

A Snapshot of Statelessness in the Western Hemisphere: Denationalization in Modern Day Dominican Republic

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Abstract

In 2013, the Dominican Republic's Constitutional Tribunal ruling 168/13 retroactively revoked the citizenship of over 200,000 Dominican nationals of Haitian descent, thus creating the fifth largest stateless population in the world and the largest in the Western Hemisphere today (IACHR 2015). The ruling simply made legal the longstanding, racialized and clandestine practice of converting Haitian descendant Dominican citizens into foreigners. The ruling, as well as the laws that precede it, demonstrate how anti-blackness and racialization are processes through which citizenship is measured and mobilized to reorder society and formalize hierarchies. Dominicans of Haitian descent who are stateless are habitually denied the right to vote, work, register marriage, own or inherit property, receive government health and educational benefits, or travel. This essay serves as a corrective to omissions and common misrepresentations of denationalization in the Dominican Republic as a highly underreported topic in mainstream global media. It also makes an argument for the multiplicative nature of denationalization, based on historical continuities, as documented in testimonials of Dominican women of Haitian descent impacted by statelessness in the Dominican Republic.

NOTE: to protect participants who are impacted by denationalization,

pseudonyms are used.

Introduction

In November 2022, the U.S. Embassy in Santo Domingo publicized the alert, "Ongoing Migration Enforcement" in the Dominican Republic.¹ In this alert, the U.S. Embassy in Santo Domingo advised U.S. citizens, "that in recent months travelers to the Dominican Republic have reported being delayed, detained, or subject to heightened questioning at ports of entry and in other encounters with immigration officials based on their skin color".² There was specific caution provided to "darker skinned U.S. citizens and U.S. citizens of African descent," while the alert noted "reports that detainees are kept in overcrowded detention centers, without the ability to challenge their detention, and without access to food or restroom facilities, sometimes for days at a time, before being released or deported to Haiti".³ A few years prior, in 2018, there were media reports on the "string of American tourist deaths in the Dominican Republic." International media outlets questioned whether these lives were lost due to chemicals used to fertilize the grounds or if the deaths were caused

1 U.S. Embassy in Dominican Republic, "Ongoing Dominican Migration Enforcement", November 19, 2022. <https://do.usembassy.gov/alert-ongoing-dominican-migration-enforcement/>

2 U.S. Embassy in Dominican Republic, "Ongoing Dominican Migration Enforcement", November 19, 2022.

3 U.S. Embassy in Dominican Republic, "Ongoing Dominican Migration Enforcement", November 19, 2022.

by the contents of a particular brand of liquor in the hotel room mini bars.⁴ It was estimated that “at least 13 Americans died in the Dominican Republic since 2018” under similar conditions.⁵ Yet that the Dominican Republic has the largest case of mass statelessness in the Western Hemisphere was not being covered. Much like the more recent “Ongoing Dominican Migration Enforcement”, from the U.S. Embassy in Dominican Republic, coverage is often by way of concern for U.S. citizens. Or on rare occasions, marginally from coverage on Haitian migrants. Following the ruling a *New York Times* article “Forced to Flee Dominican Republic for Haiti, Migrants Land in Limbo,” highlights the plight of Haitian migrants but renders thousands of Dominican nationals set for deportation invisible (Ahmed, 2015). The *New York Times* article is just one example of many that show how the plight of Dominican nationals was not addressed in the mainstream media even at the height of the revocation of citizenship.⁶ This research aims to serve

4 Simon Romero and Nicholas Bogel-Burroughs, “Crisis Hits Dominican Republic Over Deaths of U.S. Tourists,” *New York Times*, June 23, 2019; Martinez Gina and Josiah Bates, “11 U.S. Tourists Have Died in the Dominican Republic in 2019. Should You Cancel Your Trip?” *Time*, June 24, 2019.

5 McLaughlin, Kelly. “17 seemingly suspicious cases of tourists getting sick, assaulted, and dying in the Dominican Republic since June 2018” *Insider*, July 15, 2019.

6 For more examples of misrepresentative deportation coverage, see: Azam Ahmed, “Forced to Flee Dominican Republic for Haiti, Migrants Land in Limbo,” *New York Times*, December 12, 2015; Azam Ahmed, “Migrant Workers in Dominican Republic Most of Them Haitian, Face Deportation,” *New York Times*, June 16, 2015; Azam Ahmed and Paulina Villegas, “Dominican Republic Set to Deport Haitian Migrants,” *New York Times*, June 17, 2015; Jacqueline Charles, “Deportations Loom in Dominican Republic for Haitian Migrants Who Failed to Register,” *Miami Herald*, June 17, 2015; Annie Correal, “De Blasio Adds His Voice to Debate Over Dominican Deportation Law,” *New York Times*, June 21, 2015; Amy Goodman, “The Dominican Republic’s ‘Ethnic Purgings’: Edwidge Danticat on Mass Deportation of Haitian Families,” *Democracy Now*, June 17, 2015; Joshua Jelly-Shapiro, “Waiting to be Deported in Santo Domingo,” *The New Yorker*, June 27, 2015; Renee Lewis, “Dominican Republic to Begin deporting Haitian Immigrants,” *Aljazeera America*, International, June 17, 2015; Adam

as a corrective to underreporting and misrepresentations of denationalization in the Dominican Republic.

In 2013, the Dominican Republic’s Constitutional Tribunal ruling 168/13 retroactively revoked the citizenship of over 200,000 Dominican nationals of Haitian descent, thus creating the fifth largest stateless population in the world and the largest in the Western Hemisphere.⁷ Without nationality and often without essential paperwork such as birth certificates and passports, Dominicans of Haitian descent who are stateless are habitually denied the right to vote, work, register marriage, own or inherit property, receive government health and educational benefits, or travel. This essay draws on scholarship on rooted displacement, including Kristy Belton’s *Statelessness in the Caribbean: The Paradox of Belonging in a Post-National World*. Rooted displacement brings to light the structural violence of non-citizenship in cases where one had, and should continue to have, rights where they are rooted, in other words in the place they were born and raised.⁸ With ethnographic evidence, this essay demonstrates that Constitutional Tribunal ruling 168/13 simply made legal and further legitimized the longstanding and clandestine racialized practice of expulsion across the spectrum of civil genocide and death targeting Dominicans of Haitian decent in the Dominican Republic.⁹ Given the longue

Raney, “In Dominican Republic, Deportations Cast Long Shadow,” *Aljazeera News*, June 20, 2015.

7 Inter-American Commission on Human Rights (IA-CHR), “Situation of Human Rights in the Dominican Republic” *Country Report on Dominican Republic*, December 31, 2015; Julia Harrington-Reddy, “Dominican Ruling Strands the Suddenly Stateless,” *Miami Herald*, March 31, 2014.

8 Kristy Belton, *Statelessness in the Caribbean: The Paradox of Belonging in a Postnational World*. (Philadelphia: University of Pennsylvania Press, 2017).

9 Kristy Belton, *Statelessness in the Caribbean: The Paradox of Belonging in a Postnational World*, 2017; Saskia Sassen, *Expulsions: Brutality and Complexity in the Global Economy*. (Cambridge: The Belknap Press of Harvard University Press, 2014).

durée and extreme forms of erasure and misrepresentation that have accompanied rooted displacement and expulsions in the Dominican Republic today, an analysis of statelessness in the Dominican Republic requires tracing colonial and imperial continuity and centering racialization as tool of governance through a lens of multiplicity, themes that emerge from testimonials of Dominicans of Haitian descent directly impacted by statelessness in Dominican Republic.¹⁰

