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# Statelessness and Human Trafficking: A Case Study of Haitian-Dominicans

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# **Statelessness and Human Trafficking: A Case Study of Haitian-Dominicans**

By  
Anabel Reyes-Ovalles

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Submitted in partial fulfillment  
Of the requirements for Honors in  
the Department of Latin American and Caribbean Studies and Political  
Science

UNION COLLEGE  
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## ABSTRACT

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ADVISORS: Meade, Teresa and Marso, Lori

This thesis explores whether stateless persons are more vulnerable to human trafficking and why. My primary example will be the 2013 Dominican Republic Supreme Court ruling, which rendered Haitian-Dominicans stateless. To understand current Dominican Republic-Haiti relations, this thesis addresses contentious historical accounts of these countries' relations, particularly from the 1960's to 2015. This case study will focus on the vulnerable relationship of citizens to a state, specifically the vulnerability of *defacto* statelessness versus *dejure* statelessness. I argue that *dejure* statelessness is a particularly severe condition that contributes to human trafficking.

This thesis draws upon both primary and secondary sources including, published reports, journals, news film footage, and documentaries. Ethnographic research and interviews focusing on Dominican-Haitian relations will also be discussed in the later chapters. The qualitative and quantitative data collected throughout the thesis focuses on the way internal factors, such as human insecurity, discrimination and lack of dealing with structural problems of statelessness and human trafficking places a stateless person at a *higher* risk of becoming a victim of trafficking.

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### I. Introduction

Migration can be voluntary or by force— but it is always a difficult process. From the recent wave of Syrian refugees that have swamped Europe seeking asylum to the tens of thousands of Haitian-Dominicans who have lost their national citizenship, political turmoil continues to engender migration. Many people do not have a choice and leave their home country in economic pursuit; while others are forced into finding a new life and either adapt to their new host country or pursue ways to return back “home”.

In *From Poverty to Power: How Active Citizens and Effective States Can Change the World*, Duncan Green examines restrictive migration policies and how they “have contributed to the proliferation of traffickers and smugglers”.<sup>1</sup> This is a concept that governments do not focus on because they assume that everyone wants to come to a country when people immigrate. Since it becomes very difficult to monitor who leaves and comes back from a country, migration also undermines human security because of the many ways that migrants are exploited through forms of human trafficking.

As Duncan argues, “human trafficking is the largest criminal activity worldwide (9.5 billion every year just by trafficking; further revenues estimated in 32 billion dollars),” demonstrating that illicit migration occurs on a daily basis.<sup>2</sup> By undermining human security, states destabilize the rights that a migrant has acquired by being part of a state. It should not matter what state the migrant comes from since regulating migration will engender new ways of safeguarding any migrant. Therefore, it is key to regulate and coordinate migration regionally and globally in order to secure a

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<sup>1</sup> Green, Duncan. *From poverty to power: how active citizens and effective states can change the world*. Auckland Park, South Africa: Jacana. 2012. 9. Print.

<sup>2</sup> Green, Duncan. *From poverty to power: how active citizens and effective states can change the world*. Auckland Park, South Africa: Jacana. 2012. 11. Print.

person's human security status. However, this becomes especially more difficult during non-migration contexts when a 'citizen' is considered stateless by law. In order to address the issue of how statelessness puts a person at a higher risk of becoming trafficked, I will establish the following: a brief history of statelessness, what does it mean to be stateless in terms of human security, and how *de jure* statelessness leads to a vulnerability of becoming trafficked.

## **II. The Concept of Citizenship**

In 1948, the United Nations General Assembly Council created the Universal Declaration of Human Rights (UDHR) to acknowledge inherent human rights. The UDHR states, "everyone has the right to a nationality" and that "no-one shall be arbitrarily deprived of his [her] nationality."<sup>3</sup> Although the declaration was proclaimed as a common standard for all nations to uphold, people in many parts of the world continue living without a link to a state and lack the security that such citizenship can provide.

Citizenship is usually obtained in two ways: birth on the territory of the state or birth through descent— meaning a parent who is a national. Birth through descent, also known as *Jus Sanguini* is most common throughout most parts of the world, meanwhile birth right nationality— *Jus Soli*— can be seen mostly in the Americas.<sup>4</sup> Arguably, there are complications with both *Jus Soli* and *Jus Sanguini* in that many states tend to apply a combination of the two and are not conclusive with their process of nationality. At the same time, restrictive unconditional basis for citizenship has thought to be a contributing factor to inequality amongst nations and statelessness due to a conflict of nationality laws.

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<sup>3</sup> "Universal Declaration of Human Rights." *United Nations Human Rights*. United Nations. Web. 7 Nov. 2015.

<sup>4</sup> Migration Policy Institute: "Citizenship in a Globalized World" by Greta Gilbertson, January 2006.



### III. A Brief History of Statelessness:

Statelessness is a phenomenon as old as the concept of citizenship. The United Nations Department of Social Affairs conducted the first ever *Study of Statelessness* in 1949.<sup>5</sup> The study focuses on the difference between a person in possession of a legal personality and a person not considered as a national by any state under the operation of its law. This is mainly because “[the] law recognizes the State as the sole authority responsible for determining the rules of governing the attribution of its own nationality”.<sup>6</sup> Consequently, statelessness has existed due to the absence of general rules for the acknowledgement of nationality and the inconsistencies between the various national legislations.<sup>7</sup>

#### *Before and After the Second World War*

In the early twentieth century, people’s citizenship was mostly defined through the traditional primitive concept of nationality—where people transferred an attachment to their land.<sup>8</sup> Consequently, before the First World War, these basic assumptions prohibited the existence of statelessness. However, after the First World War, ethnicity, language, and race became more relevant, as groups were excluded from acquiring citizenship following these transfers. Nevertheless, it became impossible to be stateless because the nation-state system, as developed through international law, was not in place. However, it was not until the territorial restructuring and social crises after the First World War when statelessness became of significance internationally. Thus, in order to understand why the issue of statelessness is relevant to today, it is important to recognize how the concept was recognized before and after the Second World War.

#### *Before the Second World War:*

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<sup>5</sup> *A Study of Statelessness*. Lake Success, NY: United Nations, Dept. of Social Affairs, 1949.5. Print.

<sup>6</sup> *A Study of Statelessness*. Lake Success, NY: United Nations, Dept. of Social Affairs, 1949.5. Print.

<sup>7</sup> *A Study of Statelessness*. Lake Success, NY: United Nations, Dept. of Social Affairs, 1949.6. Print.

<sup>8</sup> Migration Policy Institute: “Citizenship in a Globalized World” by Greta Gilbertson, January 2006.

Before the Second World War, there were no reliable statistics stating who was considered a stateless person. This is why the statistics relied mostly on refugees. According to data assembled by Sir John Simson, an authority on this subject, the figures for the main categories of refugees were as follows<sup>9</sup>:

(a) Russian refugees: in 1922, 718,000-772,000; in 1930, 503,000-536,000; in 1936: 355,000- 386,000.

To these must be added about 95,000 Russian refugees in the Far East, making a total of about 450,000.

(b) Armenian refugees: in 1924, 205,000; in 1930, 210,000; in 1936, 225,000.

Of these 225,000, 134,466 had acquired Syrian or Lebanese nationality.

(c) Spanish refugees: in 1939, 400,000.

(d) Italian refugees: Sir John Simson estimates that in 1938 there were 10,000 Italians living in France who could not return to Italy and 50,000 for whom return would have been difficult. The figure of 60,000 should be tripled to allow for the refugees' families, thus bringing the total to 180,000 persons.

(e) German refugees: at the end of 1938 the number of German refugees was 350,000.

Although this evidence may not be perfectly accurate, it is apparent that the number of refugees fluctuated yearly mostly in Europe. In addition, the concept of statelessness was slowly rising as seen by the example of Italy since many Italians refugees had difficulty in returning back home. Therefore, statelessness proves to slowly be added as another layer besides refugees before the Second World War.

*After the Second World War:*

The preparatory Commission of the International Refugee Organization (IRO) established in the spring of 1947, tried to estimate the number of refugees and “displaced

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<sup>9</sup> *A Study of Statelessness*. Lake Success, NY: United Nations, Dept. of Social Affairs, 1949. 9.Print.

persons” entitled to its aid and protection post-World War II. The IRO collected information from the Inter-Governmental Committee for Refugees, the United Nations Relief and Rehabilitation Administration (UNRRA), and the military authorities in occupied Germany.<sup>10</sup> In May 1947, the Executive Secretary of the Preparatory Commission gave the numbers of refugees and displaced persons entitled to receive aid or protection from IRO as follows:

	<b>Protection and help</b>	<b>Protection only</b>
Germany	671,900	800,000
Austria	138,800	128,500
Belgium	5,000	----
China	13,500	12,000
Spain	482	482
France	431,200	150,000
Italy	146,500	146,000
Middle East	33,000	30,000
Netherlands	5,000	---
Portugal	230	230
United Kingdom	60,000	---
Sweden	40,800	---
Switzerland	13,200	12,000
Turkey	1,200	1,200
	1,562,812	1,280,912

Figure 1. Table from ‘A Study of Statelessness’<sup>11</sup>

<sup>10</sup> *A Study of Statelessness*. Lake Success, NY: United Nations, Dept. of Social Affairs, 1949.9. Print.

<sup>11</sup> *A Study of Statelessness*. Lake Success, NY: United Nations, Dept. of Social Affairs, 1949.9. Print.

Once “summed up” the balance represented the number of refugees who would be entitled to international protection and help from the IRO. Although not an accurate representation of stateless persons, the statistics on refugees’ aids took into account where and how these people might have become vulnerable to statelessness.

The IRO had yearly accounts from 1947- 1948 documenting the following:

July 1947: Protection and assistance; 704,000 refugees and displaced persons: protection only, 900,000 refugees (including 550,000 pre-war refugees).<sup>12</sup> Total for the two categories were amounted at 1,604,000. As of July 1948: the number of persons assisted declined to 508,000 in the three Western Zones of Germany, 37,000 in Austria, 25,000 in Italy, 10,000 in the Middle East, 19,000 in Czechoslovakia, the Far East, France, the Netherlands, Spain and Portugal. Total 599,000.<sup>13</sup> These refugees were of some thirty different nationalities, the main ones being Poles, 253,637; Ukrainians, 99, 946; Latvians, 72,026; Lithuanians, 43,717; Yugoslavs, 26,943; Estonians, 20, 294; Romanians, 15,207; Hungarians, 10,789<sup>14</sup>(The Study of Statelessness, 9).<sup>15</sup> Overall, these statistics are extremely important in understanding the increase of refugees and their statuses through the IRO from before the Second World War to after the Second World War.

The United Nations was set up immediately after World War II and one of the organization’s largest tasks was dealing with the mass refugee population. The UN was essential in establishing the 1951 Refugee Convention during the aftermath of the Holocaust amongst other reasons. The 1951 Refugee Convention was a legal document, which helped determine the Status of Refugees by defining who is a refugee, their rights and the legal obligations of states.<sup>16</sup> However, Charlotte Alfred, author of the

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<sup>12</sup> *A Study of Statelessness*. Lake Success, NY: United Nations, Dept. of Social Affairs, 1949.9. Print.

<sup>13</sup> *A Study of Statelessness*. Lake Success, NY: United Nations, Dept. of Social Affairs, 1949.9. Print.

<sup>14</sup> *A Study of Statelessness*. Lake Success, NY: United Nations, Dept. of Social Affairs, 1949.9. Print.

<sup>15</sup> *A Study of Statelessness*. Lake Success, NY: United Nations, Dept. of Social Affairs, 1949.9. Print.

<sup>16</sup> "The 1951 Refugee Convention." *UNHCR News*. Web. 08 Nov. 2015.

article “What History Can Teach Us About The Worst Refugee Crisis Since WWII”, mentions “some refugees languished without help for years after WWII ended”<sup>17</sup>. This might have been because a lot of the responsibility was placed on the United Nations to solve the refugee problem. Alfred concludes that there was a lot of ambiguity in the legal obligations of the states.<sup>18</sup> Consequently, it is evident that one of main problems with the aftermath of WWII was that although there was international cooperation, refugee protection was a global responsibility.

One of the difficulties of establishing statelessness as an international problem was that at that the time no account had been taken of stateless persons who were not refugees.<sup>19</sup> It then became impossible to submit statistics concerning the number of stateless persons in need of international legal and political protection. Nevertheless, the *Study of Statelessness* offers some statistics on the number of refugees that at the time were a responsibility of the International Refugee Organization, which helped in deciding whom should be given legal and political protection.<sup>20</sup> As stated in the study, the IRO is responsible for the repatriation or resettlement of refugees who are under its care, but not for the repatriated refugees or those who acquire the nationality of the country of re-establishment.<sup>21</sup>

Since most refugees had never received material assistance from the IRO—only legal protection— many had not been accounted for. In order to determine the number of refugees who would require international and legal political protection, the IRO had to take into account the following several conditions when determining the statistics of refugees. These included:

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<sup>17</sup> Alfred, Charlotte. "What History Can Teach Us About The Worst Refugee Crisis Since WWII." *Huffington Post*. 12 Sept. 2015. Web. 8 Nov. 2015.

<sup>18</sup> Alfred, Charlotte. "What History Can Teach Us About The Worst Refugee Crisis Since WWII." *Huffington Post*. 12 Sept. 2015. Web. 8 Nov. 2015.

<sup>19</sup> *A Study of Statelessness*. Lake Success, NY: United Nations, Dept. of Social Affairs, 1949.7 Print.

<sup>20</sup> *A Study of Statelessness*. Lake Success, NY: United Nations, Dept. of Social Affairs, 1949.8.Print.

<sup>21</sup> *A Study of Statelessness*. Lake Success, NY: United Nations, Dept. of Social Affairs, 1949.6.Print.

- A. The total number of individuals who fled from their country of origin and who become *stateless de jure* or *de facto*.
- B. The descendent of these refugees who did not acquire a nationality at birth.
- C. The number of those who have died since their expulsion, and those who were repatriated or naturalized.
- D. The number of re-established refugees who would probably not require international protection.<sup>22</sup>

#### **IV. Present day Definition of Statelessness:**

After the 1954 Convention of the United Nations High Commissioner for Refugees, it defined under international law a “stateless person” as someone “who is not considered as a national by any State under operation of its law”.<sup>23</sup> However, this definition does not necessarily take into account how and why this person may have been categorized as “stateless” and thus, the *Study of Statelessness* offers a categorical definition of stateless person as *de jure* and *de facto*. *De jure stateless* is referred to as “persons who are not nationals of any State, either because at birth or subsequently they were not given any nationality, or because during their lifetime they lost their own nationality and did not acquire a new one”.<sup>24</sup> Meanwhile, stateless persons *de facto* are “persons who, having left the country of which they were nationals, no longer enjoy the protection and assistance of their national authorities, either because these authorities refuse to grant them assistance and protection of the countries, or because they themselves renounce the assistance and protection of which they are nationals”.<sup>25</sup> It is important to distinguish these two types of statelessness since the responsibility of the state for protection is different depending on the type of statelessness and the way that

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<sup>22</sup> *A Study of Statelessness*. Lake Success, NY: United Nations, Dept. of Social Affairs, 1949. 9.Print.

<sup>23</sup> "UNHCR: The UN Refugee Agency." *UNHCR News*. Web. 08 Nov. 2015.

<sup>24</sup> *A Study of Statelessness*. Lake Success, NY: United Nations, Dept. of Social Affairs, 1949. 8. Print.

<sup>25</sup> *A Study of Statelessness*. Lake Success, NY: United Nations, Dept. of Social Affairs, 1949. 8.Print.

citizenship law is practiced within a state. Furthermore, it is better to speak about *de jure* and *de facto* unprotected persons. Generally, refugees are *de facto* unprotected and stateless persons are *de jure* unprotected.<sup>26</sup>

### *Criteria of statelessness*

In order to understand what statelessness is, it is best understood by defining what statelessness is not. According to the UNHCR guidelines and the Handbook on Protection of Stateless Persons, statelessness encompasses some of the following<sup>27</sup>:

1. Statelessness occurs in both migration and non-migration a context, therefore, a person *does not* need to have crossed an international border.
2. It is not relevant how the person came to be without a nationality or whether there is the possibility for the person to acquire a nationality by taking some kind of action, however, what is relevant is whether, the person is considered a national of *any* state.
3. For a person to be “stateless” it does not require proving the lack of recognition as a national by *all* of the world’s states.
4. For a person to be considered “stateless” it does not matter if there are nationality laws in practice, but *how* the authorities interpret the law.

These are some of the criteria taken into consideration when defining what it means to be a stateless person, versus a migrant or a refugee. A stateless person can also be a refuge in certain instances, for example, if they have fled their country due to a fear of persecution. However, the difference between a stateless person and a refugee is important in that asylum or nationality is almost always granted based on certain factual

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<sup>26</sup> Under The 1954 Convention Relating To, and The Status Of Stateless Persons. *Handbook on Protection of Stateless Persons* .UNHCR.org. 2014. Web. 7 Nov. 2015

<sup>27</sup> Under The 1954 Convention Relating To, and The Status Of Stateless Persons. *Handbook on Protection of Stateless Persons* .UNHCR.org. 2014. Web. 7 Nov. 2015.

links between a person and a state: either links through family or through territory, something that *de jure* stateless lack.

*Causes of Statelessness:*

In order to understand these different groups of stateless persons, *de jure* and *de facto*, it is essential to comprehend the causes of statelessness and how they are classified. The causes of statelessness may be classified in five groups <sup>28</sup>:

1. Deprivation of nationality as a penalty. This factor causes *de jure statelessness* during a person's lifetime.
2. Inadequacy and conflict of national legislations concerning nationality, which causes *de jure* statelessness either from birth or later.
3. One of the most common, racial, religious, or political persecution. This factor causes *de jure statelessness* when the person in their own country is deprived of his/her nationality because of his racial origin, religious beliefs or political sentiments. However, it may also cause *de facto* stateless when the victim has taken asylum abroad.
4. Mass emigration of nationals caused by changes in political, social system or even environmental catastrophe. This factor causes *de facto* statelessness of a person who leaves his/her country. If, after he has left, that country withdraws his nationality, he becomes stateless *de jure*.
5. The inadequacy of the provisions relating to nationality contained in treaties bringing about territorial settlement or the defective application of such treatise. This factor causes *de jure* statelessness during a person's lifetime.

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<sup>28</sup> *A Study of Statelessness*. Lake Success, NY: United Nations, Dept. of Social Affairs, 1949. 131. Print



From these categories, it is evident that *de facto* statelessness and *de jure* statelessness are in fact intertwined. However, it is much easier to become *de jure* stateless rather than *de facto* stateless because states have a very restrictive concept of nationality when following *jus sanguini* citizenship policies instead of *jus soli*.

However, in *Critiquing the Categorisation of the Stateless*, Chickera argues that the present day categorization of statelessness is insufficient and unjust. For instance, Chickera states that,

“it establishes a protection hierarchy— some *de jure* stateless persons benefit from the protection of the 1954 Convention, while other *de jure* stateless persons (those who are not legally staying in a country) only partially benefit from Convention protection and *de facto* stateless persons do not benefit from any protection at all (unless they are refugees). Secondly, there are persons and communities who are difficult to categorize as either *de jure* or *de facto* stateless due to their particular circumstances or the lack of personal documents. These persons fall into a grey area, and their protection may depend on whether a generous approach is taken— and they are considered *de jure* stateless— or not”.<sup>29</sup>

As such Chickera proposes an alternative approach to defining statelessness called the “ineffective nationality” test. It is based on the premise that statelessness is the violation of the right to a nationality, and occurs when a person has no nationality, or when his or her nationality is rendered ineffective.<sup>30</sup> In theory, this “ineffective nationality” test does sound promising in that it would help to reestablish a more

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<sup>29</sup> Chickera, Gilhan De. "Critiquing Categorisation of the Stateless." 52. Equal Rights Trust, July 2010. Web. 1 Mar. 2016.

<sup>30</sup> Chickera, Gilhan De. "Critiquing Categorisation of the Stateless." 53. Equal Rights Trust, July 2010. Web. 1 Mar. 2016.

concrete definition of statelessness, however, since the concept of statelessness must be applied internationally, it would be very difficult to practice an effective nationality test in every stateless situation. As such, this is why this thesis utilizes the international concepts of *de jure* and *de facto* stateless defined by the 1954 Convention. Although the international conventional definition does open up a grey area of statelessness, most countries and international organizations recognize it.

