

The Interconnected Challenges and Dangers Faced by Haitian and Haitian-Descended Youth in the Dominican Republic

Sheridan Wigginton, Ph.D.

Richard T. Middleton, IV, Ph.D., JD

A. INTRODUCTION*

This chapter details how rapidly changing and undocumented legal status functions as the primary threat faced by many Haitian and Haitian-descend youth living in the Dominican Republic. This tenuous standing under the law greatly reduces this vulnerable population's legal rights to access fundamental state-managed benefits and makes it a nearly defenseless target for human trafficking for purposes of unregulated child labor and commercial sexual exploitation. It is our thesis that the Dominican government's changing legal interpretation of which persons should be considered Dominican under its constitution, and thus granted all the benefits flowing from full citizenship, deeply impacts the access to civil and human rights of thousands of Haitian-descended children who were born in and

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currently reside in the Dominican Republic. In 2013, thousands of people who were born in the Dominican Republic and were considered Dominican citizens at the time of their birth were rendered stateless according to the government's re-interpretation of its constitutional language surrounding citizenship.¹ The Dominican Senate's, as well as Dominican Supreme Court's, consistent narrowing of constitutional language concerning Dominican citizenship in the past decade has culminated in assault of the basic human right to possess a juridical identity—meaning the right to not be stateless.² Those persons affected, with their Dominican citizenship stripped, and in some cases even suffering its unconstitutional denial since birth, struggle to access free public education that would otherwise be due to them by virtue of their birth in the Dominican Republic. Additionally, the poverty that plagues many Haitians and Haitian descendants living in the Dominican Republic sets the stage for the children in these families to become sought after commodities for human trafficking.

B. BACKGROUND

Nations typically use one of two standard frameworks for assigning citizenship. The most common approach, *jus sanguinis*, (Latin for “right by blood”) functions by assigning citizenship based on the citizenship of one or both parents. The alternative framework, *jus soli*, (“right by soil”) operates by assigning a person's citizenship based on the location of his or her birth. Under this approach, the citizenship of a person's parent(s) is not automatically transferred to the child. Instead, the child is eligible to be a citizen of the country where he/she is born.³ No matter which of these doctrines a country follows, a limiting clause—a legal parameter meant to narrow the doctrine's application—is almost always included. Until January 26, 2010, the Dominican Republic bestowed citizenship upon all individuals born in the country—except for legitimate children born to foreign diplomats and to persons who were “in transit” at the time of the child's birth.⁴ Dominican immigration law dating from 1939, specifically Immigration Act No. 95 and Immigration Regulation No. 279, defined “in transit”

to include people who entered the Dominican Republic with the main objective of traveling through to another destination outside the country, engaging in leisure or business travel, and foreign diplomats.⁵ These laws were interpreted in a fashion as to not apply the “in transit” language to those who stayed in the country for more than ten days. Therefore, since 1939 children born to individuals staying in the country longer than ten days have had a right to claim Dominican citizenship. However, beginning in 2004 the Dominican government struck one of its first significant blows toward undoing this interpretation.

The Dominican government, as with any nation-state, has the power as a sovereign to wield its authority to strip persons of their “political life,” where they enjoy a full range of protections, and leave them only with what Giorgio Agamben refers to as “bare life.”⁶ This is a state of existence in which a person is no longer part of the state's political structure and thus vulnerable to harm and even death due to their lack of official status.⁷ In his book, *State of Exception* (2004), Agamben asserts that if the state determines the society is in crisis, then it has the power to operate in a “state of exception,” which allows it to disregard the normal rule of law in order to protect the society from threat.⁸ The fundamental question in the Dominican context is: From what threat is the state protecting its citizens? Part of the answer is rooted in the state identifying Haitian-ness and blackness as a threat to its institutional inclination toward whiteness. As James Ferguson notes, Haitians crossing the border into the Dominican Republic have always sought opportunities to work (particularly in the country's sugar cane plantations and sugar production facilities) and such migration has created a “central paradox—Haitian labor is essential to the Dominican economy yet Haitians are viewed as a threat, both demographic and cultural, to the Dominican Republic.”⁹

