The Statelessness of Ethnic Haitians in the Dominican Republic with Special Emphasis on
Children born in the Dominican Republic of Haitian Descent

© 2010
By Kyra DeSha McDonald

A thesis presented in partial fulfillment of the requirements for completion
Of the Bachelor of Arts degree in International Studies
Croft Institute for International Studies
The University of Mississippi

University, Mississippi
Spring 2010

Approved:

_____

Advisor: Dr. Jeffrey Jackson

_____

Reader: Dr. Oliver Dinius

_____

Reader: Dr. Kees Gispen

Table of Contents

Chapter 1: The Problem of Statelessness in the Dominican Republic

In September 2005, the Inter-American Court on Human Rights (IACHR) ruled against the Dominican Republic in the case of two young girls of Haitian descent born in the Dominican Republic, Dilicia Yean, born in 1996, and Violeta Bosico, born in 1985, who were denied birth certificates by Dominican authorities. Various Dominican human rights advocacy groups with the help of advocacy groups in the United States brought the petition before the court, and they argued that the girls were deprived of access to nationality because of their race and their Haitian descent.[1] The girls were unable to obtain Dominican citizenship, unable to enroll in school, and they were faced with the risk of being deported to Haiti.[2] The IACHR ruled that the denial of birth certificates to Yean and Bosico by the Dominican government violated their right to a nationality, equality before the law, name, and recognition of their judicial personality-rights.

Accordingly, the court ordered the Dominican Republic to create a simple, accessible, and reasonable system of late birth registrations; that the system should take into account the particularly vulnerable situation of Dominican children of Haitian origin; that the requirements of the system should be clearly determined, uniform, and an arbitrary manner by state officials; that an effective process for reviewing refusal of birth certificates should be set up; and that the Dominican government had an obligation to guarantee access to primary education for all children, regardless of their descent or origin. The case of *Yean and Bosico children v the Dominican Republic* yielded "the single most important legal ruling in the world on nationality and statelessness" as it revealed systematic forms of discrimination based on race in the denial of

---

[1] Committee on the Rights of the Child. United Nations Convention on the Right of the Child. 47th Session. 11 February 2008. pg.19-20. http://www2.ohchr.org.com.

[2] Morel, Cynthia. Dilicia Yean Violeta Bosico. Before the Inter-American Court on Human Rights. Amicus Curiae Brief: Minority Rights Group International. London, UK. 15 March 2005. http://www.minorityrights.org. Accessed on 16 September 2009.

citizenship and nationality, particularly in the case of stateless Dominican born children of Haitian descent.[3]

Hence, the condition of statelessness in the case of ethnic Haitians in the Dominican Republic, as presented in this thesis, is a distinctive example of the overall problem of statelessness that exists worldwide. This thesis will take into account the political, economic, and social causes of statelessness in the Dominican Republic, how the denial of Dominican citizenship to these children of Haitian descent is related to issues of race and nationality, and what is being done by various groups (i.e., the governments of the Dominican Republic, Haiti, the United States, their citizens, and international organizations) to help address this problem. The main question I wish to address is how current theoretical debates about statelessness apply to the experience of the Haitian diaspora in the Dominican Republic.

Defining Statelessness

Although there are no official figures, there are an estimated 12 million stateless persons in the world. In the Dominican Republic, in particular, there are an estimated one million undocumented individuals of Haitian origin who are stateless or at the risk of becoming stateless.[4] In order to fully understand the problem of statelessness in the Dominican Republic, the definition of statelessness must first be examined.

The 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness are the primary international instruments

---

[3] Wooding, Bridget. "Contesting Dominican Discrimination and Statelessness." Peace Review; Jul-Sep2008, Vol. 20 Issue 3, p366-375,10p. Accessed on 16 September 2009. http://www.ebscohost.com.
[4] Helpful Facts and Figures. Refugees International. Accessed on 16 September 2009. http://www.refugeesinternational.org.

concerning statelessness.[5] The 1954 Convention Relating to the Status of Stateless Persons

focuses on defining statelessness. The 1961 Convention on the Reduction of Statelessness, on the

other hand, focuses on the causes of statelessness as it outlines ways to identify a person's

nationality for those at risk of becoming stateless.[6]

According to article 1 of the 1954 Convention relating to the Status of Stateless Persons,

a stateless person is one who is "not considered as a national by any State under the operation of

its law".[7] There are two kinds of statelessness. According to the Convention, a *de jure* stateless

person is someone "not considered as a national by any State under the operation of its law."[8]

Persons are considered *de facto* stateless if they have an ineffective nationality, cannot prove

they are legally stateless, or if one or more countries dispute their citizenship. In the Dominican

Republic, children of Haitian descent are most often characterized as being de facto stateless.