To be Recognized

Reconoci.do means to be recognized in Spanish. The spelling Reconoci.do, is an intentional call to be recognized within the Dominican Republic, by the state and civil society.¹¹ Reconoci.do advocates throughout various districts where its members reside. Its main goal is to secure the rights of Dominicans of Haitian descent, which includes reinstating citizenship, and ultimately forging greater equality in Dominican society. The first and only organization of its kind in the Dominican Republic, completely composed of Dominicans of Haitian descent who were all impacted by denationalization, Reconoci.do builds on the work of groups such as Movimiento de Mujeres Dominico-Haitiana (MUDHA) and the fierce advocacy of Sonia Pierre against anti-blackness in Dominican Republic.¹² Reconoci.do organizes

educational activities on human rights, provides advocacy and legal direction, and represents stateless Dominicans of Haitian descent on a range of global platforms, including hearings of the Inter-American Commission on Human Rights (IACHR) and Amnesty International (AI) conferences. Unable to open a bank account, vote, access their pension or get married, without a cédula (national identification card), denationalized Dominicans of Haitian descent are prevented from conducting everyday functions, and ultimately from furthering their social, political and economic status. Those who have degrees or certificates to practice their professions, such as doctors and lawyers, cannot practice or serve. Denationalized Dominicans of Haitian descent do not have the right to safely sojourn in their state of residence, and furthermore, without the needed documentation, they are often unable to travel, rendered immobile. When travel is possible, they may not have the right to return thereafter.¹³ Incapable of benefitting from services or treaties that provide advantages for nationals, essentially, denationalized Dominicans of Haitian descent are not entitled to any diplomatic protection either. In fact, they may be expelled from their state of residence.¹⁴

Well outside of Santo Domingo, we sat in a circle under the shade of skinny tall palm trees, bearing fruit that pulled their crowns toward the ground in a sweeping motion with each breeze. Our circle felt small in the large open grassy courtyard facing the sea. Reconoci.do, an independent national organization of Dominicans of Haitian descent, all impacted by denationalization, invited We Are All Dominican (WAAD) / Todos Somos Dominicano visiting from New York to one Pierre and the Struggle for Citizenship in the Dominican Republic,” co-sponsored by Haitian Women for Haitian Refugees and Barnard College.

10 Manning Marable, “Black Studies and the Racial Mountain,” *Souls 2, 3* (Summer 2000): 17-36.

11 The group’s name is spelled Reconoci.do. Much like .com completes many domain names in the United States, .do rounds off the majority of domain names in the Dominican Republic.

12 For more information on Movimiento de Mujeres Dominico-Haitiana (MUDHA) see <http://mudha.org> . For more information on Sonia Pierre, see <https://bcw.barnard.edu/videos/minerva-leticia-pierre-remembering-sonia-pierre-and-her-legacy/> Minerva Leticia Pierre shares memories of her mother Sonia Pierre, who urged her daughter to continue her activism and advocacy fighting for citizenship and human rights for Dominicans of Haitian descent during the panel discussion, “Sonia

13 Ezio Biglieri and G. Prati, *Encyclopedia of Public International Law*, 491.

14 Ezio Biglieri and G. Prati, *Encyclopedia of Public International Law*, 491.

of their organizational planning meetings. WAAD is a small group started with New York-based students, educators, artists, and community activists, volunteering their time to work against statelessness in the Dominican Republic in collaboration with groups in the Dominican Republic, primarily Reconoci.do. A founding member of WAAD, I joined the group in December 2013 compelled to address the ruling after years of researching race and nation in the Dominican Republic. My mother is Dominican and my father, African American. Most of the founding members are Dominican or Haitian born, or of descent, and had been committed to diasporic social justice before joining the group.

We all sat on benches and lawn chairs under the palm trees, side by side in a circle. About 10 members of Reconoci.do, two members of WAAD (including myself), and a representative from a local allied organization, attended one of Reconoci.do's planning meetings at a large community center, in the countryside, about 45 minutes outside of Santo Domingo. When I asked the members of Reconoci.do about the impact of the constitutional ruling that revoked their citizenship, with his hands on his knees, Edgar, a member of the group in his early 20's, leaned into the circle with his shoulders facing forward. He clapped, then clasped his hands as if to warm them up and leaned in more. He let out a deep breath, then explained how the ruling had handed blow after blow:

Often, I was presented with opportunities to travel outside of the country and every time I was presented with these opportunities, I had to get a birth certificate because I was a minor. But they wouldn't give it to me. Then I started playing baseball. I was even in an academy. Here they do that a lot. When the prospects are close to getting a contract, they put them in a special camp to give them stronger training. I got

to that level, until they asked me for a birth certificate, and then I was out. So, I decided to focus on my studies, until I finished high school. Then I wanted to go on to college, but I couldn't do that either.¹⁵

Lola, a member of Reconoci.do, leaned into the circle to share her search for vision care,

I had a vision problem and went to a private center where I had to pay for my consultation.¹⁶ When the young woman asked for my cédula, there were many people there and when she asked for it to make the appointment, I said 'I don't have a cédula' (in a low voice) because it is something that is embarrassing. She screamed, 'How do you not have a cédula?' She screamed and everyone looked. That's the impact of the ruling. You can't imagine how hard it is.¹⁷

In the end, her vision was not treated that day. Stateless Dominicans of Haitian descent may also have inadequate access to healthcare as a result of the negation of needed documents by the state.¹⁸ She continued, "my case left me in the street wondering, 'What is going to happen to me? Where is my life?' Where I can study, go to the hospital - anything - is determined by a cédula."¹⁹ For Lola, lack of access to healthcare and existential questions of belonging and worth are connected. Lola demonstrates that the conditions created by statelessness can have multiple inflictions.²⁰

15 Edgar, Interview by Javiela Evangelista. Residence, Santo Domingo, Dominican Republic. 23 December 2014.

16 Lola was not eligible for state services without her documentation.

17 Lola, Interview by Javiela Evangelista. A residence in Santo Domingo, Dominican Republic. 23 December 2014.

18 Amnesty International, "Without Papers I am No One: Stateless People in Dominican Republic."

19 Lola, Interview by Javiela Evangelista. Residence in Santo Domingo, Dominican Republic. 23 December 2014.

20 Amnesty International, "Without Papers I am No One: Stateless People in Dominican Republic."

Multiplicative

Race, class and gender are not additive, but instead “interlocking, interactive, and relational categories, ‘multiplicative’, simultaneous, characterized by the articulation of multiple oppressions.”²¹ An intersectional lens aids in the analysis of the law’s impacts. These ethnographic experiences implore going beyond an analytic description of intersectionality, in order to understand the manner in which these hierarchies interact and thereby have significant consequences in the daily lives of real people.²²

On a Sunday at Riverside Church in Harlem, I listened to Carmen give a talk at a symposium titled “Life Interrupted: The Ongoing Struggle for Citizenship Rights in the Dominican Republic,” organized with WAAD.²³ At the time, in her late-twenties, Carmen was the mother of a young son, a law student and an advocate for citizenship rights with The Socio-Cultural Movement for Haitian Workers (MOSCTHA) in the Dominican Republic. Providing testimony of statelessness for Dominicans of Haitian descent in Dominican Republic, Carmen stood firmly on the shoulders of Dr. Martin Luther King Jr., Nelson Mandela, Cesar Chavez and many other speakers who have advocated for social justice at Riverside Church. A few days later, as we sat and had lunch, with potent words as usual, Carmen told me:

I have been a witness to deportations at the border in the Dajabon... it was full of people who they say are Haitian due to their accent, but in fact they are, many of them are, Dominicans

21 Leith Mullings, “The Sojourner Syndrome: Race Class, and Gender in Health and Illness,” *Voices* (December 2002): 32.

22 Leith Mullings, “The Sojourner Syndrome,” 32; Leith Mullings and Alaki Wali, *Stress and Resilience: The Social Context of Reproduction in Central Harlem*. (Kluwer Academic/Plenum Publishers, 2001), 161.

23 September 28, 2014.

of Haitian descent. But without their documents or *cédula* they *convert* them into immigrants and automatically they are victims of deportations without anyone saying anything about the law prohibiting deportations until the Regularization Plan has been completed. So, right now, they are not only deporting immigrants, but the children of immigrants that have not been able to access or complete their paperwork. They do this knowing that they cannot come from there back here, because they do not have documentation to prove that they are Dominican.²⁴

She went on to explain the status of statelessness as one of “the walking dead” - each time a Dominican national is faced with the inability to attend school, vote, or marry, because of their Haitian heritage, they die civilly again and again. She sat back and thought deeply, then shared, “After you die, you no longer feel. I am in this fight, because I understand that from the first time they told me in 2007 that my last name was strange and that my Dominicanness was in doubt, I died civilly.”²⁵ Carmen amplifies the structural violence of statelessness, essentially the disparity between the potential ability to fulfill basic needs and their actual fulfillment.²⁶ She also brings to light the irony, that unlike a physical death where you only die once, one can experience a civil death - when denied the right to go to school, vote, marry or access their pension- time and time again. Due to the significant structural violence inflicted on denationalized Dominicans of Haitian descent, the denial of paperwork and the revocation of citizenship has been termed a civil genocide.²⁷ In essence, the

24 Carmen, Interview by Javiela Evangelista. Residence, New York, New York. 29 September 2014. Emphasis the author’s.

25 Carmen, Interview by Javiela Evangelista. Residence, New York, New York. 29 September 2014.

26 Ho, Kathleen. “Structural Violence as a Human Rights Violation,” *Essex Human Rights Review* 4, 2 (September 2007): 2.