In the Dominican Republic, legal and social institutions have espoused the view that in order to protect the society from the ostensible threat of blackness, those persons who most acutely reflect said threat must be forced outside the state's realm of protection.¹⁰ In

essence, such persons are banned from participating in the society and are left to search for the protection of a new state. Although the Dominican state's change to the constitution was a legally recognized mechanism by which it could cast out a specific demographic, the motivation to undertake such a drastic measure can nonetheless be viewed as occurring due to the perceived threat of blackness—as manifested by the ubiquitous presence of Haitians (both lawfully and unlawfully present) in the Dominican Republic—to the Dominican state; thus, giving rise to the “state of exception.” The distinction between the legal statuses of “Dominican-citizen of Haitian descent” and “Haitian national in the Dominican Republic” is functionally irrelevant since both populations represent the same threat of blackness to the Dominican state.

C. BLACKNESS, HAITI AND DOMINICAN IDENTITY

An analysis of how the constitutional construct of citizenship in the Dominican Republic shapes how Haitian-descended youth are included into Dominican national identity must also be placed in the context of the racially-driven political history between the Dominican Republic and Haiti. It is important to understand the historically deep-rooted low opinions many Dominicans, particularly elites, have for Haiti and Haitians. Part of this sentiment is an artifact of the nationalization of an anti-black identity during the reign of former dictator president Rafael Trujillo.¹¹ Trujillo's negative attitude toward Haitians led to increased social rejection of black identity and culture as well as an overall institutionalization of anti-blackness in Dominican society. Under Trujillo's three-decade long rule, there was a strategic *blanqueamiento* (whitening) of the nation with the term “negro” becoming equivalent to that of Haitian.¹² This effort is most notably seen in “Operation Parsley,” a military action in October 1937 where black residents living along the Dominican-Haitian border who pronounced the Spanish word for parsley with a Haitian Creole accent

were immediately killed as part of Trujillo's brutal effort to “de-Haitianize” the border zone.¹³

The process of inculcation in the racially discriminatory context in the Dominican Republic involves exposure to and instruction in the country's racial structure at an early age. School materials problematize the issues of blackness, Haitian heritage, and Dominican identity. Public schools in the Dominican Republic have used, and some cases currently use, social science textbooks that teach students that an implicit racial hierarchy exists in Dominican society. The books contain caricatures that reflect negative stereotypes about African and indigenous populations, and also that inaccurately represent Spanish forebears. Co-author Wigginton finds that these textbooks teach students the basic elements of the country's racial hierarchy—in particular that blackness represents a less desirable social status, and that blackness can be prevented through generational whitening.¹⁴

The construct of race in Dominican society can be characterized as espousing a racial hierarchy. Dominicans are exposed to this social construct at an early age via various agents of socialization—including family, friends, and other social networks (including schools) and political rhetoric rooted in pejorative dialogue regarding Haitians and blackness. For example, former Dominican president Joaquín Balaguer once campaigned on a platform that his main political competitor, José Francisco Peña Gómez, was of Haitian ancestry and thusly was determined to place the Dominican Republic under Haitian rule. In fact, Peña Gómez was a Dominican of Haitian ancestry. Balaguer portrayed himself as the “whiter” candidate who could protect the Dominican Republic from Haitian influence and propagate the notion of the country being racially distinct from its shared-island neighbor.