The main problem of these children is that both the Dominican Republic and Haiti dispute their

citizenship status. These children have lived in the Dominican Republic their entire lives, with no

knowledge of Haiti. However, they lack formal recognition of their existence in the Dominican

Republic, and they do not have a nationality. [9]

Statelessness, the Protection of Children, and International Standards

The United Nations High Commissioner for Refugees (UNCHR) works to prevent and

reduce statelessness around the world, as well as to protect the rights of stateless people. The

---

[5] Lynch. M. Lives on Hold: The Human Cost of Statelessness. Refugees International. February 2005. p1-52. Accessed on 16 September 2009. http://www.refintl.org.

[6] Lynch, M, 4.

[7] Convention relating to the Status of Stateless Persons. Office of the United Nations High Commissioner for Human Rights. Accessed on 16 September 2009. http://www2.ohchr.org.

[8] Refugees International. "Nationality Rights for All: A Progress Report and Global Survey on Statelessness". Accessed on 30 November 2009. Pg. 1. http://www.refugeesinternational.org.

[9] M Lynch. "Futures Denied: Statelessness among Infants, Children, and Youth". Refugees International. October 2008. htttp://ww.refugessinternational.org

UNHCR states that statistics regarding the number of stateless persons worldwide as often difficult to determine because of the following:

> 1) unclear citizenship or nationality is often disputed; 2) the concept of statelessness is surrounded by ambiguities; 3) there is a reluctance of governments to collect or disseminate information; 4) some people prefer to remain stateless rather than to be given a nationality not to their preference; 5) there is little information about stateless persons in detention centers; 6) UNHCR and other agencies have limited operational involvement; and 7) this issue is not yet an international priority.[10]

In general, the UNCHR works with governments, other UN agencies, and civil society to address the problem of stateless under the categories of Identification, Prevention, Reduction, and Protection.[11] As stateless children are of major concern in the discussion of statelessness worldwide, the UNHCR works specifically to protect and promote the rights of children under the framework of the best interest principle. This principle generally describes the legal well-being of a child under international and national law. The 1989 Convention on the Rights of the Child defines the protection of children, more specifically, under four principles:

> 1) The best interests on the child shall be a primary consideration in all actions affecting children; 2) There shall be no discrimination on the grounds of race, color, sex, language, religion, political or other opinions, national, ethnic, or

---

[10] Lynch, M. Lives on Hold: The Human Cost of Statelessness. Refugees International. February 2005. Pg 7. Accessed on 16 September 2009. http://www.refintl.org.
[11] Stateless- UNHCR Actions. Accessed on 30 November 2009. http://unhcr.org.

social origin, property, disability, birth or other status; 3) States parties recognizes

that every child had the inherent right to life and shall ensure to the maximum

extent possible the survival and development of the child; 4) Children shall be

assured the right to express their views freely in all matter affecting them, their

views being given due weight in accordance with the child's age and level of

maturity.[12]

Historical Background: Dominican-Haitian Relations and Statelessness

According to the UNHCR, the problem of statelessness in the Dominican Republic is

generally not as visible as that in Asia, Africa, or the Middle East.[13] However, the case of the

Dominican Republic and Haiti has created a particularly vulnerable situation that seems to

readily foster statelessness. While the political and economic causes of statelessness in the

Dominican Republic may resemble that of other nations, the social and cultural problems that

exist between the Dominican Republic and Haiti as a result of their historical and geographical

conditions are deeply rooted in issues that are much more difficult to untangle.