#### *Cases of statelessness:*

The United Nations High Commissioner for Refugees estimates that there are at least 60 million people displaced globally now.<sup>31</sup> These include asylum seekers, refugees, internally displaced persons, returnees and stateless. Out of these 60 million people who are displaced globally, more than 15 million people are said to be currently stateless.<sup>32</sup> According to the *Study of Statelessness* and the UNHCR, these are some of the most notable cases of statelessness<sup>33</sup>:

1. Statelessness due to the dissolution of the former Yugoslavia and Soviet Union continues to affect over 600,000 people.
2. In West Africa, the estimated stateless population in Côte d'Ivoire is 700,000, many of who were migrants of Burkinabé descent who were not eligible for Ivorian nationality after the country's independence from France in 1960.
3. More than 1 million people in Myanmar's Rakhine state are stateless on the basis of the current citizenship law.

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<sup>31</sup> "UNHCR: The UN Refugee Agency." *UNHCR News*. Web. 08 Nov. 2015.

<sup>32</sup> Waas, Laura Van. "The World's Stateless: A New Report on Why Size Does and Doesn't Matter." *European Network on Statelessness*. Institute on Statelessness and Inclusion, 15 Dec. 2014. Web. 9 Nov. 2015.

<sup>33</sup> UNHCR: The UN Refugee Agency." *UNHCR News*. Web. 08 Nov. 2015.

4. Many descendants of Palestinian refugees live in countries that are parts of the Arab League, which denies citizenship to Palestinians.
5. One of the most recent cases and what my case study will be based on, the Dominican Republic where a Constitutional Court ruling in 2013 applied new nationality criteria retroactively and affected the nationality status of more than tens of thousands of people of Haitian descent born in the Dominican Republic.

All of these cases represent the history of statelessness and how poorly it continues to be treated. Although many stateless persons have received some kind of repatriation, there are many stateless persons whom have not wanted to self- identify since many times there is no consideration for them. There is also a lack of adequate data collection and gap in data collection tools, which results in insufficient data actually being reported. It is imperative to take into account the different cases of statelessness around the world and what can be learned from them.

Contrastingly to the notion that being stateless is immoral, there are theorists that believe the contrary. For example, in *The Sovereign: An Exploration of the Right to Be Stateless*, author Clark Hanjian addresses the question whether every person has the fundamental right to be stateless?<sup>34</sup> Hanjian offers two distinct arguments in support of this claim, including<sup>35</sup>:

1. *The Fundamental Human Right Argument*: whereas the liberty to be stateless meets the essential criteria used to establish the existence of a fundamental human right, the liberty to be stateless can reasonable be regarded as a fundamental human right.

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<sup>34</sup> Hanjian, Clark. *The Sovrein: An Exploration of the Right to Be Stateless*. Vineyard Haven: MA: Polyspire, 2003. 24.Print.

<sup>35</sup> Hanjian, Clark. *The Sovrein: An Exploration of the Right to Be Stateless*. Vineyard Haven: MA: Polyspire, 2003. 26. Print.

2. *The Consent Argument*: whereas citizenship is a relationship contingent upon the consent of the individual, human beings necessarily retain the liberty to be stateless.

Within these arguments, he defines and defends different premises all concluding that every right bears some corresponding obligation. Thus, Hanjian argues that there are those who choose to be stateless for their own reasons and that states should not be involved in these decisions. Although, Hanjian does make an important point, he does acknowledge that there are disadvantages of being a “Sovereign”, including: no government protection of human rights, government assistance, government interference, discriminations, difficulty maintaining a permanent residence, difficulty in International Travel and permanence of status<sup>36</sup>. At the same time, Hanjian mentions that there are advantages such as integrity, adventure, political freedom, formal neutrality, and social transformation<sup>37</sup>. Hanjuan makes very important points in regards to statelessness and in regards to choosing to become statelessness, however, does not address those that do not choose to become stateless— which is usually the case.

Nevertheless, one of the most important aspects of understanding a stateless person is their rate of vulnerability and protection. Many people assume that there will always be some type of international intervention or domestic entity that will be in charge of protecting people whom are not citizens, as often occurs with refugees. However, stateless persons are often confused with refugees or displaced persons, and this is not always the case. According to Peter van Krieken, UNHCR regional program officer in Addis Ababa, and author of “The High Commissioner for Refugees and Stateless Persons”, “stateless persons can be considered as refugees, as they might have a well founded fear of being persecuted for reasons of race, religion, nationality, membership of

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<sup>36</sup> Hanjian, Clark. *The Sovrein: An Exploration of the Right to Be Stateless*. Vineyard Haven: MA: Polyspire, 2003.30. Print.

<sup>37</sup> Hanjian, Clark. *The Sovrein: An Exploration of the Right to Be Stateless*. Vineyard Haven: MA: Polyspire, 2003. 29.Print.

a particular social group or political opinion, and are unwilling or unable to avail themselves of the protection of ... the country of habitual residence".<sup>38</sup> Nonetheless, the main difference as Krieken addresses in his article is the aspect of "unable" and "unwilling". Stateless persons are normally unable to invoke any protection, while asylum-seekers *with* a nationality are normally *unwilling* to avail themselves of the protection of their country of nationality.<sup>39</sup> Thus, this is relevant throughout the different cases of historical statelessness mentioned before in that more than half of the refugees become so vulnerable that they eventually ended up becoming stateless persons.

## **V. How Statelessness Leads to Human Insecurity and Beyond**

The notion of national security was first established by states in order to ascertain their capability to protect their territory. Through an emphasis on nationalism, the concept of the state has helped nations emphasize that citizens rely on the government for national protection. As Weber successfully claims, only the state has the right to monopolize the legitimacy of the use of violence within a given territory in order to secure such security. For past centuries, states have followed this model and utilized tactics, such as force in order to maintain its territorial integrity at any costs.

State security has traditionally relied more on protecting states from international violence. However, although human security may be implied through state security, this has not always been the case. In 1994, economist Mahub ul Haq and Amartya Sen established the *Human Development Report: New Dimensions of Human Security*, which addressed how nations stood in regards to various dimensions of human rights. This report started a discourse about the inequalities and vulnerabilities that people were

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<sup>38</sup> Krieken, Peter Van. "The High Commissioner for Refugees and Stateless Persons." *Journals Cambridge*. Netherlands International Law Review, 21 May 2009. Web. 15 Oct. 2015.

<sup>39</sup> Krieken, Peter Van. "The High Commissioner for Refugees and Stateless Persons." *Journals Cambridge*. Netherlands International Law Review, 21 May 2009. Web. 15 Oct. 2015.

suffering in many countries. According to *New Dimensions of Human Security*, human security comprises of two different dimensions, including: “freedom from want” and “freedom from fear”.<sup>40</sup> “Freedom from want” is having the right to an adequate standard of living, meanwhile “freedom from fear”— refers to people being safe in all realms in their territory.<sup>41</sup> Some examples include: health security, personal security, food security and environmental security among many others. The report showed that “only about a quarter of the world may at present be economically secure” and that “people go hungry not because there is not enough food in the world, but because they cannot afford it”.<sup>42</sup> In a narrower perspective, human security focuses on freedom from violence, such as gendered insecurities and political conflicts. Therefore, through the dimensions of freedom from want, freedom from fear, and freedom from violence, human security addresses human rights issues that perpetuate inequalities within vulnerable communities.

As mentioned in the *Human Development Report*, “the concept of security has for too long been interpreted narrowly: as security of territory from external aggression, or as protection of national interest in foreign policy or as global security from the threat of a nuclear holocaust. It has been related more to nation-states than to people”.<sup>43</sup> This is the problem that the concept of human security is trying to address. Human security is described as the security of all people in various aspects— including economic,

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<sup>40</sup> Sen, Amartya and Mahub ul Haq. *Human Development Report 1994* for the United Nations Development Programme (UNDP), 1994. United Nations Development Programme. New York: Oxford UP Web. 20 Jan. 2015.

<sup>41</sup> Sen, Amartya and Mahub ul Haq. *Human Development Report 1994* for the United Nations Development Programme (UNDP), 1994. 26. United Nations Development Programme. New York: Oxford UP Web. 20 Jan. 2015.

<sup>42</sup> Sen, Amartya and Mahub ul Haq. *Human Development Report 1994* for the United Nations Development Programme (UNDP), 26. 1994. United Nations Development Programme. New York: Oxford UP Web. 20 Jan. 2015.

<sup>43</sup> Sen, Amartya and Mahub ul Haq. *Human Development Report 1994* for the United Nations Development Programme (UNDP), 1994. 22. United Nations Development Programme. New York: Oxford UP Web. 20 Jan. 2015.

educational, health, freedom and lack of conflict. Human security addresses the combination of risks and vulnerabilities within communities and then finds ways to protect the people to live free from want free from fear and free from violence, regardless of their nationality.

Understanding global disadvantages and the rate of development of many states is necessary to conclude why some states hold human security at a higher status than others. Perhaps the lack of state aid, or the amount of state weakness or strength all plays a large role in the security of humans. Human security also focuses on human's freedom from the fear of violence. It truly matters how much access someone has to protection in order to feel safe and secure in any aspect of his or her life. They may not have many materialistic items, but as long as they have the basic essentials of clean water, food and access to opportunities, they may continue their lives. However, this is not always possible in states where there is an inequality in distribution of resources or when resources are simply not given because the person is not considered part of that state. Therefore, one of the most difficult situations is living in a state that one does *not* have the right of freedom from want, freedom from fear and freedom from violence, as most stateless persons live.

The journal *Forced Migration Review* collects monthly articles, which address different aspects of migration, displaced communities, refugees and stateless persons. Amal de Chikera, Head of Statelessness and Nationality Projects for Forced Migration Review wrote an article titled "Discrimination and Human Security of Stateless People," where she addresses what it means to have human insecurity as a stateless person. De Chikera et al. argue that, "from a human security perspective, the preoccupation of states with national security – seeing the irregular migration of vulnerable, often persecuted, people not in terms of their protection but in terms of border control – exacerbates and

entrenches the vulnerabilities of stateless persons”.<sup>44</sup> Therefore, states have a right to *all* humans’ beings, especially the stateless, to be free from any discrimination that may produce human insecurity and thus, aid in the protection and rick of vulnerabilities due to their condition.

However, Duncan Green, author of *From Poverty to Power: How Active Citizens and Effective States Can Change the World*, contends that “no one is free from risk,” but “the lives of most people are built around coping with risk—and all too frequently such risk turn into personal or societal catastrophe”.<sup>45</sup> In other words, everyone is affected by poverty, vulnerability, everyday risks, disease, conflicts, and natural disasters— but some are at a *higher* risk than others. Nevertheless, stateless persons are the most susceptible to living in a state of vulnerability, thus, increasing the risk of human insecurity. This is why the transnational human rights issue of statelessness is a human security issue since it affects many helpless communities around the world and makes them even more vulnerable to globalized crimes, specifically human trafficking further addressed in this study.

## **VI. Vulnerabilities Caused by Statelessness**

Statelessness has a significant impact on human security, access to advancement and enjoyment of human rights. When it comes to vulnerabilities caused by statelessness, due to a lack of protective rights, stateless persons are more exposed to situations where their legalities do not assist their situations. This may be because of the way that the country of reception may treat them, the way that their country of origin treats them or overall individual position. In *Forced Migration Review*, De Chikera et al emphasize

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<sup>44</sup> Chikera, Amal De, and Joanna Whiteman. "Discrimination and the Human Security of Stateless People." *Fmreview.org/*. Forced Migration Review, May 2014. Web. 23 Oct. 2015.

<sup>45</sup> Green, Duncan. *From poverty to power: how active citizens and effective states can change the world*. Auckland Park, South Africa: Jacana. 2012. 165. Print.



how a stateless person is especially vulnerable both to direct and indirect discrimination, meaning that they are placed at a disadvantage by a particular provision, criterion or practice which cannot be objectively justified.<sup>46</sup> In these situations, stateless persons are deprived from civil and political rights, such as freedom of movement and the right to liberty and security of the person, and socio-economic rights, such as the right to an education and the right to livelihood.

Consequently, stateless persons become part of the “minority” in their respective situations and are thus, treated as such— unfairly. The Special Rapporteur of the UN Sub-Commission on the Prevention of Discrimination and Protection of Minorities defines the term “minority” as “a group numerically inferior to the rest of the population, in a non-dominant position, [...] possessing distinct ethnic, religious or linguistic characteristics and showing a sense of solidarity aimed at preserving those characteristics”<sup>47</sup>. In terms of stateless persons, they are categorized as part of the minority since they are alienated and marginalized. In the article “Human Trafficking and Minorities: Vulnerability Compounded by Discrimination”, Heidi Box mentions that the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities focuses on protecting minority groups’ culture and identity, but glosses over the myriad disadvantages that minorities face by virtue of group marginalization<sup>48</sup>. Subsequently, stateless persons suffer from being automatically placed in the highest state of vulnerability— human trafficking.<sup>49</sup>

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<sup>46</sup> Chikera, Amal De, and Joanna Whiteman. "Discrimination and the Human Security of Stateless People." *Fmreview.org/*. Forced Migration Review, May. 57. 2014. Web. 23 Oct. 2015.

<sup>47</sup> "How We Make a Difference." *OHCHR News*. 2008. Web. 5 Nov. 2015.

<sup>48</sup> Box, Heidi. "Human Trafficking and Minorities: Vulnerability Compounded by Discrimination." *Feminist Perspectives on Contemporary International Law: Between Resistance and Compliance* 28. (2011): Web. 9 Nov. 2015.

<sup>49</sup> Box, Heidi. "Human Trafficking and Minorities: Vulnerability Compounded by Discrimination." *Feminist Perspectives on Contemporary International Law: Between Resistance and Compliance* 28. (2011): Web. 9 Nov. 2015.

As defined by the United States Department of State Trafficking in Persons (TIP) annual report, trafficking is: the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, or abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.<sup>50</sup> Box claims that “if we assume that susceptibility to trafficking is impacted and increased by powerful “push factors” like poverty, disenfranchisement, lack of education, and so on, then it follows that minority populations are likely to be prime targets for human traffickers”.<sup>51</sup> Although membership in a minority group— such as stateless persons— may not be the primary reason for exploitation, it may increase vulnerability to heteronomous scenarios. Box illustrates this by giving an example of indigenous peoples in Peru, Bolivia, and Paraguay. Indigenous peoples are discriminated against in the work force and this prejudice is cited as the primary reason for income disparity between indigenous and non-indigenous peoples.<sup>52</sup> Furthermore, indigenous populations have historically experienced debt bondage in all three of these countries. This suggests that non-minority members likely exploit these marginalized groups after systemic inequality severely limits their job prospects and thus, these marginalized groups must seek alternative ways to sustain themselves.

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<sup>50</sup> "2015 Trafficking in Persons Report." *U.S. Department of State*. U.S. Department of State, Web. 4 Nov. 2015.

<sup>51</sup> Box, Heidi. "Human Trafficking and Minorities: Vulnerability Compounded by Discrimination." *Feminist Perspectives on Contemporary International Law: Between Resistance and Compliance* 28. (2011); Web. 9 Nov. 2015.

<sup>52</sup> Box, Heidi. "Human Trafficking and Minorities: Vulnerability Compounded by Discrimination." *Feminist Perspectives on Contemporary International Law: Between Resistance and Compliance* 28. (2011); Web. 9 Nov. 2015.

Box states very blatantly in her conclusion that “although there is suggestive of a link between disadvantaged populations and susceptibility to trafficking, this correlation has been insufficiently investigated. Indeed, it is surprising how little research has been done to explore human trafficking through the lens of minority discrimination”. This is mainly because “minority group membership” as described by Box, is often overlooked as part of criterion in anti-trafficking research. In terms of stateless persons, one reason they may be overlooked as minorities is due to their lack of ‘belonging’ to one specific group. Nevertheless, stateless persons are minorities within their situations who are discriminated and are highly susceptible to human trafficking.

*The Nexus Between Statelessness and Human Trafficking in Thailand* is one of the most recent and empirically accurate studies ever done on this topic. This report focuses on the difference in experiences between stateless persons and citizens and their proneness to being trafficked. The group of experts in statelessness, human trafficking, gender studies and Subjective Legal Empowerment theory worked together to collect data through field study, in-depth interviews, surveys based on the experiences of members of hill tribes.<sup>53</sup> As stated in *The Hague Institute for Global Justice*, this study was able to examine external and internal root causes (such as poverty, lack of education, or risk-taking behavior) that can expose an individual to a higher risk of trafficking.<sup>54</sup> The study began with two distinct hypotheses, including: 1.) Root causes of human

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<sup>53</sup> Rijken, Conny, Laura Van Waas, Martin Gramatikov, and Deidre Brennan. "The Nexus between Statelessness and Human Trafficking in Thailand." Wolf Legal Publishers, 2015. Web.

<sup>54</sup> Bloom, Tendayi. "The Nexus between Statelessness and Human Trafficking." *The Hague Institute for Global Justice*. N.p., 13 Feb. 2015. Web. 6 Nov. 2015.

trafficking are more prevalent among stateless persons than citizens, prompting them to enter the trafficking chain at a higher rate and 2.) Stateless persons are less able to solve problems and (legal) disputes than citizens, exposing them to exploitation at a higher rate.<sup>55</sup> Through their research, they were able to conclude that stateless persons may intrinsically be more likely to fall prey to trafficking because they seek a better life away from home at a higher rate than citizens. Furthermore, stateless persons may become exploited at a higher rate than citizens in the process of seeking a better life away from their country of origin.<sup>56</sup> Therefore, what truly matters when trying to understand the connection between statelessness and human trafficking is the risk that stateless persons may have due to internal root causes that can expose them to human trafficking.

## VII. What is Not Fully Answered?

Throughout history, statelessness has had a significant impact on the way that human rights have been addressed. This phenomenon has taken away basic human rights and marginalized stateless persons. Amal de Chikera emphasizes in *Forced Migration* that in the human rights field, there is a need for the impact of discrimination to be explored more fully by those approaching the issue of statelessness from a human security perspective.<sup>57</sup> Furthermore, it is imperative to explore the causes of discrimination of stateless persons that places them at a higher risk of human trafficking. One-way in which Ayten Gündogdu, author of *Rightlessness in an Age of Rights: Hannah Arendt and the Contemporary Struggles of Migrants* attempts to address the situation through a human security perspective is by recognizing the lack of rightlessness

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<sup>55</sup> Rijken, Conny, Laura Van Waas, Martin Gramatikov, and Deidre Brennan. "The Nexus between Statelessness and Human Trafficking in Thailand." Wolf Legal Publishers, 2015. Web. (113)

<sup>56</sup> Rijken, Conny, Laura Van Waas, Martin Gramatikov, and Deidre Brennan. "The Nexus between Statelessness and Human Trafficking in Thailand." Wolf Legal Publishers, 2015. Web. (107)

<sup>57</sup> Chikera, Amal De, and Joanna Whiteman. "Discrimination and the Human Security of Stateless People." *Fmreview.org*/. Forced Migration Review, May 2014. Web. 23 Oct. 2015. (58)

of stateless persons.<sup>58</sup> According to Gündogdu, “Arendt’s notion of “rightlessness,” highlighting a fundamental condition that can undermine the very possibility of claiming and exercising even the rights that one formally has, draws attention to what gets lost in this conventional frame and renders statelessness more comparable to structural problems such as poverty, racial inequality, and patriarchy”.<sup>59</sup> Consequently, this is problematic since the structural problem of statelessness is not being addressed but the affects of its structure.

Gündogdu offers the example that instead of tackling patriarchy as a structural problem, activist for women’s rights focus on violence against women and highlight bodily harm in order to be able to assign responsibility for identifiable violations.<sup>60</sup> Arendt’s analysis of the legal dimension of rightlessness draws attention to the tight connection that the nation-state institutional framework established between citizenship and legal personhood: “Their plight is not that they are not equal before the law, but that no law exists for them”.<sup>61</sup> Therefore, this is what has continued to create ambiguity when dealing with stateless persons, in terms of legality.

Overall, due to the issue of institutional framework, it has becomes very difficult to place both statelessness and human trafficking in the same conversation. This is because they are both structural problems where only their consequences have been recognized or dealt with. Nevertheless, the Arendtian critique applies to this concept in that although the laws are insufficient in solving the problems of trafficking within statelessness there should remain a consistent insistency on personhood in order to understand the nexus between statelessness and human trafficking.

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<sup>58</sup> Gündogdu, Ayten. *Rightlessness in an Age of Rights: Hannah Arendt and the Contemporary Struggles of Migrants*. New York: New York: Oxford UP, 2015. 93.Print.