Historically, to refer to a Dominican by using the rubric “*negro*” often served as an affront. This was rooted in the fact that the term was used almost exclusively to refer to black Africans and Haitians. In addition, lighter skin complexion became a social and political advantage over darker skin as did straight(er) hair over kinky hair. Over

time, as blackness became relegated to a lower status in Dominican society vis-à-vis whiteness, blackness was further relegated to lower-class status through the legal classification of the majority of Dominicans as *indio*. As opposed to negro or mestizo, *indio* was a term used for a person of brown skin color, and is still actively used in Dominican society. To corroborate this assertion, one need only view a Dominican's *cédula* (government-issued identification card). The following observation by Silvio Torres-Saillant characterizes the conventional view of race in the Dominican Republic:

Blacks and mulattos make up nearly 90 percent of the contemporary Dominican population. Yet, no other country in the [western] hemisphere exhibits greater indeterminacy regarding the population's sense of racial identity. To the bewilderment of outside observers, Afro-Dominicans have traditionally failed to flaunt their blackness as a collective banner to advance economic, cultural, or political causes. Some commentators would contend, in effect, that Dominicans have, for the most part, denied their blackness.¹⁵

D. THE CHANGING INTERPRETATION OF IMMIGRATION GENERAL LAW NO. 285-04

Until January 26, 2010, the Dominican constitution conferred Dominican nationality upon all individuals born on Dominican soil—except for legitimate children born to foreign diplomats and to persons who were “in transit” at the time of the child's birth. Under Dominican immigration law, specifically Immigration Act No. 95 of April 14, 1939, and Immigration Regulation No. 279 of May 12, 1939, “in transit” was defined to include those persons who entered the Dominican Republic with the main objective of traveling through to another destination outside the country, engaging in leisure or business travel, and foreign diplomats. These laws were interpreted in a fashion as to not apply the “in transit” language to those who stayed in the country longer than

ten days. Thusly, children born to individuals staying in the country longer than ten days had a right to Dominican nationality.

In August 2004, the Dominican Republic passed General Law on Migration 285-04. According to a report by Open Society Foundations (2010), formerly known as Open Society Institute, this law “effectively put an end to the automatic right of Dominican nationality granted to Dominicans of Haitian descent under the constitution's *ius soli* guarantee.”¹⁶ General Law on Migration 285-04 mandated that all “non-residents” be considered in transit; among those considered to be “non-residents” were tourists, temporary foreign workers, those having expired residency visas, and undocumented migrant workers. This law targets the Haitian population in the country, an estimated 1 to 1.5 million people comprised mainly of undocumented immigrants and their descendants.

Under General Law on Migration 285-04, children born on Dominican soil to “non-resident” parents inherited their parents' status and thus were denied Dominican nationality—despite the *ius soli* principle in the Dominican constitution. The law also required that “non-resident” mothers would be issued “certifications of foreigner live birth”—a document that could not be used to obtain a Dominican birth certificate from a civil registry in the country. Not having a Dominican birth certificate also meant that an individual, upon turning 18 years old, could not obtain a *cédula de identidad y electoral*—a document that is required under Dominican law to be carried by Dominicans and serves as proof of a person's legal standing to enjoy the political, economic and civil rights afforded by the country's government. The Open Society Foundation, in citing the Inter-American Court of Human Rights, notes that for an individual who does not hold a *cédula*, “it is impossible to . . . acquire and exercise [the] rights and obligations inherent in membership in [the Dominican Republic's] political community.”¹⁷ The effect of General Law on Migration 285-04 is succinctly characterized by the following:

In the Dominican Republic, enjoyment of the right to nationality has become all but impossible for persons of Haitian descent. Following decades of ad hoc discrimination in access to identity documents that recognized them as lawful citizens, Dominicans of Haitian descent have since 2004 faced an avalanche of hostile legislative changes and administrative policies that have restricted their ability to enjoy [Dominican] nationality . . . singled out because of their national origin and skin color, thousands of Dominicans of Haitian descent have been left effectively stateless and permanently excluded from the political, economic social and cultural life of their country of birth and residence.¹⁸