Dominican-Haitian political relations have often been tense, partly because of the

political, economic and cultural differences that exist between the two countries which share the

island of Hispaniola. When Christopher Columbus landed on the island of present day

Hispaniola in 1492, he named the island of Hayti, where he disembarked, Little Spain. The

Spanish then began to establish themselves on the island with the construction of the city of

Santo Domingo. By 1664, French colonists came to the island, permanently establishing the city

---

[12] UNHCR Guidelines on Determining the Best Interests of the Child. UNHCR-The UN Refugee Agency. pg. 14. http://www.unhcr.org.
[13] UNHCR: The world's Stateless People Questions and Answers. Accessed on 16 September 2009. http://www.unhcr.com.

of St. Domingue on the northwest coast of present day Haiti. The division of the island into two colonies by two different colonial powers created two distinct communities.

The French developed St. Domingue into the richest colony in the Western Hemisphere, if not the world. This was achieved through the production of sugar at the hands of the colony's large African slave population. Santo Domingo, however, did not take interest in developing their sugar plantations. Instead, they focused on subsistence agriculture, and as a result, large numbers of slaves were not imported to this eastern section of the island. By 1790, St. Domingue consisted of 500,000 Black slaves, 300,000 whites, and 27, 000 freemen (both Black and mulatto individuals). Santo Domingo, on the other hand, consisted of 125,000 Whites, 60,000 Black slaves, and 25, 000 Blacks or mulattoos. [14]

Furthermore, 1791 marked the beginning of the Haitian Revolution, and in 1804, Haiti achieved its independence from France. The Spanish colony of Santo Domingo received its independence in 1821 as the state of Haiti Español (Spanish Haiti). However, in 1822 Haitian forces invaded the eastern part of the island, and as a result, the island of Hispaniola was united under Haitian rule from 1822 to 1843. Nevertheless, Dominican independence from Haiti was gained in 1844, and the last attempt by Haiti to unify the island occurred in 1855. The Dominican Republic voluntarily returned to Spanish rule from 1861-1865, but Dominican independence is celebrated as independence from Haiti.

The definitive border between the Dominican Republic and Haiti was legally established in 1936 during the leadership of Haitian President Stenio Vincent and Dominican President Rafael Trujillo. The establishment of the border served not only as a definitive geographical separation of the two nations, but it also served as a definitive cultural separation of the two

---

[14] Lancer, Jalisco. "The Conflict between Haiti and the Dominican Republic". 03 November 2009. http://allempires.com.

nations. In October 1936, a massacre of approximately 30,000 Haitians along the border between the Dominican Republic and Haiti was carried out by Dominican authorities in what is known as Trujillo's "Dominicanization" campaign. It is believed that Trujillo ordered the attack of Haitians along the border because of the fear that Haitians were "darkening the Dominican nation" under their overall plan to once again unify the island under Haitian control.[15] Trujillo saw the Dominican Republic as racially superior to Haiti, and he defined the Dominican Republic as Hispanic, Catholic, and White as opposed to the Haitian nation that is Afro-French, practices voodoo, and Black,. As a result, dark skinned Dominicans were also killed during the massacre.

Overall, Haitian identity is expressed in the fact that it is home to the first slave rebellion in the Americas, and that it is the first black republic in the Americas. Dominican independence, on the other hand, is celebrated as liberation from Haiti, and Dominican identity has commonly been formed under the ideal of anti-Haitianism. This ideal has been fostered by the long term pattern of immigration from Haiti to the Dominican Republic, as the increase numbers of Haitian migrants to the Dominican Republic is seen as a threat to the Dominican nation-state.

Immigration from Haiti to the Dominican Republic

The immigration of Haitians to the Dominican Republic can be characterized as a result of the process of exit from political turmoil and economic conditions in Haiti, decades of poorly policed border crossings, and the availability of unregulated work in the Dominican Republic. Although accurate official figures are not available, between 500,000 and 1,000,000 Haitians live

---

[15] Sagás, Ernesto. A Case of Mistaken Identity: Antihaitianismo in Dominican Culture. 30 November 2009. http://webster.edu.

in the Dominican Republic.[16] According to The National Coalition for Haitian Rights, Haitians can be divided into the following categories: seasonal agricultural workers, undocumented permanent residents, children of Haitian immigrants born in the Dominican Republic, and political refugees.[17] Of those most affected by the problem of statelessness in the Dominican Republic are the children of Haitian immigrants who are born in the country but are denied Dominican nationality.