27 In 2011, Juan Bolívar Díaz used the term before the ruling, further noting the long time practice in Dominican

genocide unfolds in multiple ways: one may be kicked out of the country, one may be killed through the loss of essential life-sustaining civil rights, and one may be killed physically.

On the way to Carmen's house after a day shadowing her advocacy work at MOSCTHA, we stopped at a fresh market with tomatoes and eggplant lined along the front to pick up groceries for dinner. Over pasta, at a small table in Carmen's kitchen, she updated me on the 60-year-old woman who had more than 30 years of experience working as a nurse for the Dominican state. Almost every time we met, off record, she shared how the nurse was doing. Carmen frequently escorted the nurse to the Junta Central Electoral frequently to help her get her paperwork. When I asked about the impact of Constitutional Tribunal ruling 168/13 on the nurse, Carmen shared that she was gravely concerned about her physical well-being at this point and recounted,

She will remain anonymous because for her it is an embarrassment that after 30 years of working for the state, that state does not recognize her rights as a person who was born and raised and has lived her entire life in the Dominican Republic. She has dedicated more than half of her life to serving the public as a nurse in a hospital. The state does not recognize her service, and they also do not recognize her rights or allow her to have access to her salary (pension). From this, you can see the answer to the question: what has the law provided?

Carmen continued,

When someone who is 61 years old gets a heart attack because an official talks to her in a disrespectful way and without a logical explanation for denying her of her paperwork, these are the 'advances' that we've had in our country where the law that should protect and things that should be done to benefit the

Republic. Juan Bolívar Díaz, "Genocidio civil inaceptable", Noticias SIN. October 17, 2011

population are instead excluding and mistreating hard-working people who have given everything for the functioning of the society.²⁸

The nurse is unable to collect her pension, despite a lifetime of service as a laborer of the state. Carmen offered a critical analysis of the irony of a neoliberal state that claims to "rise with the progress" and to 'advance' notions of modernity, as instead instituting a civil genocide.²⁹ The stress of this disoriented sense of belonging, and the loss of her financial earnings, have jeopardized her health at a time when the state has also revoked her access to healthcare. The nurse's experience underscores how for denationalized Dominicans, the multiple effects of race, class, gender and/or other factors are often also a life and death matter.³⁰

In the Dominican Republic, three types of personal identification documents are prerequisites to exercise a number of fundamental rights, including the right to an education: a live birth certificate (*certificado de nacimiento*) given by the hospital or center where a child is born, an official birth certificate (*acta de nacimiento*) issued by local civil registry offices, and a national identification card (*cédula de identidad*) for adults.³¹ The documents (or the lack thereof) are a means to exercise the 'humble modalities' of power, efforts to produce homogenous or particular kinds of nations, often racialized.³² For many Dominicans of Haitian descent, this negation starts at birth.

To obtain a national identification

28 Carmen, Interview by Javiela Evangelista. Residence, Santo Domingo, Dominican Republic. 23 December 2014.

29 Rise with the Progress (Subete al Progreso) was central to ex president Lionel Fernandez' political campaigns and presidency

30 Paul Farmer, "On Suffering and Structural Violence," 434; Leith Mullings, "The Sojourner Syndrome," 32-36.

31 Georgetown Law Human Rights Institute Fact Finding Project, "Left Behind," 16.

32 Michel Foucault

card, an individual must first be able to get a copy of their official birth certificate from a civil registry office. The official birth certificate is the main form of identification for persons under the age of 18 in the Dominican Republic. When applying for a passport, getting married, obtaining health care, and seeking social services, it is required.³³ However, in order to get an official birth certificate, the live birth certificate issued by hospitals at birth is a prerequisite which has been a significant obstacle for many Dominicans of Haitian descent.³⁴

Prior to 2010, hospitals were to provide the live birth certificate (*certificado de nacimiento*) to babies born in the Dominican Republic, under the provision of *jus soli* (citizenship by birthright), with the exception of those with parents who gave birth while “in transit,” in other words, those traveling for 10 days or less. Therefore, regardless of their parent’s status, if they were born on Dominican soil, they were Dominican citizens (again, unless the rare case of being ‘in transit’). Yet, due to racialized and xenophobic assumptions based on the name, phenotype or language of the mother in particular, countless Dominicans of Haitian descent have been denied Dominican nationality upon their birth in Dominican hospitals, and continue to be despite their constitutional right.

In 2010, the constitution changed to prohibit *jus soli* (birthright), meaning that those born in the Dominican Republic after January of 2010 would not be entitled to citizenship by birth on Dominican soil. Instead, post-2010, hospitals are to provide a live birth certificate (*certificado de nacimiento*) only to parents who can demonstrate that they are Dominican, under the new provision of *jus sanguinis* (citizenship by bloodline, not birth).³⁵

33 Georgetown Law Human Rights Institute Fact Finding Project, “Left Behind,” 17.

34 Georgetown Law Human Rights Institute Fact Finding Project, “Left Behind,” 17.

35 Post 2010, if the parents cannot prove that they are

Several advocacy organizations in the Dominican Republic have observed that in violation of the new constitutional rights of the child and their family, countless children who should be entitled to citizenship via *jus sanguinis*, because they have at least one Dominican parent (by blood), continue to be negated.³⁶

This unlawful marginalization generally occurs when the father is Dominican and the mother is a not born in the Dominican Republic or perceived to be a foreigner. Even in cases when the father is Dominican, if the mother is determined to be a foreigner, children are habitually given a pink slip, which places them in a foreign registry, essentially denying them the citizenship they are entitled to with one Dominican parent.³⁷ Once placed in the foreign registry at birth, it is difficult, in fact rare, for the counter claims of parents, especially those who may be read as foreigners, to be accepted. Furthermore, after the hospital stay, in order to acquire the official birth certificate (*acta de nacimiento*) for their child, which again is the main form of identification before 18 years of age, parents must present the civil registry with their own *cédula de identidad*, which is often negated at that point based on racialized and xenophobic conjectures.

In an interview with Allison Petrozziello, at that time a Coordinator for the Observatory of Migrants in the Caribbean or Observatorio del Migrantes en el Caribe (OBMICA), a human rights watch group that focuses on migrant rights, she explained that several advocacy organizations in the Dominican Republic have observed violations of the constitutional rights of children and their families.³⁸ As countless children who

Dominican, the hospital or medical center issues a pink *certificado de nacimiento*, live birth certificate for foreigners.

36 “Parejas Mixtas” Study by OBMICA and MUDHA (2015)

37 Allison Petrozziello, Interview by Javiela Evangelista. Skype. 26 February 2014.

38 Allison worked specialized in gender at OBMICA

should be entitled to rights as dictated by *jus sanguinis* (because they have at least one Dominican parent) are having their citizenship negated.³⁹ Bisa of Reconoci.do also shared with me, “when I see that a Dominican woman of Haitian descent give birth, and even if the woman has her birth certificate or ID card, her child is given a pink certificate, which is for foreigners,” it is comparable to modern slavery.⁴⁰ In a country where abortion is illegal and sexual and reproductive health services are limited, the pink slip process is another mode of gender discrimination that intersects with xenophobia, racism and international human rights violations.⁴¹

Existential Death

While standing on a crowded train during her visit to New York to present at an Amnesty International conference, I asked Diana of Reconoci.do, what was the most significant consequence of denationalization, and she replied, “you cease to exist.”⁴² On the illegality of migrants, also applicable to the denationalized state of Dominicans, De Genova highlights that there are, “multiple ways in which the contradiction between undocumented migrants’ physical presence and their official negation as ‘illegals’ generates ‘spaces of nonexistence.’”⁴³ De Genova adds that,

the social space of illegality is a erasure of legal personhood - a space of

while facilitating a study abroad program with students from who visited Dominican Republic in order to address inequality. The cohort at the time was from Fordham University in New York.