In 2005, the Dominican Republic's Supreme Court of Justice, sitting as the Constitutional Council, reviewed a challenge to General Law of Migration No. 285-04. On December 14, 2005, the Court handed down its decision in a case styled *Appeal Against the Unconstitutionality of the General Law of Migration No. 285-04*. In its decision, the Supreme Court of Justice held that the legislature of the Dominican Republic had authority, under the country's constitution, to interpret Title III, Section 1, Article 11, Clause 1, of the 2002 Dominican constitution as the legislature deemed proper. The Supreme Court of Justice went on to adopt the Congress' interpretation that children born to non-resident migrants were excluded from the guarantee of Dominican citizenship otherwise afforded under the constitution's *jus soli* principle. In addition, the "in-transit" provision of Migration Law 285-04 was applied retroactively—effectively stripping away Dominican citizenship from thousands of Haitians who had once enjoyed Dominican citizenship.

The Dominican Supreme Court of Justice's decision went counter to the holding handed down by the Inter-American Court on Human Rights in the case of *Dilcia Yean and Violeta Bosico v. Dominican Republic*. In *Dilcia Yean and Violeta Bosico v. Dominican Republic*, two girls, ages 10 months and 12 years old, respectively, who were born in the Dominican Republic to Dominican mothers of Haitian descent were

denied Dominican birth certificates despite the fact their mothers were born in the country and held valid *cédulas*. Because the girls could not obtain Dominican Republic birth certificates, they could not attend school in the country. The lawsuit was filed on behalf of the affected parties in 1998 with the Inter-American Court of Human Rights. "The Inter-American Court of Human Rights held, *inter alia*, that the Dominican Republic had denied Yean and Bosico the right to nationality, equality before the law, a juridical personality, a name, and special protection as children. The Court also ruled that given the Dominican Republic's constitution incorporates *jus soli* as a principle, granting Dominican nationality to persons born on Dominican soil could not be abridged any more than the exceptions found within the country's constitution. In addition, the Court found that "racial discrimination in access to nationality breaches Articles 1, 21, and 27 of the American Convention of Human Rights and the "Dominican Republic's discriminatory application of nationality and birth registration laws and regulations rendered children of Haitian-descent stateless."¹⁹

Shortly after the Inter-American Court of Human Rights handed down its decision in *Yean and Bosico v. Dominican Republic*, the Dominican Senate issued a resolution rejecting the court's decision. And, as previously mentioned, in December 2005, the Dominican Republic's Supreme Court of Justice held that the Dominican Congress had power to broadly interpret the meaning of the "in-transit" clause of General Law on Migration 285-04 in a manner that excludes Haitians from Dominican citizenship and nationality. Finally, in 2010, the Dominican Republic revamped its constitution in Article 18 to more deeply espouse the doctrine of *jus sanguinis*. Notably, the doctrine of *jus soli* was abrogated to exclude from birthright citizenship those born to foreign diplomats and consulates, foreigners "in-transit" or illegal residents. Persons in-transit were considered to be those individuals as defined in accordance with Dominican laws.²⁰

The legal effects of the change in Dominican citizenship law were quickly manifested. One such illustrative example centers around the

case of Juliana Deguis Pierre. On September 30, 2013, the Constitutional Court of the Dominican Republic handed down Ruling Sentence (TC) 168/13 in the case of Juliana Deguis Pierre. Juliana Deguis Pierre was born to Haitian parents in the *batey* (community near a sugar mill) of Los Jovillos in the Yamasá province of the Dominican Republic. In 2008, Deguis Pierre requested a *Cédula de Identidad y Electoral*. She presented her birth certificate to Dominican officials as evidence of her birth on Dominican soil. The officers seized her birth certificate and denied her a *cédula* on the grounds that she had Haitian surnames. Deguis Pierre appealed the administrative decision and the case ultimately reached the Dominican high court. In its ruling, the Court affirmed the validity of a 2010 Dominican constitutional amendment that excluded from Dominican citizenship children born to those in the country “in-transit”—which, as previously identified, includes those who were in the country illegally as well as seasonal and temporary workers. The Court’s decision, however, went a step further by ordering Dominican bureaucrats to audit the nation’s birth records going back as early as 1929, compile a list of people who should not qualify for citizenship and notify embassies when a person’s nationality is in question. The Court’s decision simultaneously placed in limbo the citizenship status of thousands of people—many of whom were Dominican-born children of Haitian descent—living in the Dominican Republic while prompting a public outcry across the international social justice advocacy community. Scholars, human rights advocates, and even casual observers viewed the Court’s decision to retroactively apply a constitutional amendment that would potentially leave thousands of people stateless as “an aggressive and egregious act of anti-Haitian sentiment, xenophobia, and racism.”²¹