<sup>59</sup> Gündogdu, Ayten. *Rightlessness in an Age of Rights: Hannah Arendt and the Contemporary Struggles of Migrants*. New York: New York: Oxford UP, 2015. 95.Print.

<sup>60</sup> Gündogdu, Ayten. *Rightlessness in an Age of Rights: Hannah Arendt and the Contemporary Struggles of Migrants*. New York: New York: Oxford UP, 2015. 96.Print.

<sup>61</sup> Gündogdu, Ayten. *Rightlessness in an Age of Rights: Hannah Arendt and the Contemporary Struggles of Migrants*. New York: New York: Oxford UP, 2015. 96.Print.

In order to understand the link between statelessness and human trafficking, my primary example will be the 2013 Dominican Republic Supreme Court ruling, which rendered Haitian-Dominicans stateless and their vulnerabilities to trafficking. In the following chapters, this thesis will address the following: Chapter 2 will focus on a historical account of the Dominican Republic and Haiti in order to understand their recent conflict. Chapter 3 will establish an in depth case study of the Dominican Republic and Haiti issue of statelessness, and how *de jure* statelessness came about from Law 169-14. Lastly, Chapter 4 will focus on understanding vulnerabilities by addressing relatable recommendations of statelessness and trafficking from the Thailand report, as well as what organizations believe should be done to address the internal root causes of statelessness and trafficking for Haitian-Dominicans.

## CHAPTER TWO- HISTORICAL ACCOUNT OF THE DOMINICAN REPUBLIC AND HAITI

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### I. Introduction

Just like the United States ratified the 14<sup>th</sup> Amendment to include African-American as national citizens, in 2013 the Dominican Republic Constitutional Court ruling ratified the Dominican Constitution, which took away the nationality of several thousand Haitian-Dominican. This has caused an international protest for recognition of Haitian-Dominicans as stateless persons, whom are now deprived of the right to do things that other nationals have granted, such as getting a job, obtain an education, or even have access to health care. Following the definition of stateless persons under international law, Haitian-Dominicans whom were affected by the 2013 Court Ruling are considered to be *de jure* stateless “because during their lifetime they lost their own nationality and did not acquire a new one”.<sup>62</sup>

Therefore, this chapter will focus on the issues of *de jure* Haitian-Dominicans in the Dominican Republic and how national legislation has addressed concerns of what it means to be a Dominican citizen. In order to understand the deportations and violence towards Haitian-Dominicans in the Dominican Republic, it is essential to understand the centuries of troubled history and contentious historical accounts between the Dominican Republic and Haiti.

### II. Conflict Since Hispaniola

The conflict between the Dominican Republic and Haiti is based on white supremacy and race brought upon colonization. Taino Indians first occupied the island of Hispaniola found in the Caribbean up until the early 1600s when Christopher Columbus from Spain colonized the island.<sup>63</sup> Then, in 1697 France and Spain divided

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<sup>62</sup> "UNHCR: The UN Refugee Agency." *UNHCR News*. Web. 08 Nov. 2015.

<sup>63</sup> Guitar, Lynne. "Dominican Republic History by Hispaniola.com." *Dominican Republic History by Hispaniola.com*. Web. 7 Jan. 2016.

the island of Hispaniola in two after battling for control.<sup>64</sup> Francois-Dominique and Toussaint-Louverture conquered the Spanish side during the Haitian Revolution (1790-1804) and Emperor Jean-Jacques Dessalines destroyed Santiago and the Cibao Valley in 1805.<sup>65</sup> However, in 1822, fearing further foreign intervention from the east, the newly unified Republic of Haiti occupied the even newer Dominican Republic, which had declared itself free from Spain just months before.<sup>66</sup>

During this time, some suggested that Haiti was able to occupy the Dominican Republic because its previous colonizer—Spain— had never cared about the country’s well being.<sup>67</sup> For instance, the British merchant James Franklin published some of his views in 1828 after making several business trips to the Republic of Haiti or San Domingo during the time that the Dominican Republic was annexed to Haiti. As Franklin published, “the indolence and inactivity inherent in the Spanish character have been displaced in all their colours in this part of San Domingo; for although their district possessed all the natural means required to raise them to an equal pitch of splendor with their French neighbors, yet so powerful were their propensities for pleasure, and every species of amusement, that they devoted but little of their time to the improvement of their properties, and they obtained from them but little beyond a scanty supply for their own immediate wants”.<sup>68</sup> This is a relevant observation that offers another perspective to Dominican’s Republic continuous colonization demonstrating how weak the Dominican Republic was in comparison to San Domingo. However, this made it much easier for Haiti to occupy the Dominican Republic.

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<sup>64</sup> Roorda, Eric, Lauren Hutchinson. Derby, and Raymundo González. *The Dominican Republic Reader: History, Culture, Politics*. Durham and London: Duke UP, 2014. 5. Print.

<sup>65</sup> Roorda, Eric, Lauren Hutchinson. Derby, and Raymundo González. *The Dominican Republic Reader: History, Culture, Politics*. Durham and London: Duke UP, 2014. 5. Print.

<sup>66</sup> Roorda, Eric, Lauren Hutchinson. Derby, and Raymundo González. *The Dominican Republic Reader: History, Culture, Politics*. Durham and London: Duke UP, 2014. 5. Print.

<sup>67</sup> Roorda, Eric, Lauren Hutchinson. Derby, and Raymundo González. *The Dominican Republic Reader: History, Culture, Politics*. Durham and London: Duke UP, 2014. 115. Print.

<sup>68</sup> Roorda, Eric, Lauren Hutchinson. Derby, and Raymundo González. *The Dominican Republic Reader: History, Culture, Politics*. Durham and London: Duke UP, 2014. 115. Print.



In addition, Haiti occupied the Dominican side for 22 years in an effort to free the entire island from slavery since there were many imported African slaves<sup>69</sup>. Slavery had become essential to the island as it became the most cherished commodity for its Spanish and French colonizers. As the mulatto priest, Antonio Sánchez Valverde describes in his work *The Idea of Value in the Island of Espanola*, “above all, the *Slaves* were the most useful and valuable commodity. Besides those slaves, there has been a continual influx of fugitive slaves from the *French* border, other slaves that the *French* have brought for sale; and other slaves that the Spanish have brought in exchange for livestock and cattle”.<sup>70</sup>

Unlike on other Caribbean islands, the Spanish invaders found that many natural resources had already been exhausted. Livestock became important in Santo Domingo and did not require much slave labor.<sup>71</sup> At the same time, hundreds of thousands of enslaved Africans were imported to work the sugar cane plantations of Haiti. However, throughout Haitian occupation of the island, the goal was to replace slavery with a new valuable commodity to get rid of white supremacy. Consequently, during that time the Spanish speaking Dominicans were restricted to speaking French and Haitians enforced oppressive rules on labor and the redistribution of wealth.<sup>72</sup> Thus, throughout the twenty-two years of Haitian occupation, Haitians were able to reduce slavery, but at a high price for Dominicans since some Dominicans viewed this period as a brutal military regime.<sup>73</sup>

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<sup>69</sup> Wilde, Julia. "The Conflict Between Haiti and the Dominican Republic." *News Discovery*. 26 Feb. 2015. Web. 7 Jan. 2016.

<sup>70</sup> Roorda, Eric, Lauren Hutchinson. Derby, and Raymundo González. *The Dominican Republic Reader: History, Culture, Politics*. Durham and London: Duke UP, 2014. 90. Print.

<sup>71</sup> Abel. "5 Acts of Self-Hate and Racism in the Dominican Republic - Atlanta Blackstar." *Atlanta Blackstar*. 15 Apr. 2014. Web. 28 Jan. 2016.

<sup>72</sup> Wilde, Julia. "The Conflict Between Haiti and the Dominican Republic." *News Discovery*, 26 Feb. 2015. Web. 7 Jan. 2016.

<sup>73</sup> Roorda, Eric, Lauren Hutchinson. Derby, and Raymundo González. *The Dominican Republic Reader: History, Culture, Politics*. Durham and London: Duke UP, 2014. 5. Print.

This difficult time for the Dominicans created cultural conflicts in language, race, religion and national tradition between the Dominicans and Haitians. In order to raise funds for the huge recompense of 150 million francs that Haiti agreed to pay the former French colonists, Haiti imposed heavy taxes on the Dominicans.<sup>74</sup> It was in the city of Santo Domingo that the effects of the occupation were most strongly felt, and it was there that the movement for Dominican independence originated. This difficult time for the Dominicans created cultural conflicts in language, race, religion and national tradition between the Dominicans and Haitians. Many Dominicans developed a resentment of Haitians, who they saw as oppressors.<sup>75</sup>

Although the occupation effectively reduced colonial slavery throughout the island, several resolutions and written dispositions were expressly aimed at converting average Dominicans into second-class citizens: restrictions of movement, prohibition to run for public office, night curfews, inability to travel in groups, banning of civilian organizations, and the indefinite closure of the state university (on the alleged grounds of its being a subversive organization) all led to the creation of movements advocating a forceful separation from Haiti with no compromises.<sup>76</sup> At the movement's center was *La Trinitaria*, a conspiracy named after Pablo Duarte, Francisco del Rosario Sánchez, and Ramon Mella. "Duarte, Sanchez y Mella" launched the Dominican war for independence with an assault on the iconic Conde Gate in the city walls and the Ozama Fortress, the oldest structure in Santo Domingo.<sup>77</sup> *La Trinitaria* continues to be commemorated at Independence Park near the Conde Gate with the Altar of the

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<sup>74</sup> Wilde, Julia. "The Conflict Between Haiti and the Dominican Republic." *News Discovery*. 26 Feb. 2015. Web. 7 Jan. 2016.

<sup>75</sup> Hoetink, *The Dominican People: Notes for a Historical Sociology* transl. Stephen Ault Johns Hopkins Press: Baltimore. 1982. 83. Print.

<sup>76</sup> Hoetink, *The Dominican People: Notes for a Historical Sociology* transl. Stephen Ault Johns Hopkins Press: Baltimore. 1982. 83. Print.

<sup>77</sup> Roorda, Eric, Lauren Hutchinson. Derby, and Raymundo González. *The Dominican Republic Reader: History, Culture, Politics*. Durham and London: Duke UP, 2014. 136. Print.

Fatherland, which contains the tombs and larger-than-life statues. The Dominican Republic gained its independence from Haiti on February 27, 1844 and its thought that this period of occupation was where their relationship began to deteriorate.

Migration from Haiti to the Dominican Republic began first at the border and spread throughout the country around the 1870s.<sup>78</sup> The Haitian government encouraged peasants to immigrate into the Dominican Republic because of the land scarcity in Haiti.<sup>79</sup> In 1899 the Haitian government claimed the center-west and the southwest of the Dominican Republic, including western Lake Enriquillo, as it estimated that Haitians had become the majority in that area.<sup>80</sup> The arrival of Haitians to the rest of the country began after the United States occupied both Haiti and the Dominican Republic around 1916, when US-owned sugar companies imported annually, thousands of Haitian workers to cut costs.<sup>81</sup>

In 1930, dictator Rafael Trujillo established himself as a candidate when a provisional government had been established after the Dominican President Horacio Vasquez faced revolts and he remained president for the next 31 years until his assassination. He is relevant to the current Haitian-Dominican stateless issue since Trujillo's policies are still in the minds of many who lived during his dictatorship, and have negatively affected migration policies today. During Trujillo's campaign, he organized a secret police force to torture and murder supporters of the opposing

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<sup>78</sup> PÁEZ PIANTINI, William. *"La frontera dominico-haitiana: perspectiva histórica y presente"*. *Boletín del Archivo General de la Nación (in Spanish) (Archivo General de la Nación)*: 39, 41–42.2006.

<sup>79</sup> PÁEZ PIANTINI, William. *"La frontera dominico-haitiana: perspectiva histórica y presente"*. *Boletín del Archivo General de la Nación (in Spanish) (Archivo General de la Nación)*: 39, 41–42.2006.

<sup>80</sup> PÁEZ PIANTINI, William. *"La frontera dominico-haitiana: perspectiva histórica y presente"*. *Boletín del Archivo General de la Nación (in Spanish) (Archivo General de la Nación)*: 39, 41–42.2006.

<sup>81</sup> *Haitian Sugar-cane Cutters in the Dominican Republic*. New York: Americas Watch, 1989. Print.

candidate.<sup>82</sup> His corruption only continued when shortly into Trujillo's first term, the country's capital—Santo Domingo—was devastated by a hurricane.<sup>83</sup> Trujillo used the disaster as an excuse to impose martial law on all citizens, as well as imposed "emergency taxes".<sup>84</sup> During his additional years in office, Trujillo continued to use his power for personal profit as he took total control of all major industries and financial institutions.<sup>85</sup> The country saw some improvements to its economy mainly limited to the capital city, meanwhile in more rural areas, entire peasant communities were uprooted to clear the way for Trujillo's new sugar plantation.<sup>86</sup>

In 1936, Haiti received several of villages located in La Miel valley after a revision of the borderline.<sup>87</sup> However, dictator Rafael Trujillo was extremely opposed to giving away territory and to also having Haitians migrate into the Dominican Republic.<sup>88</sup> Between 1935 and 1937 the Trujillo imposed restrictions on foreign labor and ordered the deportation of Haitians in the border area, but these measures failed due to a corruption scheme involving Dominican military men, civil authorities, and US-owned sugar companies, and the trafficking of undocumented Haitian immigrants.<sup>89</sup> He developed *Antihaitinismo* ("anti-Haitianism"), a uniquely Dominican policy of racial discrimination targeting the mostly-black inhabitants of his neighboring country and those within the border, including many Afro-Dominican

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<sup>82</sup> "Rafael Trujillo." *Biography.com*. Biography.com, 2004. Web. 15 Jan. 2016.

<sup>83</sup> "Rafael Trujillo." *Biography.com*. Biography.com, 2004. Web. 15 Jan. 2016.

<sup>84</sup> "Rafael Trujillo." *Biography.com*. Biography.com, 2004. Web. 15 Jan. 2016.

<sup>85</sup> "Rafael Trujillo." *Biography.com*. Biography.com, 2004. Web. 15 Jan. 2016.

<sup>86</sup> "Rafael Trujillo." *Biography.com*. Biography.com, 2004. Web. 15 Jan. 2016.

<sup>87</sup> *Haitian Sugar-cane Cutters in the Dominican Republic*. New York: Americas Watch, 1989.23. Print.

<sup>88</sup> *Haitian Sugar-cane Cutters in the Dominican Republic*. New York: Americas Watch, 1989.23. Print.

<sup>89</sup> PÁEZ PIAINTINI, William. "La frontera dominico-haitiana: perspectiva histórica y presente". *Boletín del Archivo General de la Nación (in Spanish) (Archivo General de la Nación)*: 39, 41–42.2006.

citizens.<sup>90</sup> Conversely, Trujillo was known for his open-door policy, accepting Jewish refugees from Europe, Japanese migration during the 1930s, and exiles from Spain following its civil war.<sup>91</sup> At the 1938 Evian Conference—an international conference to promote the emigration of Austrian and German Jewish refugees—the Dominican Republic was the only country willing to accept many Jews and offered to accept up to 100,000 refugees on generous terms.<sup>92</sup> The first settlers arrived in May 1940; eventually some 800 settlers came to Sosua and most moved later on to the United States.<sup>93</sup> Refugees from Europe broadened the Dominican Republic's tax base and added more whites to the predominantly mixed-race nation.<sup>94</sup> As such, Trujillo's approach was to cleanse the population by adding more "whiteness" and evading Haitian migrants into the Dominican Republic.

### III. Trujillo's 1937 Parsley Massacre

Trujillo was known to treat the Dominican Republic's Haitian migrants with particular severity and a deliberate disregard for their civil liberties.<sup>95</sup> In 1937, he went as far as to orchestrate the massacre of thousands of Haitian immigrants. Trujillo was obsessed with pale skin, and under his rule he persecuted dark skinned Haitians living in Dominican border towns.<sup>96</sup> Trujillo unleashed a genocidal assault known as the Haitian Massacre, which killed approximately 15,000 ethnic Haitians, mainly in the northwest border region. Known as *La Masacre del Perejil* in Spanish, Trujillo claimed that Haiti was harboring his former Dominican opponents and as such, Trujillo

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<sup>90</sup> Crassweller, Robert D. *The Life and Times of a Caribbean Dictator*. New York: The Macmillan Company. 1966, 26. Print.

<sup>91</sup> Crassweller, Robert D. *The Life and Times of a Caribbean Dictator*. New York: The Macmillan Company. 1966, 26. Print.

<sup>92</sup> Crassweller, Robert D. *The Life and Times of a Caribbean Dictator*. New York: The Macmillan Company. 1966, 26. Print.

<sup>93</sup> Crassweller, Robert D. *The Life and Times of a Caribbean Dictator*. New York: The Macmillan Company. 1966, 26. Print.

<sup>94</sup> Crassweller, Robert D. *The Life and Times of a Caribbean Dictator*. New York: The Macmillan Company. 1966, 26. Print.

<sup>95</sup> Rafael Trujillo." *Biography.com*. Biography.com, 2004. Web. 15 Jan. 2016.

<sup>96</sup> Rafael Trujillo." *Biography.com*. Biography.com, 2004. Web. 15 Jan. 2016.

ordered an attack on the border targeting Haitians as they tried to escape.<sup>97</sup> Most of them were murdered by Dominican army troops, using machetes to make it look as though civilian peasants had perpetrated the slaughter.<sup>98</sup>

*The Haitian Massacre* compiled by Eric Roorda, Lauren Derby, and Reymundo Gonzalez focuses on several accounts of eyewitness's 50 years after the massacre.<sup>99</sup> Fifty years after the bloodshed, the historians Lauren Derby and Richard Turits interviewed survivors living in Haiti, some still residing in towns that had begun as refugee communities set up by the Haitian government, and recorded forty hours of these survivors' grim recollections in Kreyol mixed with Spanish.<sup>100</sup> One town where Derby and Turits located eyewitnesses to the genocide was Ounaminthe, located on the Massacre River across from Dajabon, Dominican Republic, the epicenter of the disaster.<sup>101</sup>

Irelina Pierre, from Dosmond/Ouanaminthe:

*"I was born in the Dominican Republic. When the massacre broke out, I was very small. I remember that I had been in school a while. The day of my brother's marriage, after the ceremony was over, a Dominican arrived at the reception. The reception was the morning that the massacre broke out, and people started fleeing. That night we hid. The next morning when we woke up, some of the older people said, "Be careful if you go out." So we stayed at home. Everyone came to my grandparent's house. They said they were going to Haiti because a revolution had broke out, and that they were killing Haitians. They all slept at my grandparent's. During the night, a woman said to me, "You come with me to my here. So we went to the garden where my mother was working, and she cut some bananas and put them in her bag. I carried a tree branch. Suddenly, I looked over and saw a lot of guardias [Dominican soldiers] getting off their horses, and I heard them say, "There's one over there in the garden." Then they entered the garden and killed the girl.... When I arrived here, I didn't*

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<sup>97</sup> Crassweller, Robert D. *The Life and Times of a Caribbean Dictator*. New York: The Macmillan Company. 1966. 26. Print.

<sup>98</sup> Roorda, Eric, Lauren Hutchinson. Derby, and Raymundo González. *The Dominican Republic Reader: History, Culture, Politics*. Durham and London: Duke UP, 2014. 281. Print.

<sup>99</sup> Roorda, Eric, Lauren Hutchinson. Derby, and Raymundo González. *The Dominican Republic Reader: History, Culture, Politics*. Durham and London: Duke UP, 2014. 284. Print.

<sup>100</sup> Roorda, Eric, Lauren Hutchinson. Derby, and Raymundo González. *The Dominican Republic Reader: History, Culture, Politics*. Durham and London: Duke UP, 2014. 284. Print.

<sup>101</sup> Roorda, Eric, Lauren Hutchinson. Derby, and Raymundo González. *The Dominican Republic Reader: History, Culture, Politics*. Durham and London: Duke UP, 2014. 281. Print.