39 Allison Petrozziello, Interview by Javiela Evangelista. Skype. 26 February 2014.

40 Bisa, Interview by Javiela Evangelista. A residence in Santo Domingo, Dominican Republic. 23 December 2014.

41 Allison Petrozziello, Interview by Javiela Evangelista. Skype. 26 February 2014

42 Diana, Interview by Javiela Evangelista. Residence in Bronx, New York. 8 June 2014.

43 Nicholas P. De Genova, “Migrant ‘Illegality’ and Deportability in Everyday Life,” 427.

forced invisibility, exclusion, subjugation, and repression that ‘materialized around [the undocumented] wherever they go’ in the form of real effects ranging from hunger to unemployment (or more typically, severe exploitation) to violence to death-- that is nonetheless always already confounded by their substantive social personhood.”⁴⁴

Of the multiple deaths suffered in the course of denationalization, one of the most prevalent was less tangible, experiencing an existential crisis. As Lola shared her thoughts, I noticed others around the circle nod in agreement,

At the familial level, at the psychological level, we have been very affected. We have had to have therapy. It (denationalization) was something we could not understand. When it came out, one of things most impacting in my case was when I put on the TV, there were people that we want to support, like our Cardinal yet they were supporting the ruling which was ending our lives. I said, ‘Wow. I am from here. I have never been to another country. Here I have done my studies. My birth certificate is from this country. I don’t know any other place. How can the Tribunal tell me that I am no longer Dominican?’ During the days that they were revising our papers, we didn’t know what would happen. It’s difficult. I asked God, ‘How would you let me be born in a country like this?’ It was very impactful.⁴⁵

The Amnesty International report titled, “ ‘Ghost Citizens’ in the Dominican Republic” also highlights this imperative existential dilemma years after Hannah Arendt’s mid-century advocacy against statelessness and the existential crisis it creates.⁴⁶ We all listened, as Lola continued her testimony,

44 Nicholas P. De Genova, “Migrant ‘Illegality’ and Deportability in Everyday Life,” 427.

45 Lola, Interview by Javiela Evangelista. Residence, Santo Domingo, Dominican Republic. 23 December 2014.

46 Amnesty International, “Without Papers I am No One: Stateless People in Dominican Republic.”

I walk sometimes, in order to not pass out. Imagine. It is something that only people who experience it can understand how hard it is. As someone who has all their documents, how hard is it then for those who don't? Even more so. The indifference of some authorities! These are our lives that are destroyed and in depression. It is something fierce. The friend I told you about? My friend who got her cédula, but still cannot do anything. She felt so depressed and called me and said, 'I am in a bad state. I went to the JCE and they don't want to give me anything?' Despite my own pain, I told her, 'Don't worry,' because I heard her, she was not eating. She was in a complete depression. Imagine. I told everyone to call her, because I was worried that she would take her life and that is happening because others are living in another world and do not value our lives as the children of Haitian parents. They think that we are nothing. This is our reality.⁴⁷

The law is used to target Dominicans of Haitian descent, it is not used against non-Dominicans in general. The descendants of Haitians were targeted. Many observed the privilege of non-Haitian foreigners during efforts to reinstate citizenship. While waiting in line at the Junta Central Electoral, non-Haitian applicants, particularly Asian and Central American persons, were at times allowed to advance in the line and serviced with greater urgency when applying to rectify their status.⁴⁸ Even before the Constitutional Tribunal ruling 168/13 on a case-by-case basis, discriminatory ordering and classifications (determining whose documents and which documents were permissible or appeared to be foreign) guided official processes, most evident in

47 Lola, Interview by Javiela Evangelista. Residence, Santo Domingo, Dominican Republic. 23 December 2014.

48 Joaquín Caraballo, "Extranjeros Que No Son Haitianos Entran a Oficina de Regularizacion Sin Hacer Fila," *Noticias Servicios Informativos Nacionales (SIN)*, June 17, 2015.

the case of Juliana Deguis.⁴⁹

PART II

The total population of the Dominican Republic hovers above 10 million, and the population of Dominicans of Haitian descent who have been impacted by denationalization is estimated to be between 155,00 and 210,000.⁵⁰ Why is the state so concerned with miniscule numbers of people? In Spain, Sub-Saharan Africans make up a fraction of the foreign-born population, yet they are targeted more than others. Why have such massive efforts been expended to target black Africans in the borderlands, and what racial and colonial legacies are at the foundation of these efforts?⁵¹ Likewise, why has the government been so vigilant about the removal of this small group from a very specific racial and ethnic background? Many, including acclaimed Haitian-American author Edwidge Danticat, argue that the Constitutional Tribunal ruling 168/13 has facilitated an ethnic purging, an act of racialization.⁵² In fact, taxonomies of ethnicity often are "based in the ordering and classification of modern racialization."⁵³

Constitutional Tribunal ruling 168/13 and several other Dominican laws make such discrimination possible. Even when race or other criteria is not referenced, there is room for interpretation

49 Initially Constitutional Tribunal ruling 168/13 was a ruling against one Dominican woman born in the Dominican Republic to two Haitian parents, Deguis, not thousands of Dominicans of Haitian descent. See Part II for more information on Deguis and her case.

50 Inter-American Commission on Human Rights (IACHR). "Situation of Human Rights in the Dominican Republic," Country Report on Dominican Republic, December 31, 2015.

51 Ruben Andersson, *Illegality, Inc.* (Berkeley, US: University of California Press, 2014).

52 Amy Goodman, "The Dominican Republic's 'Ethnic Purging': Edwidge Danticat on Mass Deportation of Haitian Families," *Democracy Now*, June 17, 2015.

53 Deborah Thomas and Kamari M. Clarke, "Globalization and Race," 312.

that seems to be intentional.⁵⁴ Laws do not have to speak to race, ethnicity or other factors in order to be discriminatory. In the United States, the Grandfather Clause, which determined that one could only vote if their grandfather voted, did not specify race. However, it was clear that African-Americans whose ancestors were enslaved and therefore non-voters, were targeted. Because of the 15th Amendment, laws could not state that African-Americans could not vote, but the 15th Amendment allowed restrictions that were non-racial.⁵⁵ The legalization of statelessness is functioning as a new form of anti-Haitianism and much like the Grandfather Clause, it targets a racial (and ethnic) group without directly stating it. Surrounded by blue walls, masks and tables draped in fabrics, in his colorful office at La Universidad Autónoma de Santo Domingo (La Was), Dagoberto Tejada Ortiz, Professor Emeritus of Dominican Folklore, told me,

At the official level when they say ‘those foreigners,’ they mean those Haitians. If the foreigners on the other side, where there is Haiti, were whites and blondes, not Haitians, you can be sure we would be offering an extension for them to visit.⁵⁶

Constitutional Tribunal ruling 168/13 facilitates a contemporary version of Rafael Trujillo’s Dominican Republic, where instead of the white European immigration that he encouraged during his 31-year dictatorship that ended in the 1960’s, today Asian and Central American applicants are given preference.

54 Nassef Cordero Perdomo, *La Discriminación Racial en el Ordenamiento Jurídico Dominicana*, 20.

55 The grandfather clause was a means of enfranchising whites who might have been excluded from voting by literacy clauses. It was politically necessary, because otherwise there would be too much opposition from poor whites unable to take the literacy tests. Alan Greenblatt, “The Racial History Of The ‘Grandfather Clause,’” *NPR Code Switch*. October 22, 2013.

56 Dagoberto Tejada Ortiz, Interview by Javiela Evangelista. Universidad Autónoma de Santo Domingo, Santo Domingo, Dominican Republic, 23 January 2014.