In 2013, the Dominican Republic set a deadline of June 2015 to comply with the Court’s ruling. This led to Presidential Decree No. 327–13 and the promulgation of a plan for an estimated 500,000 people to self-identify themselves as being undocumented in the country and register their status under a National Regularization Plan. Then, in May 2014, the Dominican Republic enacted *Ley de Régimen Especial y*

Naturalización 169–14 (Naturalization Law 169–14). This law created two categories of persons. Category A individuals were those registered as Dominicans, but had alleged irregularities in their civil registry on account of being descendants of undocumented migrants. Category B individuals were those persons born in the Dominican Republic (during the affected time period) to undocumented parents and who did not register as Dominicans at birth.²² Both categories of persons were required to undergo a re-naturalization process—with Category B individuals having the most arduous path to (re)claiming citizenship. To allow people sufficient time to register, the government announced it would halt deportations of those who had been denationalized until August of 2015 (which was an extension of time from the original deadline of June 2015). Some observers heralded these steps as helping “mitigate some of the most egregious consequences of the Constitutional Tribunal’s ruling by recognizing as citizens those who possess registration of their births between 1929 and 2007.”²³

Indeed, the Dominican Republic took bold steps towards bringing significant numbers of people out of the shadows, granting them identity documents, in some cases recognizing their Dominican nationality, and conferring various civil rights to them. However, critics have argued that there still existed “arbitrary expulsions and questionable legal procedures that various government entities have carried out in contravention of the law’s stated goals,” and that “these practices continue to arbitrarily deprive individuals of their right to Dominican nationality and citizenship-related rights.”²⁴ In a report, the Open Society Foundations opined that there were significant structural limitations in “the new Law’s recognition of citizenship” because it “is based not on the fact of birth itself on Dominican territory, but rather on whether a birth was officially registered at the time. This creates continuing legal uncertainties.”²⁵ In fact, legal challenges of the law would result—as evidenced by the *Case of Expelled Dominicans and Haitians v. Dominican Republic* (2014). In this case, the Inter-American Court of Human Rights ruled that the

Dominican Constitutional Tribunal's 2013 decision in Ruling Sentence 168–13 violated Article 20 of the American Convention on Human Rights and that the 2014 Naturalization Law did not wholly restore the right to a nationality of those affected by the Constitutional Tribunal's ruling.²⁶

The Dominican Court decision's effect on the country's national migration policy and its incumbent ripple effect on this newly vulnerable population's ability to access social services and the public education system were uncomfortably familiar. The facts surrounding the aforementioned case of *Yean and Bosico v. Dominican Republic* illustrate this history. Dilcia Yean, age 10 months, and Violeta Bosico, age 12 years, were born in the Dominican Republic to mothers who had both been born in the country and had documentary evidence tending to demonstrate they held Dominican nationality.²⁷ Both mothers went to the civil registry to obtain copies of their daughters' birth certificates. The civil registry denied the mothers' request on the grounds that both mothers were of Haitian descent. The civil registry demanded the mothers provide a list of documents (which were impossible to obtain) in order to prove they were entitled to Dominican nationality. The civil registry's demand to the mothers of Yean and Bosico was a *prima facie* valid legal exercise of decision making power under the Dominican constitution and the country's immigration law. The constitution of the Dominican Republic granted nationality to anyone born in the country. However, the constitution excluded from Dominican citizenship persons born to persons "in transit."²⁸ Under Dominican immigration law, Haitian migrants were deemed to be "in transit" and thus their children born in the Dominican Republic were ineligible for Dominican citizenship. Because Yean and Bosico were unable to obtain birth certificates, they were not able to enroll in school, would not have been able to obtain a *cédula* upon reaching age 18, nor realize any of the other rights and benefits commensurate with holding

Dominican citizenship. In addition, they faced the possibility of deportation from the country.