*have any family to receive me so I went back to Cap again. I stayed under the auspices of the state. After about a year, they sent me back to Ouanaminthe again, at which time I lived there with some other foreigners. God gave me the strength to survive. Now I am married and have four children, but my entire family died during the massacre. Both my mother and father were born in the Dominican Republic. We lived in Loma de Cabrera. My father worked in agriculture, growing manioc, peanuts, rice on his own land— land that he bought. He had ten-karo land (32.5 acres). He also kept some cattle, pigs, chickens, and goats. We grew enough food to feed the family (we never bought food at market) but also to sell. I used to go to market with my mother where we sold everything— peas, rice, bananas, and corn. I only spoke in Kreyol since we lived among Haitians. I hardly spoke in Spanish at all. There were some Dominicans in the area where we lived, but not many; there were mostly Haitians. There were both marriages between Haitians and Dominicans, as well as concubine. There were no problems that I remember between Haitians and Dominicans—for example, no jealousy for Haitian land”.*<sup>102</sup>

Through this eyewitness account it is evident that although some Dominicans believed in *Antihaitinismo*, others were conscious of the wrong doings of Trujillo’s government. The Haitian response was muted, but its government eventually called for an international investigation. Under pressure from Washington, Trujillo agreed to a reparation settlement in January 1938 that involved the payment of US\$750,000.<sup>103</sup> By the next year, the amount had been reduced to US\$525,000 (US\$ 8,641,840.28 in 2016); 30 dollars per victim, of which only 2 cents were given to survivors, due to corruption in the Haitian bureaucracy.<sup>104</sup> In 1941, Lescot, who had received financial support from Trujillo, succeeded Vincent as President of Haiti.<sup>105</sup> Trujillo expected Lescot to be a puppet, but Lescot turned against him. Trujillo unsuccessfully tried to assassinate him in a 1944 plot, and then published their correspondence and discredited

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<sup>102</sup> Roorda, Eric, Lauren Hutchinson. Derby, and Raymundo González. *The Dominican Republic Reader: History, Culture, Politics*. Durham and London: Duke UP, 2014. 284. Print.

<sup>103</sup> Block, Maxine, and E. Mary. Trow. *Current Biography. Who's News and Why*. New York: H.W. Wilson, 1971.44. Print.

<sup>104</sup> Block, Maxine, and E. Mary. Trow. *Current Biography. Who's News and Why*. New York: H.W. Wilson, 1971.44. Print.

<sup>105</sup> Crassweller, Robert D. *The Life and Times of a Caribbean Dictator*. New York: The Macmillan Company. 1966, 26. Print.

him <sup>106</sup>. Lescot was then exiled after a 1946 palace coup before Trujillo was assassinated in 1961.<sup>107</sup>

With modernization from the 1960s on, fewer workers were required, and other Dominican industries and services started employing more Haitian workers, often an inexpensive, less regulated labor source with fewer legal protections<sup>108</sup>. Economically, the Dominican Republic fairs better than Haiti.<sup>109</sup> Experts suggest that this disparity is due to the way Hispaniola is divided. While the Dominican Republic enjoys plentiful rains, the mountains that border the two nations cut off Haiti's rainfall.<sup>110</sup> The semi arid climate coupled with deforestation problem has made Haiti's agricultural production more restrictive than in the Dominican Republic.<sup>111</sup> Many Haitian women find work in Dominican households, and Haitian men at Dominican construction sites, often leading to the move of an entire family.

Trujillo's policies served to establish the perpetuation of *Antihaitinismo* within the Dominican Republic <sup>112</sup>. During the 1996 Dominican presidential election, Joaquin Balaguer, (historical leader of the populist Right and former right-hand of dictator Trujillo) united in a "National Patriotic Front" with then candidate Leonel Fernandez in order to prevent Pena Gomez from becoming President.<sup>113</sup> Today tensions are largely motivated by racism. Human rights experts observe that Dominicans openly

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<sup>106</sup> Crassweller, Robert D. *The Life and Times of a Caribbean Dictator*. New York: The Macmillan Company. 1966, 26. Print.

<sup>107</sup> Crassweller, Robert D. *The Life and Times of a Caribbean Dictator*. New York: The Macmillan Company. 1966, 26. Print.

<sup>108</sup> Wilde, Julia. "The Conflict Between Haiti and the Dominican Republic." *News Discovery*. 26 Feb. 2015. Web. 7 Jan. 2016.

<sup>109</sup> Wilde, Julia. "The Conflict Between Haiti and the Dominican Republic." *News Discovery*. 26 Feb. 2015. Web. 7 Jan. 2016.

<sup>110</sup> Wilde, Julia. "The Conflict Between Haiti and the Dominican Republic." *News Discovery*. 26 Feb. 2015. Web. 7 Jan. 2016.

<sup>111</sup> Wilde, Julia. "The Conflict Between Haiti and the Dominican Republic." *News Discovery*. 26 Feb. 2015. Web. 7 Jan. 2016.

<sup>112</sup> Rohter, Larry. "Dominican Republic Holds Runoff, Capping Fierce Race." *The New York Times*. The New York Times, 30 June 1996. Web. 27 Jan. 2016.

<sup>113</sup> Rohter, Larry. "Dominican Republic Holds Runoff, Capping Fierce Race." *The New York Times*. The New York Times, 30 June 1996. Web. 27 Jan. 2016.



discriminate against Haitians because they perceive them to be blacker— despite both cultures having African ancestry.<sup>114</sup> Dominicans argue that they have more European heritage than their next-door neighbor. Regardless, of the culmination of volatile incidents, comparative economic disparity and opposing perspectives on European influences, Haitian and Dominican relations are currently the worst they have been in 75 years.<sup>115</sup>

#### **IV. 2013 Constitutional Court Ruling**

The divergence between the level of economic development between Haiti and the Dominican Republic, in addition to Antihaitinismo, has complicated the lives of Haitian-Dominicans born in the Dominican Republic. When the 2010 earthquake devastated Haiti, the Dominican Republic was quick to jump to its aid providing food, water, and rescue workers.<sup>116</sup> However, after the earthquake there was a mass migration of Haitians who took refuge to the Dominican Republic. A 2013 Supreme Court ruling retroactive to 1930, has declared that refugees can only be granted Dominican citizenship if at least one parent is a legal resident.<sup>117</sup> According to the Human Rights Watch “We Are Dominican” report, Celso Perez mentions that more than 250,000 Haitian-Dominicans are considered stateless<sup>118</sup>. Most of these stateless people are people of Haitian descent who were born in the Dominican Republic. The UNHCR article, “Dominican Republic urged not to deport stateless Dominicans” points out that “for decades, the Dominican Republic recognized the children of Haitian migrants born in the country as Dominican citizens irrespective of the

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<sup>114</sup> Wilde, Julia. "The Conflict Between Haiti and the Dominican Republic." *News Discovery*. 26 Feb. 2015. Web. 7 Jan. 2016.

<sup>115</sup> VOXXI, the Popular Independent News Outlet, Closes Its Doors." *Latin Post RSS*. 26 Mar. 2015. Web. 23 Jan. 2016.

<sup>116</sup> Wilde, Julia. "The Conflict Between Haiti and the Dominican Republic." *News Discovery*. 26 Feb. 2015. Web. 7 Jan. 2016.

<sup>117</sup> Rohter, Larry. "Dominican Republic Holds Runoff, Capping Fierce Race." *The New York Times*. The New York Times, 30 June 1996. Web. 27 Jan. 2016.

<sup>118</sup> Perez, Celso. "We Are Dominican." *Human Rights Watch*. Human Rights Watch, 01 July 2015. Web. 16 Dec. 2016.

migration status of their parents”<sup>119</sup>.

Furthermore, Perez cites the Dominican Constitution, in which everyone born in the country between 1929 and 2010 was a Dominican national or citizen, with the expectation of those who parents were “in transit.”<sup>120</sup> Until, recently Dominican nationality law did not clearly define who was “in transit”, or whether the term applied to undocumented migrants resident in the country.<sup>121</sup> In practice, the government applied nationality law inconsistently since many undocumented migrants successfully register children born in the Dominican Republic as Dominican nationals, while others parents either failed to register their children, or were prevented from doing so by government officials<sup>122</sup>.

Nevertheless, The UNHCR article, “Dominican Republic urged not to deport stateless Dominicans,” points out that the Court's ruling, along with previous changes to nationality laws aimed at tackling illegal migration from neighboring Haiti, ended this and a subsequent regularization plan gave them until mid-June to regularize their status.<sup>123</sup> In a 2013 news story Reuters reported, “the September 23 court ruling retroactively denies Dominican nationality to anyone born after 1929 who does not have at least one parent of Dominican blood or legal resident of The Dominican Republic, under a constitutional clause declaring all others to be either in the country illegally or “in transit.”<sup>124</sup> At the same time, every child born to a Haitian father or mother, no matter where he or she was born, is Haitian by the Haitian Constitution.

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<sup>119</sup> Dominican Republic Urged Not to Deport Stateless Dominicans." *UNHCR News*. United National High Commissioner for Refugees, 19 June 2015. Web. 23 Jan. 2016.

<sup>120</sup> Perez, Celso. "We Are Dominican." *Human Rights Watch*. Human Rights Watch, 01 July 2015. Web. 16 Dec. 2016.

<sup>121</sup> Perez, Celso. "We Are Dominican." *Human Rights Watch*. Human Rights Watch, 01 July 2015. Web. 16 Dec. 2016.

<sup>122</sup> Perez, Celso. "We Are Dominican." *Human Rights Watch*. Human Rights Watch, 01 July 2015. Web. 16 Dec. 2016.

<sup>123</sup> Dominican Republic Urged Not to Deport Stateless Dominicans." *UNHCR News*. United National High Commissioner for Refugees, 19 June 2015. Web. 23 Jan. 2016.

<sup>124</sup> Rojas, Ricardo. "Dominican Court Ruling Renders Hundreds of Thousands Stateless." *Reuters*. Thomson Reuters, 12 Oct. 2013. Web. 22 Jan. 2016.

This has been a big issue in the current Dominican nationality law; because of this and other factors, illegal migrants' children born in the Dominican Republic of Haitian origin are considered non-Dominicans, and therefore Haitians.<sup>125</sup> Nevertheless, there are many issues with deporting Haitian- Dominicans back to Haiti starting with Haiti's lack of resources.

The two governments— the Dominican Republic and Haiti— have not been able to agree upon a legal framework to address the nationality of these descendants. According to the Latin American newspaper, Telesur, “Haiti and Dominican Republic Agree to Normalize Bilateral Relations,” tensions between the two Caribbean nations reached a peak in September 2013, when the Dominican Constitutional Tribunal ruled that descendants of undocumented foreign nationals were ineligible for Dominican nationality.<sup>126</sup> Haiti responded with sanctions towards commercial trade agreements between the two countries, which would result in millions of lost revenue for the Dominican Republic.<sup>127</sup>

## **V. The Dominican Republic's Response**

*De jure* and *de facto* statelessness cases have been caused by deprivation of nationality, political persecution, mass emigration, territorial resettlement, and lastly what this chapter focuses on— inadequacy and conflict of national legislations concerning nationality. Although many of these cases remain unsolved, there are some that have addressed particular solutions to aid the marginalized stateless. For instance, in

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<sup>125</sup> Rojas, Ricardo. "Dominican Court Ruling Renders Hundreds of Thousands Stateless." *Reuters*. Thomson Reuters, 12 Oct. 2013. Web. 22 Jan. 2016.

<sup>126</sup> "Haiti and Dominican Republic Agree to Normalize Bilateral Relations." *Haiti and Dominican Republic Agree to Normalize Bilateral Relations*. Telesur, 14 Oct. 2015. Web. 20 Jan. 2016.

<sup>127</sup> "Haiti and Dominican Republic Agree to Normalize Bilateral Relations." *Haiti and Dominican Republic Agree to Normalize Bilateral Relations*. Telesur, 14 Oct. 2015. Web. 20 Jan. 2016.

efforts of getting returning deportees to obtain citizenship, Ukraine adopted a new law on citizenship that has helped reintegrate the survivors and descendants of 250,000 Crimean Tartars who were rounded up by Stalin in 1944 and deported to Central Asia.<sup>128</sup> Since 2002, this new law has resulted in more than 300,000 Crimean Tartans to return home and receive Ukrainian citizenship.<sup>129</sup> This is an important example because most countries like Ukraine, follow the principle of *Jus Sanguinis*— when citizenship is given by birth to a parent who is already a citizen of that country or by naturalization, and still statelessness occurs.

Consequently researches such as Charline Becker, contributor to the European Network on Statelessness and member of the Hungarian Helsinki Committee believes that *Jus Soli*— birth right nationality— could be a solution to prevent statelessness.<sup>130</sup> As Becker points out, “Jus Soli has been hardly used in most European countries for centuries, but in recent decades, an increasing number of European states have introduced limited and/ or conditional *Jus Soli* provisions in their law”.<sup>131</sup> This is due to the promising achievements of countries in the Americas that have included limited *Jus Soli* provisions in their nationality laws, including where children would otherwise be born stateless<sup>132</sup>. In addition, these dispositions facilitate the inclusion of migrants’

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<sup>128</sup> "Ukraine, Sri Lanka Provide Models for Solving Statelessness." United Nations High Commissioner for Refugees, 6 Oct. 2004. Web. 20 Jan. 2016.

<sup>129</sup> "Ukraine, Sri Lanka Provide Models for Solving Statelessness." United Nations High Commissioner for Refugees, 6 Oct. 2004. Web. 20 Jan. 2016.

<sup>130</sup> Becker, Charline. "Jus Soli: A Miraculous Solution to Prevent Statelessness? | European Network on Statelessness." *Jus Soli: A Miraculous Solution to Prevent Statelessness? | European Network on Statelessness*. European Network on Statelessness, 9 Apr. 2015. Web. 10 Jan. 2016.

<sup>131</sup> Becker, Charline. "Jus Soli: A Miraculous Solution to Prevent Statelessness? | European Network on Statelessness." *Jus Soli: A Miraculous Solution to Prevent Statelessness? | European Network on Statelessness*. European Network on Statelessness, 9 Apr. 2015. Web. 10 Jan. 2016.

<sup>132</sup> Becker, Charline. "Jus Soli: A Miraculous Solution to Prevent Statelessness? | European Network on Statelessness." *Jus Soli: A Miraculous Solution to Prevent Statelessness? | European Network on Statelessness*. European Network on Statelessness, 9 Apr. 2015. Web. 10 Jan. 2016.

children, and taken together are important step towards the eradication of statelessness in countries where *Jus Sanguinis* is practiced.

However, many countries have also utilized *Jus Soli* to constitutionally marginalize certain groups of people. For example, the concept of *Jus Soli* has a storied history in countries like the United States that dates back to the late 1800s.<sup>133</sup> As described in the National Public Radio article, “3 Things You Should Know About Birthright Citizenship in the United States,” the issue of citizenship was brought into focus by a Supreme Court ruling in 1857 that essentially declared that blacks— even the daughters and sons of freed slaves— were not US citizens.<sup>134</sup> Nonetheless, in 1868 the United States ratified the 14<sup>th</sup> Amendment to the United States Constitution. The first sentence reads: “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and the state in where they reside”.<sup>135</sup> That language made it clear the Supreme Court’s ruling in the Dred Scott case was overturned and that black Americans would enjoy United States citizenship.<sup>136</sup> This demonstrates that although *Jus Soli* does ensure citizenship for some, it also has the power to exclude others. As the 14<sup>th</sup> Amendment continued to be questioned about its specifics, it also helped in clarifying points that apply today. According to the rectified 14<sup>th</sup> Amendment, United States born children of undocumented immigrants are automatically citizens of the United States, a concept that continues to be attacked by anti-immigration reformers.

As National Public Radio discusses, there continue to be politicians and lawmakers who utilize *Jus Soli* as a way to target specific groups of people. Becker

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<sup>133</sup> Peralta, Eyder. "3 Things You Should Know About Birthright Citizenship."*npr.org*. NPR, 18 Aug. 2015. Web. 18 Jan. 2016.

<sup>134</sup> Peralta, Eyder. "3 Things You Should Know About Birthright Citizenship."*npr.org*. NPR, 18 Aug. 2015. Web. 18 Jan. 2016.

<sup>135</sup> Peralta, Eyder. "3 Things You Should Know About Birthright Citizenship."*npr.org*. NPR, 18 Aug. 2015. Web. 18 Jan. 2016.

<sup>136</sup> Peralta, Eyder. "3 Things You Should Know About Birthright Citizenship."*npr.org*. NPR, 18 Aug. 2015. Web. 18 Jan. 2016.

points out “the limitations of *jus soli* provisions alone (in isolation) are evident in the fact that several thousands of persons born in the Americas still find themselves in a precarious legal situation, without an established nationality”.<sup>137</sup> The best known example of a *de jure* statelessness situation in the Americas is of course the tragic condition of Dominicans of Haitian descent in the Dominican Republic, where the government is using the “exception” in *jus soli* law (applicable to children of transiting migrants) to arbitrarily and illegally deprive several thousands of Dominican nationals of their nationality. As such, several scholars and international human rights organizations consider this an unconcealed example of an intentionally created, discrimination-based statelessness situation.<sup>138</sup>

Consequently, in 2014 President Danilo Medina’s administration attempted to mitigate the high court ruling with a naturalization law 169-14 aimed at recognizing the citizenship claims of those affected by the 2013 decision.<sup>139</sup> The naturalization law helped to provide undocumented immigrants with the opportunity to register with the immigration authorities. The 2014 Naturalization Law offered a seemingly simple solution: the government would recognize the nationality of those already registered with the state as Dominicans, and issue any additional documents necessary to fully exercise their citizenship rights. For those not yet registered, the government would first establish a registration process, then issue the requisite documents from those entitled to citizenship. However, despite a promising legal framework, Celso Perez’s

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<sup>137</sup> Becker, Charline. "Jus Soli: A Miraculous Solution to Prevent Statelessness? | European Network on Statelessness." *Jus Soli: A Miraculous Solution to Prevent Statelessness? | European Network on Statelessness*. European Network on Statelessness, 9 Apr. 2015. Web. 10 Jan. 2016.

<sup>138</sup> Becker, Charline. "Jus Soli: A Miraculous Solution to Prevent Statelessness? | European Network on Statelessness." *Jus Soli: A Miraculous Solution to Prevent Statelessness? | European Network on Statelessness*. European Network on Statelessness, 9 Apr. 2015. Web. 10 Jan. 2016.

<sup>139</sup> Perez, Celso. "We Are Dominican." *Human Rights Watch*. Human Rights Watch, 01 July 2015. Web. 16 Dec. 2016.

Human Rights Watch research finds that the law has been fraught with design and implementation flaws that have thwarted the re-naturalization process<sup>140</sup>. The registration process allowed 50,000 of Haitian immigrants to remain in the country, but the majority was unable to finish the process in time, as documents were slow to arrive from Haiti and crowds overwhelmed Dominican registration offices<sup>141</sup>.

As the issue continues to persist, there has not been much international aid in pushing the Dominican Republic to assist the stateless persons. Both the Supreme Court law of 2013 and the 2014 Naturalization Law have effectively left people whom were born in the Dominican Republic stateless, restricting their access to health care, education and employment opportunities. In addition, Haitian- Dominican tensions have escalated into violence with reports of Dominicans burning the Haitian flags and open calls for the deportation of all Haitian refugees. As UNHCR spokesperson Adrian Edward told a press briefing in Geneva, "With a stateless population in the Dominican Republic estimated at more than 200,000 people, the consequences of expulsion could be devastating," UNHCR spokesperson Adrian Edwards told a press briefing in Geneva.<sup>142</sup> Some citizens affected by the ruling have no connection to Haiti at all. The citizens in jeopardy of losing citizenship rights will have severe restrictions on education, employment, legal marriage and birth registration. According to the

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<sup>140</sup> Perez, Celso. "We Are Dominican." *Human Rights Watch*. Human Rights Watch, 01 July 2015. Web. 16 Dec. 2016.

<sup>141</sup> "Haiti and Dominican Republic Agree to Normalize Bilateral Relations." *Haiti and Dominican Republic Agree to Normalize Bilateral Relations*. Telesur, 14 Oct. 2015. Web. 20 Jan. 2016.

<sup>142</sup> Dominican Republic Urged Not to Deport Stateless Dominicans." *UNHCR News*. United National High Commissioner for Refugees, 19 June 2015. Web. 23 Jan. 2016.

National Institute for Latino Policy, leaving the country also presents challenges because they will not be able to obtain or renew passports.<sup>143</sup>

Understanding current Haitian-Dominican relations is nearly impossible unless the contentious historical accounts are analyzed. The practice of denationalization and deportation is a continuation of the legacy of anti-black *racism* in the *Dominican Republic* and has also resulted in placing these de jure stateless persons in higher risk of becoming vulnerable to human smuggling and trafficking. In the next chapter, I will address how according to the 2015 Human Trafficking Persons Report, there has been a target for persons who are smuggled and trafficked from Haiti into the Dominican Republic as illegal immigrants. In addition, I will focus on how the government's corruption has also aided human smuggling endeavors for Haitian-Dominicans.