Constitutional Tribunal ruling 168/13 does the work of drawing the lines that Trujillo’s Spanish architecture and massacre of 1937 drew along the border.⁵⁷

Honoring Henry “Tulile” Jean Claude

Legalized denationalization serves as the means of eliminating Dominicans of Haitian descent today. For Diana, one of the grave dangers of the ruling is that it justifies the disenfranchisement of Dominicans of Haitian descent not only by the state, but by civil society as well. As we jostled back and forth in the crowded D train headed towards downtown Manhattan during rush hour, Diana told me that since the ruling many Dominicans are now telling her that she is not Dominican, because the law says that she is not. During a *Democracy Now!* interview with host Amy Goodman, Haitian-American author Edwidge Danticat shared a similar caution,

This law not only now gives the Dominican government the power to deport mass amounts of people, but also creates a civil environment that’s really hard for people because others might feel like now that we’ve had an increase in violence against Haitians and Dominicans of Haitian descent, it seems like a state-sponsored open season on people who are considered Haitian by the way they look primarily or by their Haitian-sounding name.⁵⁸

One of the concerns that international human rights law aims to address is that denationalized people frequently do not have a state with which to seek protection, leaving them vulnerable to the response that often follows legal disenfranchisement, social violence. A lawyer, Genaro Rincón, received insults

57 Richard Turits, *Foundations of Despotism: Peasants, the Trujillo Regime, and Modernity in Dominican History*. (Stanford University Press, 2003).

58 Amy Goodman, “The Dominican Republic’s ‘Ethnic Purging.’”

and threats related to his advocacy against statelessness in high profile cases. As reported by the IACHR, Rincón has been insulted with the remark, “damned black man – run along to Haiti” and he has faced threats to “split his head open” as a result of his work as “a defender of Haitians.”⁵⁹ As a security precaution, his office has been under surveillance.⁶⁰ Beyond the state, individuals at micro and macro levels impact and mold experiences of statelessness as well.

On February 11, 2015, Henry ‘Tulile’ Jean Claude, a Haitian man, was lynched in Santiago, Dominican Republic a few days after the February 1 deadline for thousands of Dominicans of Haitian descent to file with the civil registry. Incidents of burning the Haitian flag and calls for the deportation of Haitian immigrants were reported in the days preceding and following the lynching. The Dominican state almost immediately posited that Henry Jean Claude was involved in criminal behavior and that the lynching was an act of retribution, not racism.⁶¹ In fact, a spokesman for the police department in Santiago, the second largest city in Dominican Republic, tweeted that the police rejected racism as a motivation for the murder and have excused the public spectacle of violence by associating it with a robbery. Wade McMullen, an attorney with the Robert F. Kennedy Center for Justice and Human Rights, stated however “For the Dominican authorities to rule out racism as a factor less than 24 hours after a man of Haitian descent was hanged in a public square is not just irresponsible policing, it is an outrageous example of discrimination endemic to the Dominican Republic.”⁶²

McMullen added, “And frankly it is all

59 IAHCR, “Report on the 150th Session of the IACHR.”

60 IAHCR, “Report on the 150th Session of the IACHR.”

61 Roque Planas, “Haitian Man Lynched Amid Dominican Republic Immigration Controversy,” *Huffington Post*, January 11, 2015.

62 Roque Planas, “Haitian Man Lynched Amid Dominican Republic Immigration Controversy.”

too reminiscent of the shameful denials of Southern officials during the decades of terror lynchings perpetrated against African-Americans here at home.”⁶³

The lynching of Henry Jean Claude sheds light on the continuity of acts of racial discrimination against Haitians and Dominicans of Haitian descent and again, it illustrates the “life and death meaning and intersections of race, class, gender and other factors.”⁶⁴ WAAD organized a vigil for Henry Jean Claude in front of councilmember Ydanis Rodriguez’s office in Washington Heights on the Thursday immediately following the lynching. The weather was frigid and spirits too, but we gathered with candles in remembrance of his life and in protest of the silence of officials in the Dominican Republic and the United States.⁶⁵ In an interview by Kenya Downs of *NPR Code Switch*, when asked, I agreed with McMullen’s position that the immediate dismissal of racial motives by the Dominican state was inexcusable and stated, “Such actions inspire fear and distrust in a population that is already extremely vulnerable, and do not indicate at all that the government is acting in good faith.”⁶⁶

A Tangled Knot

The state and civil society are not separate, but instead “a knot of tangled power relations.”⁶⁷ Antonio Gramsci noted

63 Roque Planas, “Haitian Man Lynched Amid Dominican Republic Immigration Controversy.”

64 Leith Mullings, “The Sojourner Syndrome,” 32.

65 Henry Jean Claude’s murder followed the release of the publication “Lynching in America: Confronting the Legacy of Racial Terror” a study published by the Equal Justice Initiative that increased the number of African American men, women and children “terror-lynched” in the U.S. between 1877-1950 to 3,959 people, 700 more than previously documented.

66 Kenya Downs, “Haitian’s Lynching Renews Protests Against Dominican Citizenship Law,” *NPR Code Switch*, February 14, 2015.

67 Kate Crehan, *Gramsci, Culture and Anthropology* (Berkeley, California: University of California Press, 2002), 103.

that “just because civil society in general represents consent rather than force, it by no means follows that civil society is, therefore, necessarily benign.”⁶⁸ In order to understand denationalization in the Dominican Republic our theoretical language must enable conversations about community and state at the same time and also engage denationalization as a xenophobic and racist practice targeting Dominicans of Haitian descent in multiple ways.⁶⁹ Evoking Carmen’s concern about the nurse after her heart attack, civil genocide can be understood as a slow death or a process that may lead to physical death. Statelessness in the Dominican Republic has been in the making for some time. The 1865 constitution of the Dominican Republic notes in Article 5 that “Dominicans are: 1) All those who were born or will be born in the territory of the Republic, regardless of their parents.”⁷⁰ From the 1929 constitution until the 2010 constitution, Dominican citizenship was considered the right of “All persons born in the territory of the Republic with the exception of the legitimate children of foreign residents in the country in diplomatic representation or in transit.”⁷¹ In other words, Dominican citizenship has been based on birthright or *jus soli*, the right of all persons born in the Dominican Republic between 1929 and 2010 to have citizenship, with the exception of those aforementioned. Yet, the Inter-American Commission on Human Rights (IACHR) reported that since the 1960’s Dominican government has documented the presence of Dominican citizens of Haitian descent as a problem warranting state intervention.⁷² Indicative of this position, in 1969 Manuel de Jesús

68 Kate Crehan, *Gramsci, Culture and Anthropology*, 103.

69 Partha Chatterjee, *The Nation and Its Fragments*, 11.

70 IACHR, “Situation of Human Rights in the Dominican Republic,” 70.

71 IACHR, “Situation of Human Rights in the Dominican Republic,” 70.

72 IACHR, “Situation of Human Rights in the Dominican Republic,” 70.

Estrada, one of the directors of the Office of the Director General of Immigration in the Dominican Republic, sent a notice to the president of the country, Joaquín Balaguer stating:

This serious problem the country is facing because of the many Haitian nationals, who have passively invaded our territory in massive numbers, is compounded by the fact that they are having children with Dominican women, children who, because they were born here, are Dominicans. Their numbers are an alarming magnification of the invasion that ultimately poses a real threat to our nationality. With the passage of time, the enormous nucleus of Haitians (estimated to be some 250,000 at the present time) will increase in number for the reasons previously explained, and the day is not far off when they will number one million. If this situation is not somehow stopped in time, it will -I repeat- pose a real threat to our nationality and to the very security of the country and the State.⁷³

The IACHR notes that the establishment of the children of Haitian migrants in the country is a natural consequence, essentially, of the Dominican state’s migratory policies and the clandestine acquisition of Haitian migrant labor throughout the 20th century. The Dominican state’s emphasis on a ‘passive invasion’ places the onus on Dominicans of Haitian descent, rather than acknowledging the state’s facilitation and encouragement of Haitian migration to the country under Consejo Estatal de Azúcar (CEA)/ Sugar Estate Council contracts.

In 1976, a few years after Manuel de Jesús Estrada sent the memorandum, the Secretary of the Armed Force Major General Juan Rene Beauchamp Javier also sent a letter to President Joaquín Balaguer advocating for a law under which migrant workers could be

73 IACHR, “Situation of Human Rights in the Dominican Republic,” 59.

classified as ‘foreigners in transit.’⁷⁴ The recommendation applied to migrant workers, not all foreigners. Thus, clearly targeting Haitian migrant workers who comprise the majority of the migrant population in the Dominican Republic by a far margin. Even if it applied to all foreigners, Haitian migrants also comprise the majority of foreigners in the Dominican Republic, “according to recent research, the official foreign population figures for the Dominican Republic was 524,632 in 2012, out of which 458,233 were Haitian—mostly with irregular status—and 66,399 were of ‘other nationalities.’”⁷⁵

When the IACHR visited the Dominican Republic in 1991 delegates observed the dual violation of rights: 1) the revocation of jus soli, birthright, and the 2) intent to pass on the exclusionary status of migrant parents to their Dominican descendants. The IACHR notes that in violation of the Dominican constitution which guaranteed jus soli, citizenship by birthright, Dominican authorities maintained that “if the individual is the child of persons with irregular immigration status, his or her migratory status is also irregular even if he or she was born here.”⁷⁶ They also noted the denial of paperwork to Dominicans of Haitian descent by Dominican state workers.