The Inter-American Court found on September 8, 2005, that the Dominican Republic violated a number of the girls' human rights. The court ordered compensation in the amount of US \$8000 and US \$6000 for legal fees. In March 2007, the Dominican Republic acquiesced to widespread pressure and granted the court ordered compensation. However, the Dominican Republic had already amended its constitution to exclude children born to persons of Haitian descent unlawfully present in the Dominican Republic from Dominican citizenship. Matibag and Matibag note that the Dominican Republic sought to prevent establishment of a precedent for granting citizenship or compensation to other children in similar circumstances.²⁹ Also in March 2007, the case of an eight-year-old girl of Haitian ancestry, Matilde, was chronicled by Amnesty International's report "A Life in Transit: The Life of Haitian Migrants and Dominicans of Haitian Decent."³⁰ In January 2004, Matilde had been detained by Dominican officials based upon the presumption she was of Haitian ancestry. She was detained under the premise she was an "irregular migrant" and she was not allowed to contact her family. She was allegedly slapped in the face two times—which lead to bleeding from the mouth. A human rights organization locally based in the Dominican Republic assisted in her defense and prevented her from being deported by proving that she was born in the Dominican Republic and had a legal right to live in the country.³¹

Another illustrative case of the plight of many Dominican-born persons of Haitian ancestry is that of Eduardo. Eduardo and his four children, born in the DR, were unable to afford the paperwork required to provide the required documentation needed to obtain a *cédula*. The fees of US \$147 exceeded Eduardo's family income for an entire month. For persons such as Eduardo and his children, there is no realization of the "civic, cultural, economic, and social resources" needed to support fully independent and meaningful integration into Dominican society.³² For children, their educational prospects are

stunted by “prohibitions against their taking classes beyond the primary levels and their civic and political efficacy is stymied by prohibitions against their obtaining the identity card that would enable them to vote or secure jobs in the formal economy.”³³ Matibag and Matibag find that “particularly compelling is the lot of children of [Haitian] migrant workers, such as the children interviewed in 1991 by the Lawyers’ Committee for Human Rights at the Batey Duqueza, Ingenio Rio Haina. Child laborers, aged from eight to sixteen years, ‘told of twelve hour days of hard and dangerous work, of compounds without schools, electricity or running water, of payments with vouchers that could be redeemed only [at] the company store, which automatically reduced the face value of those vouchers by 20 percent.’ ”³⁴ Matibag and Matibag also find that Dominican-born Haitian children face legal hurdles as well—including the following: (1) lack of acknowledgement by some Dominican government officials of the legitimacy of birth certificates issued to Dominican-born Haitian children in past years, (2) denial by some Dominican government officials to issue birth certificates to Dominican-born Haitian children (particularly now post-2013 decree), and (3) the charging of cost prohibitive fees for birth certificates.³⁵ Matibag and Matibag argue that while it may be true that the Dominican Republic has the right to assert the boundaries of its sovereignty and membership into Dominican citizenship, the denial of Dominican citizenship threatens the ability of Dominican-born Haitian children to realize a productive life moving into adulthood. “Their access to education, health care, public services, civic participation, and legal representation are compromised due to their lack of legal standing . . . they are thus denied what the UN Human Rights Convention calls equality in dignity and rights.”³⁶

E. HUMAN TRAFFICKING

The issues of undocumented or illegal immigration status and poor access to education converge amidst a backdrop of poverty and vulnerability to create yet another challenge to the safety and well-being of Haitian youth in the Dominican Republic: Human trafficking. Not

to be confused with human smuggling, where smuggled individuals pay for the service of transportation and the transaction ends upon arrival to the destination, trafficked individuals are considered victims in the process. They are often misled about the purpose of their travel and continue to be under the control of the transporting party or their associates after reaching the new location.