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<sup>143</sup> "National Institute for Latino Policy | New York, NY 10011." *National Institute for Latino Policy | New York, NY 10011*. National Institute for Latino Policy, 2014. Web. 23 Jan. 2016.



### I. Introduction

The issue of *apatridados* or stateless persons in the Dominican Republic became more apparent after 2014, when the Law 169-14—created to address statelessness— began causing more problems. On May 23, 2014 Law 169-14 was passed which sought to compensate for the damage caused by the judgment of the *Tribunal Constitucional Dominicano* or Constitutional Court Law 168-13, which targetted Dominican children of foreign parents.<sup>144</sup> In the Dominican Republic, this mostly concerned Dominicans of Haitian descent. Law 169-14 immediately ordered a process to return and deliver identity documents for those whom were affected by the ruling. Law 169-14—a result of a political agreement— reflected a broad consensus between different sectors and interests in the society and was also recognized as an emergency by Congress.<sup>145</sup> It was issued with good intentions to leave the heightened crisis due to sentencing No. 168-13.

Although law-169-14 was created to help persons from becoming stateless, the several obstacles to regain and apply for citizenship have only created more vulnerability for stateless persons in the Dominican Republic. In order to understand the vulnerabilities of the Haitian-Dominicans, it is essential to understand the process being categorized into a specific group according to the said standard, being identified as a stateless person, and most importantly, and the process of being recognized as citizens of the Dominican Republic.

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<sup>144</sup> "Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 4. Web. 3 Dec. 2015.

<sup>145</sup> "Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 4. Web. 3 Dec. 2015.

## II. Law 169-14: Categories of Groups

Law 169-14 categorized two groups who were affected by the judgment of law 168-13, specifically to all Dominicans of Haitian descent born in Dominican territory to Haitian parents from 1929 to 2010.<sup>146</sup> They are categorized into group A: consisting of Dominicans of Haitian descent who were recorded in the Dominican civil registry but were suspended and administratively seized by the *Junta Central Electoral* or the Central Electoral Board.<sup>147</sup> Meanwhile Group B is composed of Dominicans of Haitian descent whom were not recorded in Dominican civil registry.<sup>148</sup>

For Group A, the law 169-14 ordered for the Central Electoral Board (JCE) to deliver and return identity documents (birth certificates and identity cards) without administrative process to those whom were affected by law 168- 13.<sup>149</sup> Nevertheless, for Group B, law 169-14 left an unknown process for two years to attempt entry into a special naturalization process.<sup>150</sup> However, unlike Group A, it was not until July 2014 that Group B was given information about how the naturalization process works, thus making Group B more vulnerable to statelessness.

## III. Law 169-14:Group A

An essential element of the law 169-14 is the immediate restitution of the documentation of all those people who already had papers (Group A).<sup>151</sup> However, the Central Electoral Board has interpreted the execution of Law 169-14 in their own way. The Central Electoral Board has opted for the mandate of the Constitutional Court ruling 168-13, which allows for

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<sup>146</sup> "Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 7. Web. 3 Dec. 2015.

<sup>147</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 7. Web. 3 Dec. 2015.

<sup>148</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 7. Web. 3 Dec. 2015.

<sup>149</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 7. Web. 3 Dec. 2015.

<sup>150</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 7. Web. 3 Dec. 2015.

<sup>151</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 8. Web. 3 Dec. 2015.

the board to conduct an audit from 1929 to 2010 within a period of one year.<sup>152</sup> Although the Central Electoral Board requires the prompt return of identity documents, it takes advantage of the 169-14 law, since there is no fixed period of time for delivery of documents to Group A.<sup>153</sup>

The Central Electoral Board has acted in a way that reveals a lack of interest and commitment to honor the political agreement. The JCE has also established the ongoing bureaucratic process and created specific obstacles for Group A to acquire their citizen documentation. Among the main obstacles to the implementation of the law 169-14 are the following:

I. Delaying documents: Central Electoral Board delaying delivery of documents is unjustifiable since an audit is not required by law to be carried out<sup>154</sup>. Bureaucracy, and delay slows the process and the release of the necessary documents. In addition, there is a lack of information, accountability and transparency from the JCE due to the audit process which utilizes terms like "transcribed", "regularized", "Transcribed and regularized" that are not clearly explained to the public.<sup>155</sup> Furthermore, through the the so-called audit, the beneficiaries of the law 169-14 are subjected to an interview-inspection, as if the people affected by the judgment 168-13 were at fault for their situation.<sup>156</sup> Group A beneficiaries are indeed victims since they are not at fault for becoming *de jure* stateless— since they were once part recognized by their state and now they are not.

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<sup>152</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 8. Web. 3 Dec. 2015.

<sup>153</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 8. Web. 3 Dec. 2015.

<sup>154</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 9. Web. 3 Dec. 2015.

<sup>155</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 9. Web. 3 Dec. 2015.

<sup>156</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 9. Web. 3 Dec. 2015.

II. The Central Electoral Board does not take into consideration material and financial obstacles to access the civil registration<sup>157</sup>. This is an issue because some are asked to find paperwork that no longer exists or to pay for auditors to process their paperwork even if they do not have the funds to do so.

III. The Central Electoral Board violates the data protection of the individual in Group A. This is shown by the creation of a civil registration book called the "*Libro de Transcripciones*" or Book of Transcriptions without legal basis where all people all stateless people of Haitian descent are registered, appearing as "transcript and regularized".<sup>158</sup>

III. The Central Electoral Board continues to make annulment demands of the original birth acts of those affected.<sup>159</sup> This is because people affected with claims of invalidity live in conditions of extreme vulnerability and poverty, so they cannot afford to defend themselves in the bureaucratic Dominican justice system.

V. Difficulty of Dominicans of Haitian descent for the renewal of the identity card and voter. During the process of renewal of identity cards, launched by the JCE in 2014, Dominicans of Haitian descent, despite having valid documents and reviewed by the JCE, were subjected to additional checks and requirements with additional data and documents delayed or prevented from the effective restoration of their identity cards.<sup>160</sup> This has affected people with formal employment, who lost their jobs because of suspensions of their identity cards.

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<sup>157</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 13. Web. 3 Dec. 2015.

<sup>158</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 13. Web. 3 Dec. 2015.

<sup>159</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 15. Web. 3 Dec. 2015.

<sup>160</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 15. Web. 3 Dec. 2015.

*Group A: Effects of non-compliance with law 169-14: Racial discrimination towards Dominicans of Haitian descent in Group A*

Non-compliance with the law 169-14 also manifestests forms of racial discriminanion against Dominicans of Haitian descent. In the case of Group A this becomes visible in the following situations: Denial of the right to the Civil Registry: taking the mother and father and electoral Dominican identity card, denies the civil registration of their children as Dominicans.<sup>161</sup> In addition, denial of White Certificates in Hospitals has also become a problem. Dominican parents of Haitian descent without identity card in the hospitals do not give them a certified childbirth but treat them like foreigners (Haitians).<sup>162</sup> The representatives of hospitals assume functions do not corresponded to them, and they are discriminated against their skin color and "Haitian" appearance. Newborns are credited with Haitian origin by their grandparents.<sup>163</sup>

Furthermore, deportation of stateless and Dominican racial phenotypic profile (racial profiling) for looking "Haitian" has escaleted in the past two years. Some of the most recent examples of deportation include:

Fifty three people, thirty of them children along with their parents, two nuns and an advocate of Human Rights Jesuit Network with Migrants were deported to Haiti on January 27, 2015.<sup>164</sup> This group was headed to San Juan de la Maguana to apply for the naturalization process but were deported by Elias Pina instead. Another case occurred just a few days after on January 31<sup>st</sup>, when 32 children of Jimani heading to Barahona to apply for naturalization were arrested and taken away by immigration officials of Jimani to be deported to Haiti.<sup>165</sup>

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<sup>161</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 15. Web. 3 Dec. 2015.

<sup>162</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 16. Web. 3 Dec. 2015.

<sup>163</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 16. Web. 3 Dec. 2015.

<sup>164</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 16. Web. 3 Dec. 2015.

<sup>165</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 16. Web. 3 Dec. 2015.

In addition, there have been several instances of physical and verbal attacks against individuals part of Group A. On March 2015, two members of Dominican Recognized Movement were attacked by passengers and a bus driver saying that Feliz and Polo did not have their identity cards and they looked like "Haitians," according to statements by Estefany Feliz.<sup>166</sup> Mr. Lidio Polo and Estefany Feliz were physically assaulted at a bus stop in Barahona, Dominican Republic. The driver spat at Lidio Polo, hit him, and then four or five people also began to attack both people.<sup>167</sup> One of the attackers hit Lidio Polo with a stone, inflicting a wound. The driver then pushed Estefany Feliz, who fell and injured her back. "We saw death" they said. "Due to our color, we are worthless," said Lidio Polo.<sup>168</sup> This is an example of a hate-crime act, where individuals of Group A had their lives threatened, even when they had their identity cards. This incident was largely publicized in the Dominican Republic because Feliz and Polo are well-known human rights activists, but incidents like these occur on a daily basis and are not addressed by the authorities.

#### **IV. Interview with Michelle Fadeus**

Having the opportunity to read people's personal accounts regarding the Haitian-Dominican stateless sometimes makes it more believable as it shows how they are truly affected by it. As a Dominican living in the United States, I began hearing about Haitian-Dominicans becoming stateless due to the Supreme Court ruling in 2013. However, it was not until 2014 when people started getting deported that I saw it as "threat". Ironically, the first person that I thought about asking about this issue was Michelle Fadeus, a family friend whom I knew since childhood. After asking him more questions,

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<sup>166</sup>Reynoso, Yesibon. "Estefani Feliz Y Lidio Polo Son Agredidos Por Empleados De Sinchomiba." *Estefani Feliz Y Lidio Polo Son Agredidos Por Empleados De Sinchomiba*. [espacinsular.org](http://espacinsular.org), 26 Mar. 2015. Web. 26 Jan. 2016.

<sup>167</sup> Reynoso, Yesibon. "Estefani Feliz Y Lidio Polo Son Agredidos Por Empleados De Sinchomiba." *Estefani Feliz Y Lidio Polo Son Agredidos Por Empleados De Sinchomiba*. [espacinsular.org](http://espacinsular.org), 26 Mar. 2015. Web. 26 Jan. 2016.

<sup>168</sup> Reynoso, Yesibon. "Estefani Feliz Y Lidio Polo Son Agredidos Por Empleados De Sinchomiba." *Estefani Feliz Y Lidio Polo Son Agredidos Por Empleados De Sinchomiba*. [espacinsular.org](http://espacinsular.org), 26 Mar. 2015. Web. 26 Jan. 2016.

he let me know that he was categorized as part of Group A since he was once registered in the Dominican civil registry. Later on this past summer, I had the opportunity to conduct a more formal interview with him to learn more about his process and how his life has been impacted by *these* laws. The following interview was conducted in Santiago, Dominican Republic on August 26, 2015.

Interview:

Anabel: "What is your name?"

Michelle: "Michelle Fadeus"

Anabel: "Where were you born?"

Michelle: "I was born in a small town in the Dominican Republic"

Anabel: "How old are you?"

Michelle: "I am 28 years old"

Anabel: "How do you identify yourself, whether it be race, ethnicity or nationality? For example, my ethnicity is Dominican and my race is Spaniard and African due to my ancestors"

Michelle: "I identify myself as Dominican as well, however my parents are both Haitian, but my grandmother from my mother's side is Cuban".

Anabel: "Oh wow, I had no idea!"

Michelle: "Yea"

Anabel: "Do you have family in Haiti?"

Michelle: "Yes, I do. My father still lives in Haiti and most of my family actually lives in Haiti"

Anabel: "What are you applying for specifically?"

Michelle: "I am applying for my citizenship since it was taken away"

Anabel: "Would you mind explaining further how and why?"

Michelle: "Well, I was born here and I had my *cedula* (certification card)"

Anabel: “How was the process of applying to receive your *cedula*?”

Michelle: “Actually, I have not received my official card since it has been a year-long process, with extreme bureaucracy, long days of going to the *Junta Central Electoral*, gathering all of my documents— some from my Haitian parents— and missing work as well”

Anabel: “What has been the most difficult part of this process?”

Michelle: “I think that since my daughter was born and she is also Dominican— as well as her mother— also trying to figure out her paper work since she was born two years ago and no one who was born past 2007 is allowed to apply for citizenship”

Anabel: “But how is that possible since she was born here, and the hospital has her birth certificate and paper work?”

Michelle: “Because the certain hospitals are identifying children of parents without citizenship as Haitians. However, since the mother is entirely Dominican we are utilizing that to help us prove that she is indeed a Dominican citizen.”

Anabel: “In your opinion, do you believe that the law 168-14 is actually helping people regain their citizenship?”

Michelle: “ Not necessarily. I’ve lived here all of my life, my life is the Dominican Republic. I thought that I was already a citizen and then now I have to go through so many obstacles to *regain* what I was born with. *No tiene sentido* (It does not make sense). I also know that there are so many racist people against me, who simply make the process much more difficult than it needs to be.”

Anabel: “Would you ever consider living in Haiti since most of your family lives there?”

Michelle: “Not really, only to visit since I always do, but this is my home and where I want my child to grow up”.

Anabel: “Do you feel safe in the Dominican Republic?”



Michelle: “Regardless of what is going on and all of the ongoing discrimination, I do feel safe. I guess it’s all I’ve known.”

After listening to his answers, translated from Spanish into English, I noticed how every word was sincere. His words conveyed his confusion with trying to identify himself as Haitian or Dominican, or even Cuban. He did not need that as long as he was a citizen of the country he was born— that was all that seemed to matter to him.

*Has there been any progress for Group A?*

Two years after the law 169-14, delivering documentation for Dominicans of Haitian descent has continued to fail. The JCE has failed to fulfill the mandate of this law as it only continues the bureaucratic path and administrative processes to outlaw beneficiarias to resort to the same slow processes and economic cost that they can not afford. The few electoral identity cards that have been obtained have difficulties when appearing in the system. From a load of over 900 cases that have been monitored from the implementation of the law, less than 500 have managed to have their documentation and those who have received it, a large majority has limited use for their documentation as they cannot exercise their civil and political rights.<sup>169</sup>

### **V.Law 169-14: Group B**

During my time in the Dominican Republic, I contacted a non-profit organization called *Centro de Formación y Acción Social y Agraria* (CEFASA). As stated in their website, “CEFASA, whose acronym stands for Center for Agricultural Training and Social Action is a nonprofit institution founded by the Jesuits in 1963.”<sup>170</sup> It is also

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<sup>169</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 23. Web. 3 Dec. 2015.

<sup>170</sup> *Cefasa.org*. Web. 3 Mar. 2015

funded by international organizations.<sup>171</sup>In 2014, CEFASA adopted its current strategic plan, covering the years 2014 to 2019, where defined as lines of action: “the protection and defense of human rights, training and strengthening of people and social organizations, the establishment of inter-agency partnerships and joint national and international networks, promoting livelihood development sustainable and institutional strengthening”.<sup>172</sup> As such, they have been an integral part in the process of pro-bono naturalization work with an array of services from lawyers, auditors and accountants.

During my time at CEFASA, I wrote my experiences, observations, stories and thoughts to be able to apply them in understanding the affects of Law 169-14 on vulnerable populations.

*Journal Entry 4*

*August 13, 2015*

As part of my *pasantia* or volunteership, I mostly helped with organizing the legal documents for the naturalization process, and helped the clients learn more about their individual cases. As I begun learning more about Law 169-14, I asked who exactly was coming to get help with their paper work. As my supervisor, Yvonne had mentioned, it was mostly Group B people who were coming to acquire help from the organization as they had become the most vulnerable group to *apatradia*. The first day Yvonne mentioned how the governemnt had to do something about the law that stripped citizenship away because many business men would lose workers. However, she pointed out that there is no way as of yet to have people that do not have money stay because the process is very bureacratc and expensive. At the time I did not know exacly what the difference between Group A and Group B was since they were both taken their citizenship away, but as I later learned Group B was the group that was never even

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<sup>171</sup> *Cefasa.org*. Web. 3 Mar. 2015

<sup>172</sup> *Cefasa.org*. Web. 3 Mar. 2015

recognized as citizens. It made me question, was it worse to lose something you never really had or have something taken away? In both situations, I learned that both groups suffered challenges to one day acquire citizenship.

*Grupo B:*

Group B established by law 169-14, refers to Dominicans of Haitian descent who for some reason could not be registered in the civil registry and this law established a registration process for naturalization in two years.<sup>173</sup> The Law 169-14 had the objective to solve the problem of lack of documentation and reduce the risks for statelessness since the state is obliged to prevent.<sup>174</sup>

For Group B, Law 169-14, foresaw the need to issue a regulation to provide evidence of birth in the country. As the first phase, they were offered to register within 90 days as foreigners to obtain birth certificate, then acquire legal immigration status through immigration card (2nd. stage), with the option to choose (2 years later) for Dominican nationality through the ordinary naturalization ( 3rd. phase).<sup>175</sup>

The regulation also requires applicants to provide evidence to prove they were born in the Dominican Republic, such as birth certificate in public or private hospital; act of notoriety, 7 witnesses; affidavits; testimonial and Dominican family who have Dominican national documentation.<sup>176</sup> Once the instruction of the administrative procedure is completed, there is a period of 30 days to decide on the application, either accepting or rejecting it.<sup>177</sup> Applications are accepted depending on the Central Electoral Board.

*Obstacles to implementation of the law 169-14 for Group B*

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<sup>173</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 26. Web. 3 Dec. 2015.

<sup>174</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 27. Web. 3 Dec. 2015.

<sup>175</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 28. Web. 3 Dec. 2015.

<sup>176</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 28. Web. 3 Dec. 2015.

<sup>177</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 28. Web. 3 Dec. 2015.

Since the beginning of implementation of the law 169-14, the platform 169-14 and Dominican @ sX law have pointed to the obstacles identified in the first months of the implementation of the law.<sup>178</sup> Subsequently, the report on the situation of Human Rights 2014 by the Jesuit Network of Social Centers , built by the Bono Center, CEFASA and Border Solidarity, emphasized other anomalies in the process.<sup>179</sup> Finally, in February 2015, the platform Dominican @ sX explained the limited impact of the Law 169-14, pointing obstacles identified at the end of the registration deadline.<sup>180</sup> All obstacles registered in the documents cited, are exposed as followed:

I.Lack of information

II.Territorial exclusion, meaning that it was verified that not enough offices enable all persons regardless of their residence could enter the process in terms of mobility and distances.<sup>181</sup> They emphasized the exclusion of the border zone in this process, where the vast part of the population affected is concentrated.

III. Offices not opened

Some provincial offices refused to receive applications from residents of other provinces in the same region. This policy exclude the possibility of recourse to the law to persons residing in provinces where official opened, or where opened very late at the end of the process.<sup>182</sup>

IV. Requirement for additional documents. The Ministry of Interior and Police (MIP) adopted the administrative decision to require some identity of the mother of Group B, in

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<sup>178</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 28. Web. 3 Dec. 2015.

<sup>179</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 28. Web. 3 Dec. 2015.

<sup>180</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 28. Web. 3 Dec. 2015.

<sup>181</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 29. Web. 3 Dec. 2015.

<sup>182</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 29. Web. 3 Dec. 2015.

order to process applications.<sup>183</sup> This requirement is not required in any part of the Act or Decree 250-14 and has been a major obstacle for people to benefit from the law. In cases of people if they have the birth certificate of the mother, they are not accepted if the document was not legalized and translated into Spanish, and in some cases, had to be certified in Haiti.<sup>184</sup>

V. People in Group B have been listed on the National Plan for the Regularization of Foreigners (PNRE).<sup>185</sup> There are reports that in some Units MIP sent people born in the country to benefit from the regularization plan and not the naturalization process, which many people who do not know about the Law accepted and losing the the ability to one day claim back the right to their citizenship.

VI. No applications from people born after April 19, 2007 are received because the MIP has ordered although this requirement is not in the 250-14 or 169-14 Decree Law.<sup>186</sup>

VII. increase rate: an increase of 100% in the price of services of the Attorney legalization, coinciding with the time of application of the law that it is for a large population of the Act, which falls to a wide population is found scarce resources. The Office of the Attorney General rates climbed RD \$ 300 to RD \$ 600 pesos.<sup>187</sup> From \$6.50 to \$13.00 in dollars. This was actually a very common thing that I noticed when interning at CEFASA. Many people from Group B did not have money to pay for the attorney legalization and they would call their pro-bono lawyer, who might have or might not have been there depending on the day. Then, they would have had to travel back to and wait for their turn to be called back.