Birthright Citizenship and Constitutional Law in the Dominican Republic

The problem of stateless among the children of ethnic Haitians in the Dominican Republic usually begins at birth. The UN Convention on the Rights of the Child (CRC), Article 7 (1) states that "national governments must register children immediately after birth" and that "children enjoy the right from birth to acquire nationality."[18] Still, one of the major problems faced by Dominican children of Haitian descent in gaining Dominican nationality is obtaining a Dominican birth certificate.

The Dominican Republic grants birthright citizenship based on the legal principle of *jus soli*, which is the rule of law that states that birthright citizenship is a right by which nationality or citizenship can be recognized to any individual born in the territory of the related state. The birth of children born in the Dominican Republic must be registered for the individual to be able to apply for a *cédula* (identity card) or a passport. In order to obtain a Dominican birth certificate, the births of children can be registered in the Dominican Republic within 60 days of

---

[16] Dominican Republic: A life in transit-The plight of Haitian migrants and Dominicans of Haitian descent. Amnesty International. Pg. 1. Accessed on 16 September 2009. http://www.amnesty.org.

[17] Pimentel, Pedro. "Postnational Pressures". Harvard International Review; Fall98, Vol. 20 Issue 4, p40, 4p, 2 Black & White Photographs.

[18] "Stateless Children". Youth Advocate Program International. Accessed on 30 Novemeber 2009. http://yapi.org.

birth. Thereafter, a late registration of births is allowed. According to some accounts, "most Haitian migrant workers and Dominicans of Haitian descent have no option but to use the late registration process because they are seldom allowed to register the birth of their children before the 60 day limit". [19]

The registration requirements in the case of the late registration of births vary according to the age of the child. Nevertheless, Civil Registry Officials determine whether or not the child before them to have his or her birth registered is eligible for Dominican nationality. It is believed that Civil Registry Offices prevent the registering of births of ethnic Haitians in the Dominican Republic by not applying the requirements consistently, and in some cases, the Civil Registry Office requests documents not required by law. Since the registration of births is decided upon the discretion of the official, if the official decides that the child does not qualify for Dominican nationality, they will refuse to register the birth. Many times, children are denied documentation if they have Haitian sounding names or if they are black and speak accented Spanish. Also, children may be denied documentation if their parents are Haitian. [20]

In the case of *Yean and Bosico v the Dominican Republic*, the Civil Registrar informed the girls that their births could not be registered because of the following: 1) the girls were considered Haitian due to the fact that their parents are Haitian; (2) superior Dominican officials informed the Civil Registrar that they were not to register children of Haitian descent, even if they were born in the Dominican Republic; (3) the children have foreign names; and (4) the girls parents were deemed as "in transit" and not legal residents of the Dominican Republic. [21]

---

[19] Refugees International. "Dominican Republic: A life in transit-The plight of Haitian migrants and Dominicans of Haitian descent", 21.

[20] Mosely-Williams, Richard and Bridget Wooding. "Needed but Unwanted: Haitian Immigrants and their descendants in the Dominican Republic". Catholic Institute for International Relations. Unit 3, 190a New North Road, London N1 78J, UK 2004. Pg. 51.

[21] Morel, 3.

The term in transit as applied to the descents of Haitian migrants raises further questions regarding the equality of Dominican law. "In transit" generally refers to people such as travelers, sailors and aircraft crew, diplomatic and consular staff, and tourists. However, the Dominican Congress approved a General Migration Law (Ley General para las Migraciones, No. 285-04) in 2004, in which the Dominican constitution applied the term to relate to foreign nationals living in the Dominican Republic on a long term basis, such as Haitian migrants, as illegal residents of the Dominican Republic. As stated by Amnesty International, "Article 11 of the Dominican Constitution defines a Dominican national as any individual born on Dominican territory with the exception of the legitimate children of foreign diplomats resident in the country or foreigners who are in transit".[22] However, according to the Migration Law, all children born to Haitian migrant workers inherit the illegal status of their parents. Moreover, in regards to the Migration Law, Amnesty International suggests the following:

"The Dominican state had taken the position and implemented policies whereby children of Haitian origin born in the Dominican Republic would not be Dominican nationals because their parents are Haitian migrant workers and are considered to be 'in transit' despite the fact that they have been living in the country for several years, even decades".[23]

