *Hoy* newspaper, 12 January 2017, available at: <http://hoy.com.do/edicion-impresahoy-jueves-12-de-enero-2017/>.

<sup>15</sup> Convention Relating to the Status of Stateless Persons, Sept. 28, 1954, 360 U.N.T.S. 117.

<sup>16</sup> HUMAN RIGHTS WATCH, *supra* note 11.

<sup>17</sup> Convention Relating to the Status of Stateless Persons, art. 1(1) (defining a stateless person as someone “who is not considered as a national by any State under the operation of its law.”); see also UN High Commissioner for Refugees, *Expert Meeting—The Concept of Stateless Persons under International Law*, ¶ 16, May 2010, available at <http://www.refworld.org/docid/4ca1ae002.html> (noting that the use of present tense in art. 1.1 indicates that the determinative factor is whether the individual has nationality at the relevant time, not whether she or he might acquire it in the future).

Accordingly, to redress these violations, it remains imperative that the Dominican government take swift and effective action to ensure the restoration of citizenship.

Although the Dominican government asserts that the Constitutional Court ruling and Law 169-14 do not discriminate on the basis of race, their design and implementation disproportionately impact Dominicans of Haitian descent, who make up the vast majority of those denationalized, and for whom acquisition of Dominican nationality is particularly difficult due to prior denials of documentation. The discriminatory nature of these laws is particularly apparent when viewed in the context of anti-Haitian sentiments and practices that have been prevalent in the Dominican Republic for decades. Dominican authorities have long engaged in the practice of denying citizenship papers and identification documents as a tool to oppress Dominican citizens of Haitian descent. As a result, Dominicans of Haitian descent and Haitian migrant workers have for generations been marginalized in Dominican society, unable to access schooling, health care and the formal economy. The denationalization ruling and faulty nationalization law thus have the effects of institutionalizing longstanding discrimination against Dominicans of Haitian descent.

The State Department has appropriately recognized that “discrimination against Haitian migrants and their descendants, including the Constitutional Tribunal’s September 2013 ruling, is the Dominican Republic’s “most serious human rights problem.”<sup>18</sup> However, the public response of the United States to the crisis since 2013 has not been commensurate to such an egregious human rights violation, which broadly affects an entire community on the basis of race.

The nature and extent of the Dominican government’s human rights violations demand a more forceful response. We join numerous actors within the United States who have called on the United States to do more—including the National Bar Association, which has urged the United States to push the Dominican Republic to eradicate statelessness and eliminate systemic discrimination, and a group of 560 returned Peace Corps Volunteers, who have asked the United States to suspend funding to Dominican security forces.<sup>19</sup> Although the Dominican government has sovereign authority to confer and regulate nationality, its policies must respect international human rights law and comply with its international legal obligations.

We respectfully urge you to do everything within your authority to ensure an end to the arbitrary deprivations of nationality and the largest statelessness situation in the Western hemisphere. We urge the United States to work with the Dominican government to develop a non-discriminatory process that will immediately and effectively restore nationality for those born in the Dominican Republic before January 26, 2010, as the appropriate solution under international law. For members of Group A, such measures may appropriately include reinstatement of their original birth inscriptions in the national civil registry for Dominicans,

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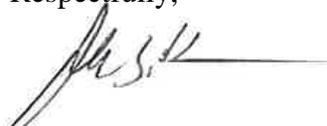
<sup>18</sup> U.S. STATE DEPT., DOMINICAN REPUBLIC 2014 HUMAN RIGHTS REPORT 1 (2016).

<sup>19</sup> Nat’l Bar Ass’n, Resolution Urging the Government of the Dominican Republic to Eradicate Statelessness by Reinstating the Citizenship of Black Dominicans of Haitian Descent, Res. No. 2017-6 (Aug. 3, 2017); Letter to Secretary Kerry from 560 Returned Peace Corps Volunteers, Aug. 7, 2015, *available at* <http://i2.cdn.turner.com/cnn/2015/images/08/09/peacecorpsdominicanrepublic-suspendusmilitaryaidtodr.pdf>.

along with reissuance of initial birth certificates to those individuals who had obtained birth certificates in the past. For members of Group B, such measures may appropriately include undertaking the ordinary late birth registration of these individuals as Dominicans and ensuring the issuance of birth certificates to those who were denied birth certificates in the past. That process also should include steps to guarantee that descendants of individuals affected by ruling 168-13 may effectively enjoy their Dominican nationality, including issuance of ordinary civil documentation as Dominicans in a timely manner.

Finally, consistent with the role that the United States has historically played in promoting human rights in our hemisphere and around the world,<sup>20</sup> we urge you to employ the membership of the United States in multilateral organizations and coalitions to hold the Dominican government accountable for these ongoing human rights violations.

Respectfully,



John S. Kiernan  
President



Anil Kalhan  
Chair, International Human Rights  
Committee

cc: Hon. Scott Busby  
Deputy Assistant Secretary of State  
Bureau of Democracy, Human Rights and Labor  
U.S. Department of State

Hon. Carol Thompson O'Connell  
Principal Deputy Assistant Secretary of State  
Bureau of Population, Refugees and Migration  
U.S. Department of State

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<sup>20</sup> See Letter from John S. Kiernan, President, New York City Bar Ass'n, to Hon. Paul Ryan et al., Human Rights During the Trump Administration's First 100 Days, Apr. 28, 2017, <http://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/letter-to-congressional-leaders-on-the-trump-administrations-handling-of-human-rights-and-international-engagement-in-its-first-100-days>.

Hon. Francisco Palmieri  
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Hon. Bob Corker  
Chair, Committee on Foreign Relations  
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