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<sup>183</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 29. Web. 3 Dec. 2015.

<sup>184</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 29. Web. 3 Dec. 2015.

<sup>185</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 29. Web. 3 Dec. 2015.

<sup>186</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 29. Web. 3 Dec. 2015.

<sup>187</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 30. Web. 3 Dec. 2015.

*August 27, 2015*

I've heard stories about the women who would come to help gather their papers, one who was pregnant and really wanted her process to be quick before her child was born. I also heard about an old Haitian-Dominican man who would come once a week to check on the status of his paperwork, although he lived more than 7 hours away. One day on his way to CEFASA he came on a motorcycle to give the last few of his papers that had been delivered all the way from Haiti. Unfortunately, some guy thinking that his purse had money, stole the purse and he lost all of his documents. As a few of my coworkers told me, he arrived to CEFASA crying with no hope in his eyes. That day I realized how the system that I was trying to understand was only perpetuating things like this to occur.

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According to statistics provided by the Ministry of Interior and Police, limited acceptance of applications: potential beneficiaries exceeds 53,000 people but just about 8,755 had been accepted.<sup>188</sup> Of the 8,755 people who qualified for the process of naturalization, a large number had been receiving letters during the months of March-April by the ministry, where they were asked to provide additional documentation that they had deposited.

Regardless, they will remain at high risk of statelessness until they apply for Dominican nationality in two years, especially those who achieve the 2nd phase and obtain a migration card with an unknown nationality. Less than 20% of Group B had a chance to benefit from the naturalization process due to multiple obstacles, ranging from the lack of information, denial of hospital registration, notariated acts, transport costs and

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<sup>188</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 29. Web. 3 Dec. 2015.

various legalizations.<sup>189</sup> Group B continues to have constant warnings of deportation since the government regularly generates an atmosphere of tension and insecurity for Dominicans of Haitian descent. Even if they have documents, nothing will guarantee that deportations are not carried out discriminately, as they have always been based on racial criteria.

## **VI. Vulnerabilities caused by Law 169-14**

As stated before, there are several vulnerabilities that are caused by the implementation of law 169-14 towards both groups A and B.

Journal 9

*September 3, 2015*

Before I left, my father I went to Salcedo, the town where my parents were raised. Michelle lives there and I was hoping to see him to see how his naturalization process was going. My dad and I went to see my grandparent's house, and that's where we saw one of Michelle's friends who told us Michelle was at work. At least that's what we thought. A few hours later, I saw Michelle in the back of his friend's motorcycle and in a hurry. Apparently he had forgotten his probationary identification card when the police had stopped him and asked where it was. Since he did not have it they took away his bike and told him he would have to find a way to go home and get it. Without any phone and late to work he had no option but to walk home until one of his friends saw him and gave him a ride. I could not believe it at first but the police even asked my father questions on our way to Salcedo. However since he was with my uncle— an ironically whiter Dominican he was not stopped. Someone ended up calling my dad to help Michelle out since he ended up going to police station for asking for his

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<sup>189</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 31. Web. 3 Dec. 2015.

motorcycle back. Michelle said that what hurt him the most was that he ended up not going to work and not buying his daughter milk for the week.

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Comparingly, the article “Women of Haitian Descent Bear the Brunt of Dominican Migration Policy” by Ivet Gonzalez, mentions how women of haitian descent are constantly afraid of being deported.<sup>190</sup> Lilian Dolis, head of the local NGO Dominican-Haitian Women’s Movement (MUDHA), stated that “this process has a greater impact on women because when a son or a daughter is denied their Dominican identity, the mothers are directly responsible for failing to legalize their status.”<sup>191</sup> The deportation have only increased and since August of 2015 the police have been carrying out continuous raids, and undocumented immigrants are taken to camps along the border, to be deported to Haiti. According to official figures, the Dominican Republic’s migration authorities deported 15,754 undocumented Haitian immigrants from August 2015 to January 2016, while 113,320, including 23,286 minors, voluntarily returned home.<sup>192</sup> Undocumented immigrants (stateless persons) can’t work, study or have a public life,” Dolis said. “They go directly into domestic service or work in the informal sector. And even if they have documents, Haitian-Dominican women are always excluded from social programs.”<sup>193</sup> Abreu, known by her nickname “the Spider”, said “women sell clothes or food, they apply hair extensions, they’re domestic employees and some are sex workers. Abreu raised an interesting point in that many suffer from police abuse – the police take their carts and merchandise when

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<sup>190</sup> Gonzalez, Ivet. "Women of Haitian Descent Bear the Brunt of Dominican Migration Policy." *IPSnews*. IPS, 5 Feb. 2016. Web. 5 Feb. 2016.

<sup>191</sup> Gonzalez, Ivet. "Women of Haitian Descent Bear the Brunt of Dominican Migration Policy." *IPSnews*. IPS, 5 Feb. 2016. Web. 5 Feb. 2016.

<sup>192</sup> Gonzalez, Ivet. "Women of Haitian Descent Bear the Brunt of Dominican Migration Policy." *IPSnews*. IPS, 5 Feb. 2016. Web. 5 Feb. 2016.

<sup>193</sup> Gonzalez, Ivet. "Women of Haitian Descent Bear the Brunt of Dominican Migration Policy." *IPSnews*. IPS, 5 Feb. 2016. Web. 5 Feb. 2016.



they don't have documents.” Thus, demonstrating how women become the most vulnerable due to lack of documentation caused by statelessness.

As previously discussed in Chapter 1 through the Thailand Report, statelessness is said to place people at a *higher* risk for trafficking. Human trafficking is defined as modern day slavery, or as “the recruitment, harboring, transporting, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purposes of subjection to involuntary servitude, peonage, debt bondage, or slavery”.

<sup>194</sup> The trafficking of persons occurs in all countries of the world— domestically and internationally— and does not discriminate against women, men, and children. According to the International Labour Organization, “nearly 21 million people are victims of forced labor across the world, trapped in jobs which they were coerced or deceived into and which they cannot leave”. Furthermore, developing nations encompass the largest amounts since “the Asia- Pacific region accounts for the largest number of forced laborers in the world (56%) of the global total, followed by Africa (18%) and Latin America at (9%)”.<sup>195</sup>

The trafficking of persons is divided into two divisions— labor trafficking and sex trafficking. From these two categories, sex trafficking is a debatable issue because it is a controversy deciding who is a victim and how to support them. Nonetheless, human trafficking, specifically the trafficking of women for sexual labors, is a human security issue. According to the most recent Trafficking in Persons Report in 2015, the government indicated that there had been more victims to care for in 2014, and continued

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<sup>194</sup> United States of America, Department of State. *Trafficking in Persons Report*. 9. 2014.

<sup>195</sup> "21 Million People Are Now Victims of Forced Labour, ILO Says." *21 Million People Are Now Victims of Forced Labour, ILO Says*. 01 June 2012. Web. 16 Mar. 2015.

efforts aimed at preventing human trafficking.<sup>196</sup> In addition, after the government installed a national hotline in 2014, they received 232 reports of gender-based violence and trafficking cases.<sup>197</sup> However, they saw an increase in the types of persons who were most vulnerable to trafficking. For instance as states in the report, “the government began implementing a naturalization law that provides a path to citizenship for persons affected by the 2013 Constitutional Tribunal ruling, but a sizeable group may be left without legal status, increasing their vulnerability to trafficking”.<sup>198</sup> These conditions made them vulnerable to exploitation in forced labor and sex trafficking. While there were no official reports of victims being punished for unlawful acts committed as a direct result of being subjected to trafficking, undocumented Haitian victims faced the risk of deportation and other penalties resulting from their irregular immigration status.<sup>199</sup>

Nevertheless, there also continues to be Dominicans of Haitian descent whom are being smuggled back into the Dominican Republic through borders like Dajabón. As stated in the article, “Para disminuir el tráfico ilegal de haitianos: Hechos, y no la cháchara patrioter” (to decrease the smuggling of illegal Haitians) Carmen Suárez analyzes why “Haitian labor is essential today for the construction industry, for tourism, for agribusiness and for the unskilled and poorly paid work as concierge, night surveillance, among others.”<sup>200</sup> Dominicans are not the only ones whom benefit from smuggling, illegal haitians do as well. According to the CEFASA report on “Smuggling from Haiti to Santiago, RD” illegal immigrants, whether illegal haitian-dominicans or just Haitians, are used to the type of labor that they may be getting into and are willing to

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<sup>196</sup> United States Department of State, *2015 Trafficking in Persons Report -Dominican Republic*, 27 July 2015, Accessed February 8, 2016.

<sup>197</sup>United States Department of State, *2015 Trafficking in Persons Report - Dominican Republic*, 27 July 2015. Accessed February 8, 2016.

<sup>198</sup>United States Department of State, *2015 Trafficking in Persons Report - Dominican Republic*, 27 July 2015. Accessed February 8, 2016.

<sup>199</sup> United States Department of State, *2015 Trafficking in Persons Report - Dominican Republic*, 27 July 2015. Accessed February 8, 2016.

<sup>200</sup> Suárez, Carmen. "Para Disminuir El Tráfico Ilegal De Haitianos: Hechos, Y No La Cháchara Patrioter." *acento.com.do*. Acento SAS, 14 Jan. 2015. Web. 3 Feb. 2016.

make sacrifices for a better life.<sup>201</sup> The report found that most illegal immigrants being smuggled were from the ages of 18-35, utilized motorcycles as their method of transport, paid the “buscones” or smugglers whom were of their nationality and most would come on market day when the borders were not as heavily supervised.<sup>202</sup> However, the report does point out that there are several illegal immigrants whom are smuggled into the Dominican Republic and have a different expectation of their jobs versus what they actually come to do (ex. Domestic worker vs. sex worker).<sup>203</sup>

Nevertheless, author Suárez admits that smuggling illegal migrants is not the right thing to do, especially when the police does it. These Dominicans of Haitian descent and illegal Haitians migrated and stayed with the help of corrupt military that guard the border.<sup>204</sup> Suarez’s solution to illegal migration and smuggling is to start by controlling the border to not only aid the country, but also prevent smugglers from becoming trafficked once they are inside of the country.<sup>205</sup>

### *Statelessness and human insecurity*

Human security ensues the ‘freedom from want’ and ‘freedom from fear’ by addressing the combination of risks and vulnerabilities within communities. These vulnerabilities may include ‘freedom from want’ risks— not having an adequate standard of living due to no income and debt bondage— as well as vulnerabilities under ‘freedom from fear’— being sexually molested, and being captive without freedom of movement. As Aradau states in *Rethinking Trafficking in Women*, “the victims’ suffering is an abuse

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<sup>201</sup> Jacques, Vilson. "Investigación De Personas Tráfico De Persona Desde Haití Hacia Santiago , República Dominicana." *Cefasa.org*. Cefasa, Jan. 2014. Web. 29 Jan. 2016.

<sup>202</sup> Jacques, Vilson. "Investigación De Personas Tráfico De Persona Desde Haití Hacia Santiago , República Dominicana." *Cefasa.org*. Cefasa, Jan. 2014. Web. 29 Jan. 2016.

<sup>203</sup> Jacques, Vilson. "Investigación De Personas Tráfico De Persona Desde Haití Hacia Santiago , República Dominicana." *Cefasa.org*. Cefasa, Jan. 2014. Web. 29 Jan. 2016.

<sup>204</sup> Suárez, Carmen. "Para Disminuir El Tráfico Ilegal De Haitianos: Hechos, Y No La Cháchara Patrioter." *acento.com.do*. Acento SAS, 14 Jan. 2015. Web. 3 Feb. 2016.

<sup>205</sup> Suárez, Carmen. "Para Disminuir El Tráfico Ilegal De Haitianos: Hechos, Y No La Cháchara Patrioter." *acento.com.do*. Acento SAS, 14 Jan. 2015. Web. 3 Feb. 2016.

of human rights, which can only be rectified by reinstating those rights”.<sup>206</sup> Therefore, through the broad dimensions of human security— ‘freedom from want’ and ‘freedom from fear’— it is important to prioritize the lives of the victims by identifying victims of forced labor without victimizing them during immigration and criminal procedures.

The Dominican Republic has recently become Brazil’s competitor in the economy of human trafficking. According to the Office of International Immigration (OIM), “a large quantity of women and children are victims of sex trafficking in the Dominican; however, many Dominicans believe that it is the government’s job to find solutions.”<sup>207</sup> Nonetheless, it is not only the government’s job, but also the nation’s job as a whole, to gather resources and mobilize solutions for its trafficking victims. In the Dominican Republic, trafficking has finally been placed on the political agenda. However, countries like the Dominican Republic need to put a heavier emphasis on human security threats that continue to chronically worsen, especially when dealing with statelessness. The Dominican Republic also suffers three times as much trafficking since it is “the origin, transit, and destination of sex trafficking” occurs.<sup>208</sup> Consequently, trafficking in the Dominican Republic continues to threaten human security dimensions, including personal security and economic security.

In the case of trafficking, the first priority that needs attention is personal security, specifically gendered security, which “appears as a set of threats, assaults, mistreatment, injuries, and harm associated with the exclusion, subordination, discrimination, and

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<sup>206</sup> Aradau, Claudia. *Rethinking Trafficking in Women: Politics out of Security*. Basingstoke: Palgrave Macmillan, 2008. 34. Print.

<sup>207</sup> Peguero, Ana. "República Dominicana Es El Tercer País Del Mundo Con Mayor Trata De Personas." *Diariolibre.com*. Diario Libre, 23 Sept. 2013. Web. 10 Mar. 2015.

<sup>208</sup> Vizcaino, Patricia. "República Dominicana Es El País Con Más Víctimas De Trata En La Región." -. *El Día*, 25 Mar. 2014. Web. 13 Mar. 2015.

exploitation of women”.<sup>209</sup> Femicide continues to increase through marital violence, since “more women are killed at the hands of their partners or former partners than in any other country in the region, according to a review by the Gender Equality Observatory of Latin America and the Caribbean”.<sup>210</sup> In many instances, broken homes drive women into prostitution, and are coerced into sex trafficking. These women live in continuous fear that they or their loved ones will get hurt, or that they will get turned into criminals since prostitution is legal in the Dominican Republic, but only when conducted without pimps. It is important for “governments to develop and implement policies to identify trafficking victims who are forced to participate in criminal activity in the course of their victimization, and provide them with appropriate protective services,” and thus, promotes the representation of personal security in trafficking.<sup>211</sup>

Another priority mostly seen by illegal immigrants and stateless persons in the Dominican Republic is economic security for victims of human trafficking. In the Dominican Republic, the unemployment rate is one of the highest in the region at nearly 15%.<sup>212</sup> Therefore, women search for other alternatives to supply for their families, and are often tricked into sex work. Nordstrom states that globalized exploitation through the informal economy is a human security issue, and thus, trafficking continues to be part of the shadow economy. One of the main problems with trafficking victims is what occurs to them once they have been found. For instance, “victims of trafficking around the

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<sup>209</sup> “Femicide in Latin America in the Movement for Women’s Human Rights,” *Terrorizing Women. Femicide in the Americas*. Duke University Press, 2. 2010

<sup>210</sup> Showcasing Projects And Programmes Supported By The Cvc/coin Vulnerabilised Groups Project, and And Aiming To Strengthen Rights-Based Responses To Hiv In The Populations Most Vulnerable To Hiv. "Sex Workers United in Preventing HIV: A Peer Education Programme for Sex Workers." *CARIBBEAN CIVIL SOCIETY SHOWCASE SERIES*, *Focusright.org*. CVC/COIN Vulnerabilised Groups Project, Mar. 2013.

<sup>211</sup> United States of America, Department of State. *Trafficking in Persons Report*. 9. 2014.

<sup>212</sup> Showcasing Projects And Programmes Supported By The Cvc/coin Vulnerabilised Groups Project, and And Aiming To Strengthen Rights-Based Responses To Hiv In The Populations Most Vulnerable To Hiv. "Sex Workers United in Preventing HIV: A Peer Education Programme for Sex Workers." *CARIBBEAN CIVIL SOCIETY SHOWCASE SERIES*, *Focusright.org*. CVC/COIN Vulnerabilised Groups Project, Mar. 2013.

world have broken free from exploitation only to find themselves locked in so-called shelters that more closely resemble detention centers than havens of support and safety”.

<sup>213</sup>A shelter should be a place where victims not only have freedom of movement, but also find a way to reintegrate back into the world. After having been forced laborers, these victims need outlets to empower themselves either through counseling, education, or self-satisfying employment in order to economically sustain themselves. Reducing economic vulnerability is essential to increasing human security for both men and women who have been trafficked because they cannot access their livelihoods and develop their own goals.

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<sup>213</sup> United States of America, Department of State. *Trafficking in Persons Report* 2014.

## CHAPTER FOUR- RECOMMENDATIONS FOR STATELESSNESS AND HUMAN TRAFFICKING IN THE DOMINICAN REPUBLIC

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### I. Introduction

*De jure* stateless Haitian-Dominicans in the Dominican Republic have had various consequences for their state of being— the most vulnerable: human smuggling and trafficking. Due to the state’s corruptive police force, the police continue to economically take advantage of stateless Haitian-Dominicans when they are smuggled back into the Dominican Republic illegally or other countries.<sup>214</sup> In addition, the 2015 Trafficking in Persons Report in the Dominican Republic pointed out that after “the government began implementing a naturalization law that provides a path to citizenship for persons affected by the 2013 Constitutional Tribunal ruling, but a sizeable group may be left without legal status, increasing their vulnerability to trafficking”.<sup>215</sup>

As such, there must also be a focus on victims of human trafficking in the Dominican Republic— specifically those that might not be considered citizens. One case specifically occurred this past December when 19 military officers and migration inspectors who were imprisoned for trafficking Dominicans, Haitians and Haitian-Dominicans into the United States.<sup>216</sup> Claudia Rodriguez, journalist for *El Caribe*, explains that there were people leaving the country with exit restriction, people with fake visas, and people without proper accreditation of the original passports allegedly accusing the *Dirección General de Migración* (General Immigration Department).<sup>217</sup>

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<sup>214</sup> Suárez, Carmen. "Para Disminuir El Tráfico Ilegal De Haitianos: Hechos, Y No La Cháchara Patrioteria." *acento.com.do*. Acento SAS, 14 Jan. 2015. Web. 3 Feb. 2016.

<sup>215</sup> United States Department of State, *2015 Trafficking in Persons Report - Dominican Republic*, 27 July 2015. Accessed February 8, 2016.

<sup>216</sup> Rodriguez, Claudia. "Apresan 19 Militares E Inspectores De Migración Por Tráfico Y Trata De Personas." *El Caribe*. El Caribe, 18 Dec. 2015. Web. 1 Mar. 2016.

<sup>217</sup> Rodriguez, Claudia. "Apresan 19 Militares E Inspectores De Migración Por Tráfico Y Trata De Personas." *El Caribe*. El Caribe, 18 Dec. 2015. Web. 1 Mar. 2016.

Rodriguez also states that the United States Embassy had been following this case for over 6 months but it was not until December 18<sup>th</sup>, 2015 that they finally obtained arrest warrants, searches and other procedural acts to detain the military officers.<sup>218</sup> As such, human trafficking is an example of the state targeting the most vulnerable populations in the Dominican Republic— stateless Haitian- Dominicans being one of them.

## **II. The Nexus between Statelessness and Human Trafficking**

As mentioned in chapter one, Ayten Gündogdu, author of *Rightlessness in an Age of Rights: Hannah Arendt and the Contemporary Struggles of Migrants* attempts to address the situation through a human security perspective by recognizing the lack of rightlessness of stateless persons.<sup>219</sup> According to Gündogdu, “Arendt’s notion of “rightlessness,” highlighting a fundamental condition that can undermine the very possibility of claiming and exercising even the rights that one formally has, draws attention to what gets lost in this conventional frame and renders statelessness more comparable to structural problems such as poverty, racial inequality, and patriarchy”.<sup>220</sup> Gündogdu offers the example in that instead of tackling patriarchy as a structural problem, activist for women’s rights focus on violence against women and highlight bodily harm in order to be able to assign responsibility for identifiable violations.<sup>221</sup> Consequently, this is problematic since the structural problem of statelessness is not being addressed but only the affects of its structure. Thus, when it comes to the issue of statelessness and human trafficking mostly its consequences are dealt with— creating refugee camps and trafficking victim assistance— instead of the structural problem that create statelessness and trafficking in the first place.