The 1996 election was initiated due to complaints of fraud during the 1994 election. On May 16, 1994, Joaquín Balaguer of the Social Christian Reform Party or el Partido Reformista Social Cristiano (PRSC) became President of the Dominican Republic for the seventh time. He defeated Francisco Peña Gómez, who had led in the opinion polls, by only 22,281 votes.⁷⁷ A Dominican man born in

74 IACHR, “Situation of Human Rights in the Dominican Republic,” 57.

75 Natalia Lippmann Mazzaglia and Pedro F. Marcelino, “Migratory Policy as an Exclusionary Tool: The Case of Haitians in the Dominican Republic,” *Laws* 3 (February 24, 2014): 169.

76 IACHR, “Situation of Human Rights in the Dominican Republic,” 60.

77 Ernesto Sagás, *Race and Politics in the Dominican*

Mao, Dominican Republic, Peña Gómez was targeted during the 1994 elections not only due to class prejudice, but because he was born to Haitian parents. His year of birth also happened to be 1937, the year of then President Rafael Trujillo’s massacre of Dominicans and Haitians identified as black.⁷⁸

During the second term, of ex-President of Leonel Fernández, heavily restricted migrants’ rights. This was from 2004 to 2012, ten years before Constitutional Tribunal ruling 168/13. These restrictions were later extended to Dominican citizens of Haitian descent with the ruling. When Fernández was invited by the School of Diplomacy and International Relations at Seton Hall University in New Jersey to speak in the Chancellor’s Suite as part of the World Leaders Forum, I observed a protestor shout that Fernández was “the architect of denationalization” in the Dominican Republic because the policies implemented during his presidency set the stage for mass dispossession under Tribunal Constitutional ruling 168/13.⁷⁹ These restrictions were later extended to Dominican citizens of Haitian descent with the ruling.

Although Fernández is not the current president of the Dominican Republic, he is “still pulling strings” according to journalist Juan Bolívar Díaz.⁸⁰ In fact, Fernández’s wife, Margarita Cedeño de Fernández, was elected vice president in May 2012 under the presidency of Danilo Medina after Fernández’s term came to an end. The 1996 election that gave Fernández his start as President; and this was one of the most racially charged campaigns and

Republic, 106.

78 Larry Rohter, “Jose Pena Gomez, 61, Rare Black Dominican Figure, Dies,” *New York Times*, May 12, 1998.

79 To read more about the protests, see: Nicholas Zietlinger. “Protestors Picket at World Leaders Forum,” *The Setonian*, September 30, 2015.

80 Juan Bolívar Díaz, Interview by Javiela Evangelista. *Telle Antillas: Santo Domingo, Dominican Republic*. 21 February 2014a.

elections in the history of the Dominican Republic. In turn, his presidency crafted the laws that led to denationalization.⁸¹

This discriminatory *de facto* system of negating the paperwork of Haitian migrants became officially authorized in the Dominican Republic in 2004, with the passage of Migration Law 285-04 which replaced a law in effect since 1939 and expanded the category of “foreigners in transit,” previously in reference to those visiting for a maximum of 10 days, to include non-residents, such as undocumented Haitian migrants no matter how long they had been living in the country.⁸² With this legal backing, migration authorities and the Junta Central Electoral (JCE) refused Dominican-born children of Haitian immigrants certified copies of their birth certificates with greater consistency and force. This is one of the central stepping stones of statelessness, wherein the delegitimization of Haitian migrants as “in transit” was utilized to justify the exclusion of their Dominican born children in Constitutional Ruling 168-13.

In October of 2005, the Dominican Republic was condemned by the Inter-American Commission on Human Rights (IACHR) on grounds of racial discrimination in the *Yean and Bosico v. Dominican Republic* case. The case was initiated in 1997 when two Dominican girls, Dilcia Yean and Violeta Bosico, were denied birth certificates by the Dominican registry because of their Haitian descent, which left them stateless. The denial of their birth certificates was a violation of the Dominican Republic’s constitution and Articles 20 and 24 of the American Convention on Human Rights.⁸³

81 Only exceeded by the 1994 election two years prior, for which the 1996 election was to serve as a corrective. Ernesto Sagás, *Race and Politics in the Dominican Republic*. (University Press of Florida, Gainesville, FL 2000), 109.

82 Natalia Lippmann Mazzaglia and Pedro F. Marcelino, “Migratory Policy as an Exclusionary Tool,” 165.

83 Allyn Gaestel, “Stateless in the Dominican Republic: Residents Stripped of Citizenship,” *Aljazeera America*, May 4, 2014; Miriam Neptune, (Producer), *Birthright*

Two years after the *Yean and Bosico v. Dominican Republic* case, on March 29, 2007, the Dominican Central Electoral Council (JCE) issued Circular 017 which officially instructed its employees to deny paperwork to children born to undocumented immigrants.⁸⁴ Circular 017 violated Article 8.5 of the Dominican Constitution, Articles 6, 31 and 89 of Law 659 concerning acts of the state and Article 6 of the Electoral Law 275-97.

Initially Constitutional Tribunal ruling 168/13 was actually a ruling against one Dominican woman born in the Dominican Republic to two Haitian parents, Juliana Deguis, not thousands of Dominicans of Haitian descent.⁸⁵ After the Central Electoral Board or Junta Central (JCE) sequestered Juliana’s birth certificate in 2008 due to the alleged Haitian sound of her name and refused to issue her identity card, a common practice. In response, Deguis initiated a case in opposition to the Dominican government. The Constitutional Tribunal Court rejected Deguis’ appeal, arguing that her parent’s documents, at the time of her birth, did not prove their regular migration status in the country and therefore, they were “foreigners in transit,” which relegated Deguis’ status to foreigner as well.

The Constitution in force at the time that Deguis was born guaranteed the right to citizenship for those born in Dominican territory (*jus soli*) with the exception of children born to foreigners “in transit” in the Dominican Republic for a period of 10 days, such as diplomats. Juliana’s parents had resided in the Dominican Republic for many years. When the Dominican

Crisis, Haitian Women for Haitian Refugees, 2005.

84 Juan Bolívar Díaz, Interview by Javiela Evangelista. SEIU 1199 Office: New York, New York. 13 May 2014b.

85 The Constitutional Tribunal in the Dominican Republic is ultimately a high court to ensure that laws are constitutional. The judges of the Tribunal are subject only to the Constitution and their decisions are final. 85Inter-American Commission on Human Rights (IACHR), “Report on the 150th Session of the IACHR”, May 13, 2014a; Inter-American Commission on Human Rights (IACHR), “Basic Documents in the Inter- American System.”

Constitutional Tribunal issued the judgment in Juliana’s case on September 23, 2013, the decision applied en mass to hundreds of thousands of Dominican nationals born to Haitian parents who were now labeled as “in transit,” regardless of the amount of time they or their parents had spent in the country, which in most cases was much longer than 10 days, in fact, years or several generations.⁸⁶

Prior to 2010, under *jus soli*, those born in the Dominican Republic were entitled to citizenship by birthright. Moving forward, after January 1, 2010 (retroactive to the start of the year), Dominican nationality would no longer be provided to children born to undocumented immigrant parents. Post-2010, having at least one Dominican parent or *jus sanguinis* (birthright by blood) would be required to secure citizenship. To choose *jus sanguinis* over *jus soli* was the Dominican government’s sovereign right. It is the retroactivity of the 2013 Constitutional Tribunal Ruling 168-13 that followed which made foreigners out of citizens, in violation of Dominican domestic law and international law. The 2010 constitution clearly recognizes the nationality of those who were Dominican nationals *prior to* 2010, in article 18.2.⁸⁷

Without a birth certificate, a *cédula* cannot be acquired and without a *cédula*, a child cannot go to school, have access to healthcare or obtain many other essential civil liberties.⁸⁸ School, a decisive component of social, economic and political mobility, is often one of the first places where denationalized children (or those labeled as foreigners) face obstacles

86 IACHR, “Report on the 150th Session of the IACHR, 75”

As noted previously, in 2004, the category of “in transit” was expanded beyond a tenure of 10 days to include migrants, the majority of whom are Haitian in the Dominican Republic.