There is a small, but insightful, body of literature that explores the issue of the human trafficking of Haitians in the Dominican Republic.³⁷ For example, Eugenio Matibag and Teresa Downing Matibag have found that, “sometimes extremely poor Haitian children are sold as domestic helpers to Dominican families and must work beyond their primary school years to pay off their families’ ‘debt’ to their patrons.”³⁸ These children, sometimes referred to as *restavokes*, are said to allegedly be sexually exploited, denied permission to attend school, and experience health problems that are a result of poor medical care and nutrition.³⁹ Ferguson cites an August 2002 UNICEF report that estimated between 2,000 and 3,000 Haitian children were trafficked into the Dominican Republic annually.⁴⁰ Ferguson also notes that human rights activists in the field have drawn attention to Dominican military personnel being complicit in the human trafficking of Haitians into the country and turning this illegal trade into a profitable business.⁴¹

Reliable statistics on the number of Haitian children impacted by trafficking in the Dominican Republic were virtually non-existent prior to the year 2000 when “the Inter-American Commission of Women and the Inter-American Children’s Institute collaborated with the International Human Rights Law Institute of DePaul University to study human trafficking in Latin America and the Caribbean.”⁴² In spring 2000, these three leading entities met alongside national, local and regional bodies already working with trafficked persons, or those vulnerable to trafficking, to create the framework for a two-phase questionnaire-based study to provide reliable data on the extent and nature of human trafficking in the region. “Interviews were conducted first by the NGOs and local consultants, and later by experts from

IHRLI [International Human Rights Law Institute] and OAS [Organization of American States]. Meetings and interviews included representatives of government institutions, women's affairs, youth and children, health and AIDS commissions, labor, immigration offices, foreign affairs, national and local authorities, and tourism offices. Consulates played an essential role, particularly those consulates with a large number of smuggled and potentially trafficked victims (Dominican Republic, El Salvador, Honduras, Guatemala, Nicaragua) and Central American consulates in countries of transit and destination (Costa Rica, Panama, Mexico). In addition, interviews were held with representatives of international organizations (ILO/IPEC, IOM, UNICEF), civil society organizations such as academic institutions, research institutes, churches, NGOs active in the fields of human rights, women and children, individuals involved in or affected by trafficking practices, family members of disappeared adolescents and women, and media representatives."⁴³

In her "first-of-its-kind" 2005 review of research done by the Organization of American States on human trafficking in Latin America, Langberg points out numerous difficulties in the data collection process, which also underscore the dangers of trafficking overall: "... violence, abuse, coercion, trauma, and stigma associated with sexual exploitation. Victims were very reluctant to denounce their recruiters and preferred to remain silent, in many cases because of the existence of institutional disincentives, such as policies that criminalize rather than protect victims, the absences of witness protection programs, and judicial proceedings that tend to re-victimize the victims of trafficking."⁴⁴

The process by which Haitian children are illegally brought onto Dominican soil so that their labor and bodies can be exploited for profit is grounded in the same factors outlined by multiple NGOs and international governments: extreme poverty, broken promises, and a lack of power. Impoverished Haitian families seeking a better life for their children are assured by professional transporters that in the Dominican Republic their children will have access to educational and

employment opportunities that would be unattainable to them in Haiti. Then the transporters, who are sometimes family members, friends, or neighbors of the families they target, negotiate a complex web of bribes to pay off Dominican and Haitian border crossing agents, holding houses where children wait for an undetermined period of time to be either picked up by their new Dominican caretaker/employer or picked up by another local transporter who will deliver them directly into the hands of an unregulated, illegal, and exploitative labor system.