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<sup>218</sup> Rodriguez, Claudia. "Apresan 19 Militares E Inspectores De Migración Por Tráfico Y Trata De Personas." *El Caribe*. El Caribe, 18 Dec. 2015. Web. 1 Mar. 2016.

<sup>219</sup> Gündogdu, Ayten. *Rightlessness in an Age of Rights: Hannah Arendt and the Contemporary Struggles of Migrants*. New York: New York: Oxford UP, 2015. 93.Print.

<sup>220</sup> Gündogdu, Ayten. *Rightlessness in an Age of Rights: Hannah Arendt and the Contemporary Struggles of Migrants*. New York: New York: Oxford UP, 2015. 95.Print.

<sup>221</sup> Gündogdu, Ayten. *Rightlessness in an Age of Rights: Hannah Arendt and the Contemporary Struggles of Migrants*. New York: New York: Oxford UP, 2015. 96.Print.



Nevertheless, as shown through the Haitian-Dominican case study, it is essential to place statelessness and human trafficking in the same conversation since statelessness and human trafficking are intertwined through internal root causes. As mentioned in chapter 1, *The Nexus Between Statelessness and Human Trafficking in Thailand* (Thailand report) is one of the only empirically accurate studies ever done on this topic. This report focuses on the difference in experiences between stateless persons and citizens and their proneness to being trafficked. As stated in *The Hague Institute for Global Justice*, this study was able to examine external and internal root causes (such as poverty, lack of education, or risk-taking behavior) that can expose an individual to a higher risk of trafficking.<sup>222</sup>

Through their research, they were able to conclude that stateless persons may intrinsically be more likely to fall prey to trafficking because they seek a better life away from home at a higher rate than citizens. Furthermore, stateless persons may become exploited at a higher rate than citizens in the process of seeking a better life away from their country of origin.<sup>223</sup> Therefore, what truly matters when trying to understand the connection between statelessness and human trafficking is the risk that stateless persons may have due to external and internal root causes that can expose them to human trafficking.

### **III. Relatable recommendations from the Thailand Report to the Dominican Republic**

As part of their research, the group of experts also came up with possible recommendations that could aid the hill tribe community, the government of Thailand, and international organizations in identifying factors that could be considered as

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<sup>222</sup> Bloom, Tendayi. "The Nexus between Statelessness and Human Trafficking." *The Hague Institute for Global Justice*. N.p., 13 Feb. 2015. Web. 6 Nov. 2015.

<sup>223</sup> Rijken, Conny, Laura Van Waas, Martin Gramatikov, and Deidre Brennan. "The Nexus between Statelessness and Human Trafficking in Thailand." Wolf Legal Publishers, 2015. Web. (107)

facilitating exploitative practices of stateless hill tribe people. As stated in the Thailand report, “many of what we have called the external root causes of trafficking requires a long term intervention at governmental level. Intervention strategies should be focused on improving the ability to cope with situations of crisis both in the community and outside the community— including so as to prevent a crisis becoming a trigger for trafficking”<sup>224</sup>. This is essential and can also be applied to the Haitian-Dominican statelessness case because the crisis of statelessness became a trigger for trafficking and smuggling Haitian-Dominicans. Therefore, the following recommendations are important in analyzing any stateless and trafficking nexus case.

According to the Thailand report, interventions targeted to improve stateless people’s coping strategies in case of acute crisis will decrease stateless hill tribe people’s vulnerability to exploitative practices.<sup>225</sup> NGOs, in close cooperation with community leaders, could establish a crisis fund within the community, which is equally accessible to citizen and stateless inhabitants in times of need.<sup>226</sup> NGO’s could also initiate or enhance projects for stateless young women in the hill tribe communities to utilize micro credit opportunities to secure a position in which they are able to generate a higher and more reliable income.<sup>227</sup> This recommendation can also be applicable to the Haitian-Dominican stateless case because Haitian-Dominican women are the most vulnerable. As mentioned in Chapter 3, many stateless Haitian-Dominican women are excluded from social programs and result to selling food, clothes, or working illegally in domestic service. As recommended by the Thailand report, if stateless women could utilize micro credits to secure opportunities that they

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<sup>224</sup> Rijken, Conny, Laura Van Waas, Martin Gramatikov, and Deidre Brennan. "The Nexus between Statelessness and Human Trafficking in Thailand." Wolf Legal Publishers, 2015. Web.

<sup>225</sup> Rijken, Conny, Laura Van Waas, Martin Gramatikov, and Deidre Brennan. "The Nexus between Statelessness and Human Trafficking in Thailand." Wolf Legal Publishers, 2015. Web.

<sup>226</sup> Rijken, Conny, Laura Van Waas, Martin Gramatikov, and Deidre Brennan. "The Nexus between Statelessness and Human Trafficking in Thailand." Wolf Legal Publishers, 2015. Web.

<sup>227</sup> Rijken, Conny, Laura Van Waas, Martin Gramatikov, and Deidre Brennan. "The Nexus between Statelessness and Human Trafficking in Thailand." Wolf Legal Publishers, 2015. Web.

are already creating for themselves illegally they would not have to conform to the shadow economy.

Furthermore, interventions can be targeted at creating a safe and familiar environment for hill tribe people when outside the village, such as awareness of the risks. Within the communities, NGOs can initiate regular preparatory meetings for young hill tribe (stateless) people who want to migrate.<sup>228</sup> This also relates to the case of Haitian-Dominican stateless persons because many were unjustly deported back to Haiti as they signed off on papers that made them foreigners instead. Many were not aware of the exploitation following migration back to Haiti. As stated in the article “Haitian Deportation Crisis Brews in the Dominican Republic,” Josue Fiallo, an adviser to the Dominican ministry of the presidency, mentions that many people are still waiting for Haiti to issue them passports and proper documents so they can apply to the immigration programs.<sup>229</sup> Although some Haitian-Dominicans are by law still considered Haitians due to Haiti’s *Jus Sanguini* (having at least one parent as citizens of the state) many still run into problems when migrating back since they do not have any family members left or do not speak French or Creole, among other risks.<sup>230</sup>

Moreover, it is important to create avenues for safe migration. The socio-economic needs of people in rural areas are immediate, such that they will continue to move irregularly or regularly and it is important to make sure people who migrate do so in a safe and informed way.<sup>231</sup> As specified in the Thailand report, “stateless people below the age of 35 are at increased risk when leaving the community for work.”<sup>232</sup>

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<sup>228</sup> Rijken, Conny, Laura Van Waas, Martin Gramatikov, and Deidre Brennan. "The Nexus between Statelessness and Human Trafficking in Thailand." Wolf Legal Publishers, 2015. Web.

<sup>229</sup> Alcindor, Yamiche. "Haitian Deportation Crisis Brews in Dominican Republic." *USA Today*. Gannett, 12 July 2015. Web. 1 Mar. 2016.

<sup>230</sup> Alcindor, Yamiche. "Haitian Deportation Crisis Brews in Dominican Republic." *USA Today*. Gannett, 12 July 2015. Web. 1 Mar. 2016.

<sup>231</sup> Rijken, Conny, Laura Van Waas, Martin Gramatikov, and Deidre Brennan. "The Nexus between Statelessness and Human Trafficking in Thailand." Wolf Legal Publishers, 2015. Web.

<sup>232</sup> Rijken, Conny, Laura Van Waas, Martin Gramatikov, and Deidre Brennan. "The Nexus between Statelessness and Human Trafficking in Thailand." Wolf Legal Publishers, 2015. Web.

They seem to be easy targets for exploitative practices as they are often in need of generating an income with limited options to do so in the villages and will not go to the police in case of exploitative practices.<sup>233</sup> Another factor that impacts on stateless people's vulnerability in various ways is lack of education and as such, the government should enable stateless people to make use of education loans and creating reliable and accessible service points. This is something that is very relatable to Haitian-Dominicans since many have been stripped away of a quality education and are being forced to find work instead. For instance, Karina, 35, was born in the Dominican Republic to Haitian parents, and registered as a Dominican national.<sup>234</sup> Although she obtained a valid identification card at 18, Karina says that when she was 24, the government refused to issue her documents necessary to enroll in university, allegedly because her claim to nationality was under investigation.<sup>235</sup> Unable to continue her studies, Karina began working as a chambermaid in a large beach resort, where she has been for past 10 years.<sup>236</sup>

Gaining confidence in the police is of pivotal when people have got into trouble e.g. an exploitative situation is also very important.<sup>237</sup> However, in this regard it is important to first find out about the level of legal empowerment: what are the formal options open to stateless people to go to the police.<sup>238</sup> Something that the Thailand Report does point out is that "further research by independent academic researchers is required on the reasons why stateless hill tribe people distrust the police to study the

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<sup>233</sup> Rijken, Conny, Laura Van Waas, Martin Gramatikov, and Deidre Brennan. "The Nexus between Statelessness and Human Trafficking in Thailand." Wolf Legal Publishers, 2015. Web.

<sup>234</sup> Perez, Celso. "We Are Dominican." *Human Rights Watch*. Human Rights Watch, 01 July 2015. Web. 16 Dec. 2016.

<sup>235</sup> Perez, Celso. "We Are Dominican." *Human Rights Watch*. Human Rights Watch, 01 July 2015. Web. 16 Dec. 2016.

<sup>236</sup> Perez, Celso. "We Are Dominican." *Human Rights Watch*. Human Rights Watch, 01 July 2015. Web. 16 Dec. 2016.

<sup>237</sup> Rijken, Conny, Laura Van Waas, Martin Gramatikov, and Deidre Brennan. "The Nexus between Statelessness and Human Trafficking in Thailand." Wolf Legal Publishers, 2015. Web.

<sup>238</sup> Rijken, Conny, Laura Van Waas, Martin Gramatikov, and Deidre Brennan. "The Nexus between Statelessness and Human Trafficking in Thailand." Wolf Legal Publishers, 2015. Web.

extent of discriminatory practices and corruption within the Thai police”.<sup>239</sup> In comparison, this would also be a very useful study in understanding the corruption of the military police in the Dominican Republic towards Haitian-Dominican stateless persons and Haitians overall.

Finally, the goal should be for stateless persons to acquire citizenship in order to alleviate the increased vulnerability to exploitative practices experienced by those who are stateless.<sup>240</sup> In the case of the hill tribe communities in Thailand, in light of the reported difficulties in going outside the villages to start the application procedure it would be a good idea to explore possibilities to start the procedures in the villages itself for instance through the deployment of mobile teams from the district offices to the villages. This could also be applicable in the Dominican Republic since many provinces also do not have registration offices and many stateless persons have problems reaching the registration offices.<sup>241</sup>

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<sup>239</sup> Rijken, Conny, Laura Van Waas, Martin Gramatikov, and Deidre Brennan. "The Nexus between Statelessness and Human Trafficking in Thailand." Wolf Legal Publishers, 2015. Web.

<sup>240</sup> Rijken, Conny, Laura Van Waas, Martin Gramatikov, and Deidre Brennan. "The Nexus between Statelessness and Human Trafficking in Thailand." Wolf Legal Publishers, 2015. Web.

<sup>241</sup> Perez, Celso. "We Are Dominican." *Human Rights Watch*. Human Rights Watch, 01 July 2015. Web. 16 Dec. 2016.

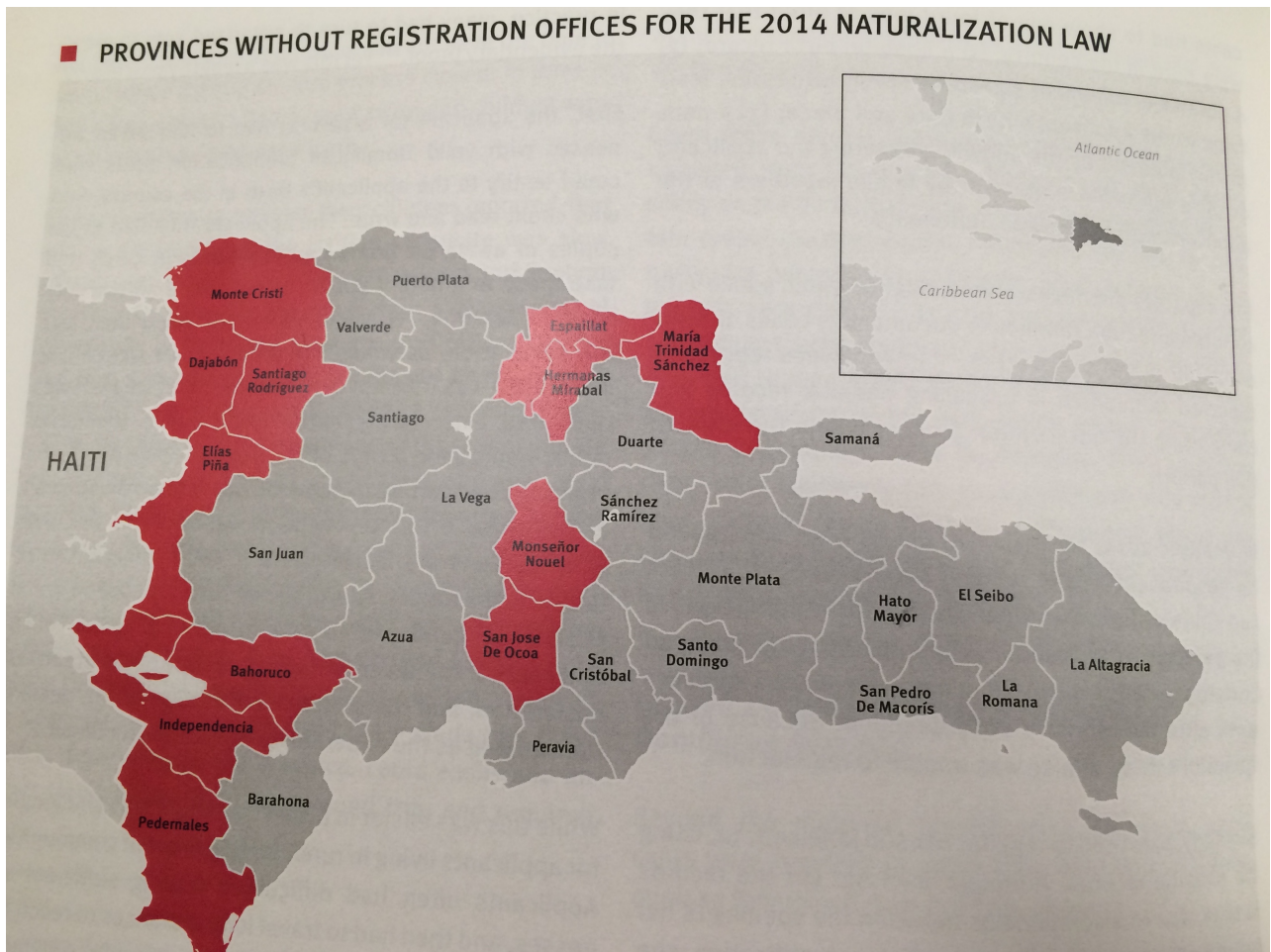


Figure 1. Map of the Dominican Republic (Provinces without registration offices)

As stated in the Thailand report, UNHCR, in cooperation with NGOs and law clinics working on citizenship can help to facilitate the establishment and implementation of such mobile outreach activities. In addition and because many of the stateless people who participate in the research seem to be eligible for citizenship they should initiate activities for information, counseling and where necessary also legal assistance on acquiring citizenship.<sup>242</sup> Nevertheless, international intervention and NGOs can only do so much. Consequently, it is essential for the government of Thailand and the government of the Dominican Republic to stop evading the issues of statelessness causing vulnerabilities like human trafficking. Therefore, governments

<sup>242</sup> Rijken, Conny, Laura Van Waas, Martin Gramatikov, and Deidre Brennan. "The Nexus between Statelessness and Human Trafficking in Thailand." Wolf Legal Publishers, 2015. Web.

like Thailand and the Dominican Republic must act with concrete recommendations that address the structural problems and not solely the consequences.

#### **IV. Recommendation from the Inter-American Commission on Human Rights**

In 1959, the Organization of American States (OAS), responsible for the promotion and protection of human rights in the Americas created the Inter-American Commission on Human Rights (CIDH) (Comision Interamericana de Derecho Humanos (CIDH)).<sup>243</sup> CIDH is an autonomous body of (OAS) composed of seven independent members who act in a personal capacity and is headquartered in Washington, D.C.<sup>244</sup> In conjunction with the Inter-American Court of Human Rights (Inter-American Court), established in 1979, is an institution of the inter-American system of protection of Human Rights.<sup>245</sup> In regards to the issue of Haitian-Dominican stateless persons in the Dominican Republic, the Inter-American Commission on Human Rights published a report in February 2016 to address possible recommendations—targeted towards international intervention and domestic.<sup>246</sup>

In its latest report on the situation of stateless Haitian-Dominicans in the Dominican Republic the Inter-American Commission on Human Rights made the following recommendations to the State:<sup>247</sup>

According to the Inter-American Commission on Human Rights, the Dominican Republic should adopt, within a reasonable time the necessary steps to annul all standard measures of any kind, whether constitutional, legal, regulatory or administrative, as well as any practice, decision, or interpretation, which in effect

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<sup>243</sup> "Nuevo Informe." *OEA*. Web. 2 Mar. 2016.

<sup>244</sup> "Nuevo Informe." *OEA*. Web. 2 Mar. 2016.

<sup>245</sup> "Nuevo Informe." *OEA*. Web. 2 Mar. 2016.

<sup>246</sup> "Recomendaciones De La CIDH Sobre El Derecho a La Nacionalidad Y La Sentencia Del Tribunal Constitucional TC/0168/13." *RECONOCIDO*. CIDH, 18 Feb. 2016. Web. 1 Mar. 2016.

<sup>247</sup> "Recomendaciones De La CIDH Sobre El Derecho a La Nacionalidad Y La Sentencia Del Tribunal Constitucional TC/0168/13." *RECONOCIDO*. CIDH, 18 Feb. 2016. Web. 1 Mar. 2016.

denies “foreigners” of Dominican nationality.<sup>248</sup> Furthermore, the state should adopt, legislative measures, including, if necessary, constitutional, administrative and any other measures necessary to ensure that all persons born in their territory can be registered immediately after birth regardless of their ancestry or origin and immigration status of their parents.<sup>249</sup> In addition, they must take the necessary measures to prevent Law 168-13 and the provisions of Law 169-14 to continue to produce legal effects.

Moreover, the Dominican Republic should take the necessary measures to guarantee the right to the nationality of persons who already have this right under the existing internal regime between 1929 and 2010.<sup>250</sup> The measures to ensure the right to nationality of persons harmed by Law 168-13 should be automatic. These mechanisms must be simple, clear, fast and fair. They cannot be optional or implemented in a discriminatory manner.<sup>251</sup>

Furthermore, the state must also ensure that people who were entitled to Dominican nationality, but which were not registered in the Dominican Civil Registry do not have to register as aliens, as stated by Article 6 of Law No. 169-14.<sup>252</sup> The Dominican Republic must also take the necessary measures for Dominicans of Haitian descent to have the necessary proof of their identity and Dominican nationality documentation measures.<sup>253</sup> In addition, the State must take steps to conduct annual administrative investigations targeted towards civil, criminal records and

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<sup>248</sup> "Recomendaciones De La CIDH Sobre El Derecho a La Nacionalidad Y La Sentencia Del Tribunal Constitucional TC/0168/13." *RECONOCIDO*. CIDH, 18 Feb. 2016. Web. 1 Mar. 2016.

<sup>249</sup> "Nuevo Informe." *OEA*. Web. 2 Mar. 2016.

<sup>250</sup> "Recomendaciones De La CIDH Sobre El Derecho a La Nacionalidad Y La Sentencia Del Tribunal Constitucional TC/0168/13." *RECONOCIDO*. CIDH, 18 Feb. 2016. Web. 1 Mar. 2016.

<sup>251</sup> "Nuevo Informe." *OEA*. Web. 2 Mar. 2016.

<sup>252</sup> "Recomendaciones De La CIDH Sobre El Derecho a La Nacionalidad Y La Sentencia Del Tribunal Constitucional TC/0168/13." *RECONOCIDO*. CIDH, 18 Feb. 2016. Web. 1 Mar. 2016.