87 Open Society Foundations, “Dominican Republic Nationality Report,” October 2010.

88 Amnesty International, “Dominican Republic Withdrawal Top Regional Human Rights Court Would Put Rights at Risk,” *Amnesty International News*, November 6, 2014.

due to lack of documentation.

In the 2010 Dominican Constitution, Article 63 asserts the right to free initial, primary, and secondary education for ‘everyone’ and adds that this protection includes children without documentation.⁸⁹ In fact, documents are not legally required for access to free initial, primary and secondary education in the Dominican Republic, yet lack of access to education for children who are stateless or at risk of statelessness in the Dominican Republic is inextricably linked to the denial of official documentation.⁹⁰

In the Dominican Constitution, Article 39, ensures the right to equality irrespective of national or family origin, language, color, and other factors.⁹¹ The right to education in the Dominican Republic also has binding force based on the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the American Convention on Human Rights (ACHR).⁹² Education may also work to safeguard children from exploitation and danger, promote human rights and democratic ideals, and help to empower women and girls.⁹³ Lack of access to education is consequential for many reasons, primarily because education is generally a prerequisite to employment opportunities, and an important factor for achievement in life and a positive

89 Georgetown Law Human Rights Institute Fact Finding Project, “Left Behind,” 18.

Article 75 of the Dominican Constitution determines that primary school is compulsory. It is worth noting that from 2011 to 2012 there were approximately 48,000 undocumented children in the public primary school system and 22,732 were registered as foreigners.

90 Georgetown Law Human Rights Institute Fact Finding Project, “Left Behind,” 19-20.

91 Georgetown Law Human Rights Institute Fact Finding Project, “Left Behind,” 18.

92 Georgetown Law Human Rights Institute Fact Finding Project, “Left Behind,” 7. ⁸⁰ Georgetown Law Human Rights Institute Fact Finding Project, “Left Behind,” 9.

93 Georgetown Law Human Rights Institute Fact Finding Project, “Left Behind.”

standard of living. Dominican nationals without documentation are unable to take the required exams to move past the 8th grade or go to college.⁹⁴ Efforts to exclude Dominicans of Haitian descent from Dominican citizenry are not new, and obstacles to belonging at birth or in the education process are simply early stages of civil genocide.

In the end, the civil genocide of Dominicans of Haitian descent violates Dominican law. For example, although the 2010 Dominican Constitution changed the conditions of citizenship from birthright (*jus soli*) to bloodline (*jus sanguini*), Article 18.2 of the 2010 Constitution also guaranteed citizenship to “those who enjoy Dominican nationality before the entry into force of this Constitution.”⁹⁵ Therefore, the transition from *jus soli* to *jus sanguini* was applicable only to those born after January 2010, not before. Tribunal Constitutional ruling 168/13 also violates and counters several articles of the Dominican constitution.

Secondly, Tribunal Constitutional ruling 168/13 violates the Dominican constitutional principle of the non-retroactivity of the law, raised in Article 110: Non- retroactivity of the law.⁹⁶ In 2013, Tribunal Constitutional ruling 168/13 was made valid retroactively to 1929, although the 2010 constitution was only applicable moving forward after January 2010, thus essentially revoking citizenship that had previously been guaranteed under the constitution, which paradoxically

94 Juan Bolívar Díaz, Interview by Javiela Evangelista. SEIU 1199 Office: New York, New York. 13 May 2014b.
95 Juan Bolívar Díaz, Interview by Javiela Evangelista. SEIU 1199 Office: New York, New York. 13 May 2014b.
Natalia Mármol, “Sentencia Sobre Nacionalidad Viola al Menos Cuatro Artículos de la Constitución.”

96 Juan Bolívar Díaz. Interview by Javiela Evangelista. SEIU 1199 Office: New York, New York. 13 May 2014 b; Natalia Mármol, “Sentencia Sobre Nacionalidad Viola al Menos Cuatro Artículos de la Constitución.”; Nassef Perdomo, “Legal Analysis of TC 168/13.” Originally published in *Gaceta Judicial* No. 323, October 2013. Reprinted with authorization by We Are All Dominican. It also violates Article 9 of The American Convention on Human Rights (ACHR)

is unconstitutional. Retroactive to 1929, a wide range of people have been impacted by Constitutional Tribunal ruling 168/13. Lola shared with the circle, the generational implications of the law:

We are talking about four generations. From 1929 to today, there are many Dominicans of Haitian descent who have children, properties and businesses. To be denationalized had a huge impact. They gave us our nationality and then after 20, 40, 70 years they tell us it doesn't pertain to us.⁹⁷

Under birthright citizenship, for all born between 1929 and the 2010 when the constitution changed, are entitled to citizenship status unless they have committed certain crimes (or again their parents were in transit). Juan Bolívar Díaz, longstanding and well known Dominican advocate for the rights of Dominicans of Haitian descent, host of the popular *Uno Mas Uno* TV program and journalist with *Hoy* newspaper, notes that the only issue would be if documents were violated and someone invented or bought a document and it has been proven that they are not Dominican, but an imposter.⁹⁸ Yet, the Dominican nationals whose citizenship has been revoked, certainly the majority, have not committed this crime. Even if their parents had committed a crime related to their identity, which has been a popular accusation by the Dominican state, according to international human rights laws that protect children, Dominicans of Haitian descent should not be penalized. In fact, lawyer Cristobal Rodriguez has shown how the Constitutional Tribunal ruling 168/13 is inconsistent with previous rulings of the IACHR that determined

97 Lola, Interview by Javiela Evangelista. Residence in Santo Domingo, Dominican Republic. 23 December 2014.

98 Juan Bolívar Díaz, Interview by Javiela Evangelista. Telle Antillas: Santo Domingo, Dominican Republic. 21 February 2014a. Many states make exceptions to the mandates of domestic and international law. If fact, the right to liberty may be restricted if a person is charged or found guilty of a crime by a court of law. The former was the case with Edward Snowden in the United States.

that a parent's nationality or condition surrounding it, could not affect the children. Constitutional Tribunal ruling 168/13 also violates Article 74 of the Dominican constitution by interpreting and applying rules above fundamental rights and guarantees, which work against the spirit in which the law was designed.⁹⁹ Judgments of international law are binding and form part of the Dominican constitutional block.¹⁰⁰

Finally, Constitutional Tribunal ruling 168/13 violates two parts of Article 69 of the Dominican Constitution, on effective judicial protection and due process.¹⁰¹ Article 69.2 preserves the right to be heard within a reasonable time by a competent, independent and impartial court, established by law. Article 69.4 also protects the right to a public, oral and adversarial trial, with full equality and respect for the right of defense.¹⁰² In the case of Juliana Deguis, for example, the state imparted a decision that had a detrimental effect on thousands of people who had no opportunity to go to court to raise their concerns or positions.¹⁰³

In addition to violating the Dominican constitution, Constitutional Tribunal ruling 168/13 goes against international human rights law, although the Dominican state recognizes international human rights law in the Dominican legal system. According to Resolution 1920-2003 from November 13, 2003, the Dominican government recognizes that under Articles 3 and 10 of the Constitution of the Republic, all human rights standards are of direct and immediate application.¹⁰⁴ Under

international law, the Universal Declaration of Human Rights guarantees that human beings should have the right to nationality.¹⁰⁵ Furthermore, human rights are rights inherent to all human beings, whatever one's nationality.¹⁰⁶ International Law aims to protect populations from discrimination; in fact, non-discrimination is a cross-cutting principle in international human rights law.