The flow of trafficked children from Haiti into the Dominican Republic should be seen as two technically separate nations who operate as a single platform for the movement of child labor. The national borders prove unimportant when one takes into account the similarly abysmal rating for each country in the U.S. Department of State's 2015 Trafficking in Persons Report, which evaluates compliance with the Trafficking Victims Protection Act. The report lists the Dominican Republic as a Tier 2 country, meaning their governments "do not fully comply with the TVPA's minimum standards, but are making significant efforts to bring themselves into compliance with those standards."⁴⁵ Haiti is listed on the Tier 2 Watch List, meaning they are making significant progress toward meeting TVPA minimum standards that is equal to countries in Tier 2. However, the following additional negative factors are true for Watch List countries: "a) the absolute number of victims of severe forms of trafficking is very significant or is significantly increasing; b) there is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year; or c) the determination that a country is making significant efforts to bring itself into compliance with minimum standards was based on commitments by the country to take additional future steps over the next year."⁴⁶ In short, Haiti functions primarily as a source country for the Dominican Republic, which leaves Haitian children vulnerable on both ends of the transaction given neither country meets the minimum standards for the TVPA. Haiti cannot adequately stop their own children from being trafficked into the Dominican Republic nor can the Dominican Republic effectively

stop the children's entry into the country or free them from a life of illegal labor, torture, and abuse after they have entered and become the system's newest victims.

The earthquake that struck Haiti on January 12, 2010 and left more than 200,000 dead also dramatically increased the flow of Haitian children trafficked into the Dominican Republic and heightened international attention on the issue. Suddenly, the movement of Haitian children across international borders was being vigilantly monitored and reported on for the public by influential multinational NGOs, the U.S. State Department, and most controversially by U.S.-based religious institutions seeking to short-circuit many of the adoption protocols in place in Haiti. The issues surrounding the expedited, and often erroneous assumption that the children were even orphans in the first place, are certainly different from those surrounding explicit trafficking. However, the disruption to the already tenuous infrastructure and policies meant to prohibit the trafficking of Haitian children into the Dominican Republic all but vanished in the earthquake's aftermath. The United Nations International Children's Emergency Fund (2011) estimates that 2,000 Haitian children were trafficked into the Dominican Republic in 2009 and that number is considered to have sharply spiked in the immediate aftermath of the 2010 earthquake, although no firm numbers are available given the underground and dangerous nature of the system (UNICEF, 2011). In addition to the limited efforts made by the Dominican and Haitian governments, a small number of formally appointed international organizations have taken up the two-fold charge to prevent trafficking and to identify and assist children already suffering within the trafficking system. The Haitian police's Child Protection Brigade and the International Organization for Migration, which receives funding from the U.S. Department of State, are two of the most visible examples.

F. CONCLUSION

Children of Haitian descent living on the island of Hispaniola are among the world's most vulnerable populations. To many in the

Dominican government, the mere fact of their blackness represents a threat to "Dominican-ness" and it must be purged from Dominican territory in order to preserve the middle ground brown-ness labeled as "indio." At times, as in the 1937 Operation Parsley, the purge has been quick and violent, violative of human rights laws, and left thousands dead. At other times, the purge has been more deliberate in time span, constitutional, and left thousands stateless. The children within these numbers are left without legal claim to vital social services and to a free and public education. Despite the legal win on behalf of Dilcia Yean and Violeta Bosico due to years of effort by a range of human rights organizations in international courts, myriad other Haitian descended children languish in small, under-resourced communities along the border, on the congested streets of Santo Domingo, and everywhere else in between. The interconnected hurdles of poverty and statelessness serves as a catalyst toward the even more acute challenges of living without the means to stay healthy, safe, educated. All the while running the risk of being trafficked as a human commodity. There are certainly no easy solutions to unknotting and eliminating the dangers faced by Haitian and Haitian descended youth in the Dominican Republic; however, the most impactful first step would certainly be for them to regain, or be granted for the first time, the right to Dominican citizenship that they are due.

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