<sup>253</sup> "Recomendaciones De La CIDH Sobre El Derecho a La Nacionalidad Y La Sentencia Del Tribunal Constitucional TC/0168/13." *RECONOCIDO*. CIDH, 18 Feb. 2016. Web. 1 Mar. 2016.



documentation relating to judicial proceedings.<sup>254</sup> As soon as possible, the state must take the necessary measures for Dominicans of Haitian descent who were not registered, to be registered and have the necessary documentation to prove their identity and Dominican nationality.<sup>255</sup>

Lastly, within a reasonable time, the state must hold training programs that target continuous and permanent issues related to this population in order to ensure: a) no more racial profiling in any way, (the reason for detention or expulsion); b) strict observance of due process in any proceeding relating to the expulsion or deportation of aliens; c) under no circumstances people of Dominican nationality are deported and d) no collective expulsions are carried out.<sup>256</sup> CHDI's addresses international governments and organizations with its recommendation to ratify the Convention relating to the Status of Stateless Persons of 1954 and the Convention on the Reduction of Statelessness in 1961.<sup>257</sup> Perhaps CHDI recommends this because international intervention has not been enough for the Dominican Republic to solve the stateless issue and ratifying the Convention on the Reduction of Statelessness could compel the Dominican Republic to act on behalf of the stateless Haitian-Dominicans.

## **V. Recommendations from *Centro Bonó***

Two years after the law was passed 169-14, there still remains an atmosphere of tension and uncertainty for most Dominicans of Haitian descent. The purpose of the law has not been reached even by any moderately acceptable standards because most Dominicans of Haitian descent have suspended civil registrations and as mandated by

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<sup>254</sup> "Recomendaciones De La CIDH Sobre El Derecho a La Nacionalidad Y La Sentencia Del Tribunal Constitucional TC/0168/13." *RECONOCIDO*. CIDH, 18 Feb. 2016. Web. 1 Mar. 2016.

<sup>255</sup> "Recomendaciones De La CIDH Sobre El Derecho a La Nacionalidad Y La Sentencia Del Tribunal Constitucional TC/0168/13." *RECONOCIDO*. CIDH, 18 Feb. 2016. Web. 1 Mar. 2016.

<sup>256</sup> "Recomendaciones De La CIDH Sobre El Derecho a La Nacionalidad Y La Sentencia Del Tribunal Constitucional TC/0168/13." *RECONOCIDO*. CIDH, 18 Feb. 2016. Web. 1 Mar. 2016.

<sup>257</sup> "Recomendaciones De La CIDH Sobre El Derecho a La Nacionalidad Y La Sentencia Del Tribunal Constitucional TC/0168/13." *RECONOCIDO*. CIDH, 18 Feb. 2016. Web. 1 Mar. 2016.

the law have not had their documents returned.<sup>258</sup> Due to this situation, tens of thousands of children and teenagers, children of parents with seized documents by the Central Electoral Board, have not been able to benefit from the positive aspects of the law.<sup>259</sup>

If parents and young adults with suspended documents by the JCE have not received their restitution of their documents many children, will not be able to receive the benefit of their right to documentation. This is an example of corrupt political administration, as well as governmental insensitivity that places a large population into a vulnerable state, even after two years of the law being implemented. Despite this outrageous situation, it should be recognized that this population of stateless Haitian-Dominican has remained in a responsible civic attitude, systematically demanding their rights through institutional channels, utilizing peaceful methods of political advocacy and social mobilization. Unfortunately the responsible authorities who should be demanding accountability to the JCE have remained complacent and complicit for the breach of law 169-14.<sup>260</sup>

For Group A, the JCE has failed to fulfill the mandate of this law as it only continues the bureaucratic path and administrative processes to outlaw beneficiarias to resort to the same slow processes and economic cost that they can not afford.<sup>261</sup> The few electoral identity cards that have been obtained have difficulties when appearing in the system. From a load of over 900 cases that have been monitored from the implementation of the law, less than 500 have managed to have their documentation

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<sup>258</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 26. Web. 3 Dec. 2015.

<sup>259</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 26. Web. 3 Dec. 2015.

<sup>260</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 26. Web. 3 Dec. 2015.

<sup>261</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 26. Web. 3 Dec. 2015.

and those who have received it, a large majority has limited use for their documentation as they cannot exercise their civil and political rights.<sup>262</sup>

Furthermore, the constraints imposed by the process of naturalization for Group B stateless Haitian-Dominicans, for example, has questioned the optimism generated at the beginning of the adoption of the Law 169-14. Particularly, Law 169-14 was expected to prevent underreporting of people born in the country and to address the right to citizenship for people born in the Dominican soil like Group B — except for children of diplomats and foreigners in transit. However, the procedures for applying in the process of naturalization under the Act 169-14 for group B generated many difficulties. These difficulties have been reported throughout the whole process of practicing the law and the authorities have not done anything with the feedback that NGOs have made in regards to the obstacles presented in the application of Law 169-14.<sup>263</sup> For these reason, it is imporant to recognize that with regards to the objectives of the Law 169-14 towards Group B, the results have been insufficient.

Only about 8,750 people from Group B managed qualify for naturalization.<sup>264</sup> Tens of thousands of them could not due to obstacles in the application of the law, including administrative inability of hospitals to deliver the records of live births, hindrances to the process of realization of notized acts, increased costs for judicial legalizations, among other factors.<sup>265</sup> The state's refusal to recognize the effects of these obstacles to assessing the limited time that this group has affect the legitimacy of the law. This component of the law does not allow success. Its benefits are clearly inadequate and have no political sense to insist otherwise. The politically convinient

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<sup>262</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 23. Web. 3 Dec. 2015.

<sup>263</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 26. Web. 3 Dec. 2015.

<sup>264</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 26. Web. 3 Dec. 2015.

<sup>265</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 26. Web. 3 Dec. 2015.

recommendation is to review the path of the current law and relaunch a more committed naturalization process for Group B with less obstacles.<sup>266</sup> Judging by the results indicated by Law 169-14 solving statelessness remains a challenge for the state and the Dominican society. It is important to improve the results of this law and communicate with truthfulness what has been happening to improve the political climate and social coexistence among the entire population. The Dominican Republic is responsible for the future civil registration and return of its documentation to Dominicans of Haitian descent. If not, this will remain a human rights challenge of the present and the future.

## **VI. Recommendation from *Red Jesuita con Migrantes***

*Red Jesuita con Migrantes* is a non-profit from the Dominican Republic that has been monitoring the process of Haitian-Dominican deportations from January- June 2015. They focused on cases of unjust deportations of Haitian-Dominicans to Haiti. For instance, According to the data provided by the Specialized Border Security Corps (Cesfront) and the Dominican National Army, on January 2015, at least 13,000 illegal Haitian immigrants were arrested and returned to their country of origin— Haiti.<sup>267</sup> According to *Red Jesuita Migrantes*, the Dominican Republic continues to demand sovereignty by controlling the migratory flow, but the problem is that these mechanisms have been outside of international fundamental rights of migrants.

As such, the Dominican Republic should utilize mechanisms that do not go outside of signed international agreements, and violate the Dominican Constitution, the rules of the immigration law, but instead aid equality of stateless persons before the

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<sup>266</sup> Balance General Ley 169-14: Promulgada 23 De Mayo 2014." *Centro Bonó* (2015): 26. Web. 3 Dec. 2015.

<sup>267</sup> "Autoridades Dominicanas Han Repatriado Más De 13 Mil Haitianos En Enero | :| Traslashedigital.com.do |:" *Traslashedigitalcomdo*. Traslashedigitalcomdo, 3 Jan. 2015. Web. 08 Mar. 2016.

law. Consequently, *Red Jesuits Migrantes* assisted the government with possible recommendations to stop the violation of immigration laws and criminal practices towards stateless Haitian-Dominicans.<sup>268</sup>

For effective control the Dominican State must adopt clear mechanisms, designed to make use of its sovereignty to provide equality of all people before the law. In other words, the Dominican State must aid to stop the internal root causes of statelessness, such as police corruption, financial deterrence, increased costs for judicial legalizations, bureaucratic health and education system, *Antihaitianismo*, discrimination in the work environment and social security.

Some of these recommended mechanisms include: The implementation of a mechanism for rapid and effective naturalization process, where people who have not violated the immigration law are not subjected to long hours of waiting while inspectors investigate documentation.<sup>269</sup> This is an essential point that must be fixed since many stateless persons have had to miss work to wait for long hours to only investigate their possibly documentation materials.

Disclosure and dissemination through the media, by the General Directorate of Migration, of statistics on deportations produced monthly is also very important.<sup>270</sup> This is necessary in order to produce proposal that can be analyzed and discussed by all agencies that deal with immigration, specially the JCE. There must also be a record of deportees, updated and published in both embassies and office to access to information from the General Directorate of Immigration, to safeguard and strengthen

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<sup>268</sup> "Informe De La Red Jesuita Con Migrantes: Exposicion De Algunos Casos Detectados En 2015." (2015): 1-10. Web. 3 Feb. 2016.

<sup>269</sup> "Informe De La Red Jesuita Con Migrantes: Exposicion De Algunos Casos Detectados En 2015." (2015): 1-10. Web. 3 Feb. 2016.

<sup>270</sup> "Informe De La Red Jesuita Con Migrantes: Exposicion De Algunos Casos Detectados En 2015." (2015): 1-10. Web. 3 Feb. 2016.

compliance and for people to know the whereabouts of their relatives.<sup>271</sup> This is perhaps one of the most essential recommendations since the Dominican Republic continues to aid problems for migrants that are underage— a population that is notoriously more vulnerable to human trafficking.<sup>272</sup>

A judicial body must be created to assess and issue any deportation and as such, migrants must have the right to be legally represented before deportation proceedings to ensure non-deportation of children under age, and that families are not separated.<sup>273</sup> In addition, an extensive time devoted to human rights training to all who are involved in the arrests and deportations of migrants. A system where agents are identified with a photo, name and position should be established in order to justly legitimize deportations of stateless Haitian-Dominicans and to punish the immigration agents, the Armed Forces and National Police who extort migrants.<sup>274</sup> Human rights training would aid in deteriorating Antihaitianism as one of the causes of unjust deportations.

Furthermore, the Dominican government and the Haitian government should further train their military, police, and migration in human rights to focus on Dominican-Haitian bilateral relations, with the intent to deter, monitor, prevent and eliminate all form of discrimination, xenophobia, racism and violations of rights.

Greater transparency and organization in the operation of Haitian detention center is needed.<sup>275</sup> For instance, there must be regulation of relatives visiting detainees, avoid overcrowding, adapt a place for detainees to have a minimum comfort that guarantees their dignity, improve feeding of detainees so that they can have access to drinking

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<sup>271</sup> "Informe De La Red Jesuita Con Migrantes: Exposicion De Algunos Casos Detectados En 2015." (2015): 1-10. Web. 3 Feb. 2016.

<sup>272</sup> "Informe De La Red Jesuita Con Migrantes: Exposicion De Algunos Casos Detectados En 2015." (2015): 1-10. Web. 3 Feb. 2016.

<sup>273</sup> "Informe De La Red Jesuita Con Migrantes: Exposicion De Algunos Casos Detectados En 2015." (2015): 1-10. Web. 3 Feb. 2016.

<sup>274</sup> "Informe De La Red Jesuita Con Migrantes: Exposicion De Algunos Casos Detectados En 2015." (2015): 1-10. Web. 3 Feb. 2016.

<sup>275</sup> "Informe De La Red Jesuita Con Migrantes: Exposicion De Algunos Casos Detectados En 2015." (2015): 1-10. Web. 3 Feb. 2016.

water, and lastly, ease of a court interpreter. Finally, effective control at border points, by Dominican Republic and Haiti is necessary to prevent irregular migration flows in border areas and prosecute trafficking networks.<sup>276</sup> Consequently, this would aid in the fight against statelessness and human trafficking because borders would be more attentive and less corrupt.

The Dominican State should focus its energy to encourage civil society and the authorities towards raising awareness on border relations, multiculturalism, Haitian-Dominicans having their own identity, respect for human rights and reconciliation in order to develop a true culture of peace. To request the governments of Haiti and the Dominican Republic, authorities and international organizations must take initiative to strategize economic investments needed to motivate the eradication of such harsh conditions of poverty, insecurity and violence that are living in the Dominican Republic.

## **VII. Targeting Internal Root Causes to Unravel Statelessness and Human trafficking in the Dominican Republic**

Inter-American Court of Human Rights, *Centro Bonó*, *Red Jesuita con Migrantes*, have made several recommendations of how the Dominican Republic should be dealing with the structural problems of statelessness that has made Haitian-Dominicans more vulnerable to human trafficking. This has not only been justified by the increase in human trafficking from the 2015 Trafficking in Persons Report for the Dominican Republic, the trafficking case of 19 military police officers, but also internal root causes. The internal root causes, some created by Law 169-14, such as deportation, and others historically engrained in the Dominican Republic, like *Antihaitinismo*, in conjunction with the state of being a *de jure* stateless person has

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<sup>276</sup> "Informe De La Red Jesuita Con Migrantes: Exposicion De Algunos Casos Detectados En 2015." (2015): 1-10. Web. 3 Feb. 2016.

created more vulnerability for Haitian-Dominicans stateless persons. *De jure* stateless Haitian-Dominican referred to as “persons who are not nationals of any State, either because at birth or subsequently they were not given any nationality, or because during their lifetime they lost their own nationality and did not acquire a new one,” are at a higher risk of becoming human traffic because they are unfit to deal with the crisis of ambiguous citizenship.<sup>277</sup> This is why the Thailand report recommends for communities to have a ‘crisis fund’ for stateless persons.<sup>278</sup>

The Dominican Republic must make the same commitment to solving statelessness as they have to human trafficking. Solving one issue will not make the other disappear, but instead will worsen both structural problems. The main issue with *de jure* statelessness in the Dominican Republic is that Law 169-14, created to fix statelessness did not work. The Naturalization Plan targeted towards Group A and Group B Haitian-Dominicans stateless persons expired on June 17, 2015.<sup>279</sup> It only created more problems with the combination of internal root causes that Haitian-Dominicans are already exposed to such as, economic uncertainty, police extortion as best described by Michele Fadeus’s experience and *Antihaitinismo*. Therefore, since Law 169-14 was not successful in preventing statelessness, there must be a retroactive law that reframes and addresses citizenship and Haitian-Dominican identity in the Dominican Republic.

In the case of *de jure* Haitian-Dominican stateless persons what matters when trying to understand the connection between statelessness and human trafficking is the risk that *de jure* Haitian-Dominican stateless persons have due to internal root causes that can expose them to human trafficking. These include police corruption, financial

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<sup>277</sup> *A Study of Statelessness*. Lake Success, NY: United Nations, Dept. of Social Affairs, 1949. 8. Print.

<sup>278</sup> Rijken, Conny, Laura Van Waas, Martin Gramatikov, and Deidre Brennan. "The Nexus between Statelessness and Human Trafficking in Thailand." Wolf Legal Publishers, 2015. Web.

<sup>279</sup> Perez, Celso. "We Are Dominican." *Human Rights Watch*. Human Rights Watch, 01 July 2015. Web. 16 Dec. 2016.



limitation, increased costs for judicial legalizations, bureaucratic health and education system, *Antihaitianismo*, discrimination in the work environment and social security. Statelessness and human trafficking are both human rights violations that must be placed in the same conversation, domestically and internationally.

## **Transcribed interview Michelle Fadeus**

### *Entrevista con Michelle Fadeus*

Mi tema de investigación es analizar los efectos de la Corte Suprema de 2013 República Dominicana que despojó a la ciudadanía de más de 250.000 dominico-haitianos y el vínculo del aumento del tráfico de los migrantes irregulares y deportados en la República Dominicana. Voy a analizar la historia de los dominico-haitianos en la República Dominicana como un grupo minoritario, las inseguridades que han sufrido las mujeres—el género más vulnerables. Con el fin de reunir información sobre los migrantes haitiano-dominicanas, voy a entrevistar a dominico-haitianos de Grupo A sobre el proceso de adquisición de la ciudadanía permanente. Sobre todo analizaré publicaciones sobre los derechos humanos de los migrantes de las organizaciones para llevar a cabo estudios etnográficos sobre las vulnerabilidades de diferentes grupos sociales en la República Dominicana.

### English Translation:

My proposed topic of research is to analyze the affects of the 2013 Dominican Republic Supreme Court ruling that stripped the citizenship of over 250,000 Haitian-Dominicans and link to the increase of sex trafficking of irregular migrants and deportees in the Dominican Republic. I will analyze the history of Haitian-Dominicans in the Dominican Republic as a minority group, the insecurities they have suffered and the most vulnerable gender— women. In order to gather information on Haitian-Dominican migrants, I will interview Haitian-Dominicans about the process of acquiring their permanent citizenship, analyze publications on human rights of migrants from organizations and perform ethnographic studies on different societal groups in the Dominican Republic.

Anabel: "¿Cuál es su nombre?"

Michelle: "Michelle Fadeus"

Anabel: "¿Dónde nació usted?"

Michelle: "Nací en una pequeña ciudad en la República Dominicana"

Anabel: "¿Cuántos años tienes?"

Michelle: "Tengo 28 años de edad"

Anabel: "¿Cómo se identifica sí mismo, ya sea raza, etnia o nacionalidad? Por ejemplo, mi origen étnico es Dominicana y mi raza es española y africano—debido a mis antepasados "

Michelle: "Me identifico mi mismo como dominicana, así, sin embargo, mis padres son ambos de Haití, pero mi abuela del lado de mi madre es cubana".

Anabel: "Oh, wow, no tenía ni idea!"

Michelle: "Sí"

Anabel: "¿Tienes familia en Haití?"

Michelle: "Sí. Mi padre aún vive en Haití y la mayor parte de mi familia vive realmente en Haití "

Anabel: "¿Qué estás solicitando específicamente?"

Michelle: "Estoy solicitando mi ciudadanía desde que me la quitaron "

Anabel: "¿Cuál es la importancia, por favor explica con más detalle cómo y por qué?"

Michelle: "Bueno, yo nací aquí y he tenido mi cédula (tarjeta de certificación)"

Anabel: "¿Cómo fue el proceso de solicitud para recibir su cédula?"

Michelle: "En realidad, no he recibido mi tarjeta oficial, ya que ha sido un proceso de un año, con la burocracia extrema, largos días de ir a la Junta Central Electoral, la recopilación de todos mi documentos— algunos de mis padres-haitiana están

desaparecidos "

Anabel: "¿Cuál ha sido la parte más difícil de este proceso?"

Michelle: "Creo que desde que nació mi hija y ella también es dominicana-al igual que su madre también, tratando de averiguar su trabajo de papel desde que nació hace dos años y nadie que nació el pasado 2007 se permite aplicar para la ciudadanía "

Anabel: "¿Pero cómo es posible que desde que nació aquí, y el hospital tiene su certificado de nacimiento y el papeleo?"

Michelle: "Debido a que los hospitales son la identificación de ciertos hijos de padres sin ciudadanía como los haitianos. Sin embargo, ya que la madre es totalmente Dominicana estamos utilizando eso para ayudar a demostrar que ella es de hecho un ciudadano dominicano ".

Anabel: "En su opinión, ¿cree que la ley 168-14 realmente está ayudando a las personas a recuperar su ciudadanía?"

Michelle: "No necesariamente. He vivido aquí toda mi vida, mi vida es la República Dominicana. Pensé que ya era un ciudadano y ahora tengo que pasar por tantos obstáculos para recuperar lo que nací. No tiene sentido. También sé que hay tantas personas racistas y que simplemente hacen que el proceso sea mucho más difícil de lo que debe ser ".

Anabel: "¿Hay la posibilidad de que algún día retornes a Haití ya que la mayoría de su familia vive allí?"

Michelle: "En realidad no, sólo para visitar ya que siempre hago, pero esta es mi casa y donde quiero que mi hija crezca".

Anabel: "¿Te sientes seguro en la República Dominicana?"

Michelle: "Independientemente de lo que está pasando y la totalidad de la discriminación en curso, yo me siento seguro. Creo que es porque es todo lo que he conocido "

**Appendix A:**



Michelle Fadeus



## Appendix B:

Ministerio de Interior y Policía

Recepción Documentación Requerida

**MICHEL M. FADEUS**

5/7/2015 3:16:09 PM

Número Único de Expediente: **DO-07-002809 - 23/02/2015**

No. Identificación: RD1680976

Tipo Identificación: Pasaportes o Documento de Viaje

Prov. Residencia: DUARTE (zona-N)

Estatus: EN PROCESO

Número Único de Expediente Cabeza Familia: **DO-07-002809 - 23/02/2015**

Esta constancia certifica y acredita que usted ha entregado los documentos requeridos para acceder al plan de Regularización.

Área : SAN FRANCISCO DE MACORIS  
Usuario : JONATTAN\_ARACENA

Temporary *cedula* (identification card)

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