June 17, 2015 marked the deadline for the registration of Dominican nationals who did not have proof of nationality and also the deadline for the Regularization Plan for migrants. Amongst other forms of uncertainty and misinformation, setting the same deadline for both Dominican nationals and Haitian migrants to regularize their status caused a great deal of confusion. The omission of the impact of statelessness on Dominican nationals by the media, furthered the blurring of categories. A *New York Times* headline stated, "Dominican Republic Set to Deport Haitian Migrants," while an *Aljazeera America* headline read, "Haitian migrants allege deportation, but DR disputes claims."¹⁰⁷ None of the article titles reviewed noted at this time the denationalization of Dominican nationals. The *Miami Herald* reported "Deportations loom in Dominican Republic for Haitian migrants who failed to register" and *CNN* chimed in with the headline, "Tent cities sprouting in Haiti as migrants return from Dominican Republic."¹⁰⁸ It was not only

en el Ordenamiento Jurídico Dominicano. Editora Centenario, Servicio Jesuita a Refugiados y Migrantes. (Santo Domingo, República Dominicana, Octubre 2006), 27.

¹⁰⁵ Julia Harrington-Reddy, "Dominican Ruling Strands the Suddenly Stateless."

¹⁰⁶ United Nations Human Rights Office of the High Commissioner, "What are human rights?"

¹⁰⁷ Azam Ahmed and Paulina Villegas, "Dominican Republic Set to Deport Haitian Migrants," *New York Times*, June 17, 2015; Matt Chandler, "Haitian Migrants Allege Deportation, but DR Disputes Claims," *Aljazeera America, International*, July 30, 2015.

¹⁰⁸ Mariano Castillo, "Tent Cities Sprouting in Haiti as Migrants Return from Dominican Republic," *CNN Americas*, July 30, 2015; Jacqueline Charles, "Deportations Loom in Dominican Republic for Haitian Migrants Who

⁹⁹ Natalia Mármol, "Sentencia Sobre Nacionalidad Viola al Menos Cuatro Artículos de la Constitución."

¹⁰⁰ Natalia Mármol, "Sentencia Sobre Nacionalidad Viola al Menos Cuatro Artículos de la Constitución."

¹⁰¹ Natalia Mármol, "Sentencia Sobre Nacionalidad Viola al Menos Cuatro Artículos de la Constitución."

¹⁰² Natalia Mármol, "Sentencia Sobre Nacionalidad Viola al Menos Cuatro Artículos de la Constitución."

¹⁰³ Natalia Mármol, "Sentencia Sobre Nacionalidad Viola al Menos Cuatro Artículos de la Constitución."

¹⁰⁴ Nassef Cordero Perdomo, *La Discriminación Racial*

migrants, but Dominican nationals, and Dominican nationals were not “returning” to Haiti, as the *CNN* article implied. Born and raised in the Dominican Republic, many had never been to Haiti.¹⁰⁹ Although concern over the treatment and rights of Haitian migrants is equally important, the omission of the impact of denationalization and the pending danger of deportation for Dominican nationals was alarming.

Ultimately, the proliferation of uncertainty and misinformation by the Dominican government limited a full understanding of the issues and proper advocacy locally and internationally. While the emphasis was on migrants, many nationals were not identified as in need of services and as a result unable to successfully complete vital paperwork. The uncertainty and misinformation about Dominicans of Haitian descent also fueled aggression against Dominicans of Haitian descent who were often depicted, by those unclear about the rights of Dominican nationals and the impact of Tribunal Constitutional ruling 168/13, as troublemakers bringing misdirected and negative attention to the Dominican Republic. The denationalization and racialization of Dominicans of Haitian descent today must be understood as a separate legal struggle from that of their Haitian migrant family.

Evading Censorship

It was a really hot day. The church was full. There was barely an empty seat. “I am not afraid to say that the Dominican government is wrong,” exclaimed Marino Zapete at Riverside Church in reference to the denationalization of Dominicans of Haitian descent.¹¹⁰ The crowd gave a

Failed to Register,” *Miami Herald*, June 17, 2015.

109 Amnesty International, “Dominican Republic Officially Resumes Deportations Amid Concerns for Dominicans of Haitian Descent,” *Amnesty International Public Statement*, August 21, 2015.

110 Marino Zapete, Presentation at Riverside Church, Harlem, New York. July 19, 2015.

huge applause. One of the highest paid journalists in Dominican Republic at the time, Zapete had been a voice for social justice for many years. A few months after his presentation at Riverside church, along with his co-host Edith Febles, Zapete announced that December 11, 2015 would be their last day on the air for their program *El Despertador (The Alarm)*. The channel reported that the show would be cut due to financial reasons, however Zapete clarified that the show was taken off the air because his journalism “does not fit what the market is buying. The market wants to buy journalism that does not involve commitment (to social justice)” and as a result “we have been removed by power.”¹¹¹

As a result of their advocacy for Dominicans of Haitian descent, several Dominican journalists in the Dominican Republic have been harassed and received death threats. While we waited for his press conference to begin at the SEIU 1199 office outside of Times Square during his visit to New York, journalist Juan Bolivar Diaz shared with me, “I have had many death threats because I speak the truth. But I am not afraid. As long as I can speak, I will speak the truth, regardless of the consequences.”¹¹² When the son of Nobel Laureate novelist Mario Vargas Llosa, and the head of the United Nations High Commission for Refugees (UNHCR) in the Dominican Republic, Gonzalo Vargas Llosa, denounced denationalization and compared it to the stripping of the citizenship of Jews in Nazi Germany, his father’s books were burned publicly.¹¹³ A movement also started, supported by 60 organizations, to name him *persona non-grata*.¹¹⁴ *Persona non-*

111 Romilka Pérez, “Video: Marino Zapete y Edith Febles explican su salida de El Despertador”, *Hoy*, December 7, 2015.

112 Juan Bolívar Díaz, Interview by Javiela Evangelista. SEIU 1199 Office: New York, New York. 13 May 2014b.

113 *Diario Libre*, “Declaran en Santiago Persona ‘Non Grata’ a Hijo de Vargas Llosa,” Noviembre 13, 2013.

114 *Diario Libre*, “Declaran en Santiago Persona ‘Non Grata’ a Hijo de Vargas Llosa.”

grata literally means a person who is not appreciated and generally refers to a foreign person who is then prohibited by the country's government from staying in or going into the country. Furthermore, during a 2015 press conference where Jose Miguel Vivanco, Human Rights Watch (HRW) Director for Latin America, was to share his observations about human rights abuses against Dominicans of Haitian descent, there was interference from the media.¹¹⁵ Upon Vivanco's departure from the country, he was held and unable to leave from Las Américas Airport of Santo Domingo. Vivanco reported, "Once I arrived at the airport and went to the controls, a person from Immigration took my passport, I was told that there was a problem, that they have superior orders to check because your name is on a list of persons with a travel ban."¹¹⁶ Vivanco added, "I obtained help from the great journalist Juan Bolívar Díaz to get someone on line to resolve the situation. Around 7 am I had my passport. But the lesson was already taught. It was an abuse of power."¹¹⁷ The censorship of Zapete, Vivanco and Bolívar Díaz are just selected examples of such abuses of power. They come, too, after a long history of efforts by the Dominican state to mold knowledge production around race and nation in the Dominican Republic.

The gravity and urgency of forced displacement extends far beyond the Dominican Republic. The year after the ruling, 59.5 million people were in a state of forced displacement globally, due to "persecution, conflict, generalized violence or human rights violations," currently there are 89.3 million people forcibly displaced.¹¹⁸ In 2020 however, only 3.9 million stateless people were documented, which the UNHCR admits

115 Dominican Today, "Human Rights Watch Slams Dominican Republic Reporters' 'Ambush,'" July 6, 2015.

116 Dominican Today, "Human Rights Watch Slams Dominican Republic Reporters' 'Ambush.'"

117 Dominican Today, "Human Rights Watch Slams Dominican Republic Reporters' 'Ambush.'"

118 UNHCR 2022

reflects underreporting (UNHCR, 2020). Citizenship represents both the "engine of universality and a break or limit upon it." (Bosniak 2006, p. 18)¹¹⁹ The Constitutional Tribunal ruling 168/13, as well as the laws that precede it, demonstrate how states use constructions of citizenship to reorder society, and more specifically how racialization can be a process through which citizenship is measured and mobilized.¹²⁰ The impacts of civil genocide are multiplicative, often relentless, frequently over space and time. There is much more at stake than nationality.

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119 Adriana Petryna and Karolina Follis, "Risks of Citizenship and Fault Lines of Survival," 402.

120 Deborah Thomas and Kamari M. Clarke, "Globalization and Race," 313.

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