

Access to Justice for Children and Adolescents in the Dominican Republic

Structural Challenges and Opportunities for Strengthening

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The Dominican Republic ratified the Convention on the Rights of the Child (CRC) in 1989, thereby committing to harmonize its legal framework with the fundamental principles established in the CRC. Among these principles are the best interests of the child and protection (Art. 3), non-discrimination and effectiveness (Art. 4), as well as the right of children and adolescents to autonomy and participation (Arts. 5 and 12) to express their personal and direct opinion in all administrative or judicial proceedings and in all “the settings in which they live and develop (...): governmental, family, community, social, school, scientific, cultural, sports, and recreational.”¹

In fulfillment of these commitments, the country has adopted various legislative measures, one of the most significant being the enactment, in 2003, of Law No. 136-03, which created the Code for the System of Protection and Fundamental Rights of Children and Adolescents. This law not only structures a comprehensive system of rights protection but also establishes a specialized jurisdiction in childhood and adolescence, as a means to ensure more effective, sensitive, and age-appropriate access to justice.

Among the advances established by this legal framework is the reaffirmation of the right to non-discrimination and the active participation of children in judicial processes that concern them. Likewise, provisions have been incorporated to humanize and adapt the judicial environment, such as the elimination of the mandatory use of robes and caps by attorneys, judges, and prosecutors during hearings, with the goal of creating an environment “that facilitates communication.”

However, twenty-two years after the enactment of Law 136-03 in 2003 (i.e. By 2025, it is essential to revise it to maintain access to justice for children and adolescents. Practical experience has revealed gaps and structural problems that require regulatory and institutional adjustments to ensure that this vulnerable group can fully exercise their rights within the judicial system. Below are some of the main challenges still to be addressed.

¹ Article 16 Law No. 136-03, which created the Code for the System of Protection and Fundamental Rights of Children and Adolescents.

In the Dominican child protection system, children and adolescents do not have independent legal representation in the proceedings in which they are involved. In practice, their interests are often represented by their own parents, who do not always act with impartiality or with a focus on the best interests of the child. In contrast, countries such as Chile, Argentina, and Colombia have made progress in this area by formally incorporating the figure of the child's attorney. In Argentina, Law 26.061 recognizes the right of children to be assisted by a lawyer who represents their interests in judicial or administrative proceedings. Similarly, Chile has implemented the "Specialized Legal Representation Program" for children and adolescents. In Colombia, the Office of the Ombudsman has established the figure of the Child Defender as a specific mechanism to guarantee their participation and protection in judicial processes. These regional experiences could serve as a reference for the Dominican Republic in moving toward a more rights-based and specialized model for the legal defense of children.

In the criminal justice system, adolescents between the ages of 13 and 18 are subject to criminal liability. In these cases, those who do not have a private attorney hired by an adult are assisted by a lawyer from the National Office of Public Defense, which provides legal assistance, representation, and guidance.

In cases involving children and adolescents who are victims of violence, the Public Prosecutor, as a representative of the State, assumes their legal representation because these are matters of public action. However, the prosecutor is not authorized to seek compensatory damages. In such cases, children and adolescents do not have special or independent legal representation either. When they are represented by private counsel, it is usually because one of the parents hires a private lawyer, and in that case, the attorney is authorized to seek compensatory damages.

This scenario reveals an institutional deficit in the representation of the rights and interests of children, particularly in contexts of violence, protection, and family conflict.

Although Law 136-03 establishes a national protection system for children, it does not provide specific procedures to ensure that they can bring legal actions on their own behalf or have autonomous representation, even in cases where the law recognizes their capacity to initiate certain processes, such as the suspension of parental authority (Article 77).

In judicial terms, there are specialized courts for children and adolescents in some jurisdictions of the country, but not uniformly throughout the national territory. The lack of nationwide coverage and the coexistence with ordinary civil courts in many provinces generate inequalities in access to justice and in the application of specialized criteria.

Judges in these courts receive specialized training through the National School of the Judiciary, which represents progress, although it remains insufficient given the lack of specialized lawyers and the uneven distribution of resources across the country.

With regard to child hearings and procedural guarantees, there is no minimum age established for hearing a child; this decision is left to the discretion of each judge. While this discretionary approach may be interpreted as flexible, in practice it creates uncertainty and arbitrariness, affecting the right of children to be heard in proceedings that directly affect them.

Despite these challenges, some courts have begun to adopt innovative practices. A notable example is Judgment No. 472-01-2024-SCON-00024, issued in May 2024 by the Court of Appeal for Children and Adolescents of the National District. In this decision, the judges not only assessed the best interests of an eight-year-old girl in a custody proceeding but also drafted a summary of the judgment specifically addressed to her, using clear and empathetic language. This initiative represents a meaningful step toward a more understandable and participatory justice system for children and adolescents.

The existence of institutions such as the Office of the Prosecutor for Children, Adolescents and Family in the National District, as well as reporting lines such as “Línea Vida,” represent important tools for reporting violence and abuse, although their territorial coverage is limited.

In this context, a significant step was the approval, through Resolution No. 009-2020 of August 4, 2020, of the Protocol for Forensic Interviews of Victims and Witnesses in Vulnerable Conditions by the Judicial Council. This instrument sets guidelines for conducting single interviews with children and adolescents in their capacity as victims or witnesses, to avoid revictimization and ensure appropriate conditions for obtaining their testimony. The protocol recognizes the principle of the best interests of the child, protects their image and identity, and promotes the use of technological tools such as the Gesell chamber and virtual modalities. It also requires the involvement of professionals trained in forensic psychology. This measure represents a significant

advancement toward a justice system that is more accessible and respectful of children's rights.

This protocol draws on, among other international instruments, the Brasilia Rules on Access to Justice for People in Vulnerable Conditions, which explicitly recognize children and adolescents as a group requiring specific measures to ensure effective access to justice. Among the recommendations are the use of clear language, the holding of hearings in appropriate spaces, the avoidance of unnecessary formalities, the anticipation of testimony to prevent revictimization, and the protection of the identity and privacy of minors. The active participation of children, accompanied by specialized assistance and emotional support, is also promoted. These guidelines shape national reforms aimed at building a justice system that is more accessible and responsive to the needs of children — an area where continued progress is essential.

Finally, the following are a set of proposals I suggest for strengthening access to justice for children and adolescents in the Dominican Republic:

- The creation of an independent legal figure for the child, with the capacity to act on behalf of the child and with specialized training.
- The strengthening of specialized courts for children, ensuring their presence and operation in all jurisdictions of the country.
- The adoption of a national protocol for hearing children, which guarantees effective, safe, and age- and maturity-appropriate participation.
- The expansion of services for child victims and the creation of administrative mechanisms for comprehensive support.
- The promotion of specialized training for public defenders, prosecutors, judges, and private attorneys in matters related to children's rights.

Undoubtedly, the participation of the Dominican Republic in international forums such as this World Congress on Family Law and Children's Rights offers an invaluable opportunity to reflect, share good practices, and commit to a transformation of the justice system from a perspective truly centered on children. Only in this way will it be possible to ensure that the rights of children and adolescents are not only recognized in law but also fully guaranteed in practice.