In June 2005, the Dominican Supreme Court of Justice ruled in a case related to the case of *Yean and Bosico v the Dominican Republic* in which the applicant sought a ruling that 11 articles of the country's new 2004 Migration Law were unconstitutional. The main concern was that the Dominican government's policies regarding the nationality of the descendents of

---

[22] Dominican Republic: A life in Transit; Amnesty International, 21.
[23] Ibid., 20.

migrants in its country did not correspond with that of the neither the Dominican Constitution nor that of international laws and policies. Nevertheless, Dominican authorities suggested that the children of ethnic Haitians who were denied Dominican nationality were not stateless and continue to have right to nationality. Because the Haitian constitution establishes birthright citizenship by *jus sanguinis*- the rule of law that states that birthright citizenship is a right by which nationality or citizenship is not determined by place of birth, but by having an ancestor who is a national citizen of the state, the Dominican government asserted that these children had the right not to Dominican nationality, but to Haitian nationality.[24]

In the final ruling of these cases involving nationality and statelessness in the Dominican Republic, in December 2005, the Dominican Supreme Court deemed the Migration Law to be, indeed, constitutional. In all, the Dominican Supreme Court of Justice ruling ignored its Constitution and its jus soli rule of law by applying precedence to the Haitian Constitution, even in the territory of the Dominican Republic. These children, however, are often not entitled to Haitian nationality. The descendents of ethnic Haitians in the Dominican Republic, consequently, are left in an everlasting status of stateless because of differences in these nationality laws and the discriminatory practices of Dominican laws.[25] As a result of statelessness, these individuals are subject to extremely low standards of living.

Consequences of Statelessness

Essentially, this loss of the right to a nationality leads to the loss of other fundamental rights. Without a nationality these children do not have access to documents such as birth certificates, identity cards, passports, or work-related migration papers. They

---

[24] Wooding, 371
[25] Ibid., 371.

live without many basic necessities such as food, sanitary facilities, water, and electricity. They could be targets of xenophobic and racist elements at any moment, and these children are subject to poor labor conditions. Moreover, these stateless children do not have State protection. Since the child does not exist, crimes committed against him or her do not legally exist either.[26]

The consequences of the stateless are most evident in the lives of ethnic Haitians that live in *bateys* throughout the Dominican Republic. When Haitian migrants moved to the Dominican Republic in search of work as cane cutters in the country's sugar cane industry during the late nineteenth century, many lived on the sugar plantations housed in these residences known as *bateys*. In fact, at the height of the success of the Dominican sugar industry, 90 per cent of the sugar cane industry's labor force lived on the *bateys*. Today, the descents of these Haitian migrant workers live in these same residences, many without the right to Dominican citizenship.

There are an estimated 400 *bateys* in the Dominican Republic, and most of them are characterized as being among the worst areas of the country in terms of living conditions. The following is a comment by the UN Development Programme report on human development in the Dominican Republic on the condition of life in the *bateys* as presented by Amnesty International:

" In 2005 the UN Development Programme (UNDP) report on human development in the Dominican Republic reported that 16 percent of the *bateys* under the State Sugar Council do not receive medical assistance and only seven per cent have a dispensary or rural clinic. Two-thirds of those living in *bateys* do not have access to sanitation infrastructure and half get their water directly from

---

[26] Ibid., 6-16.

14

rivers. The UNDP report also notes that in nearly one-third of *bateys* lack formal educational provision for the children living there. It is estimated one-third of those living in the communities cannot read or write". [27]

In other words, the conditions of life in the *bateys* are comparable to that in Haiti even though these Haitian migrants seek a better standard of living in the Dominican Republic and expect their children to enjoy the right to a nationality. The terrible conditions of these *bateys* are often a direct result statelessness, and of the situations garnering major concern among international and human rights organizations in these *bateys* and in the Dominican Republic in general are that, without proper documentation, stateless children of Haitian descent do not receive their right to access education services and these children face the risk of deportations. It is to these issues faced by stateless ethnic Haitians in the *bateys* that I shall now turn.

Education

The right to an education, as "the principle means to achieving one's fullest potential," is a fundamental right of every person as stated in numerous international instruments and the constitution of over 50 countries, including the Dominican Republic. Under international law, education is "a fundamental right for all children" and non-citizens should also be granted this right.[28] Education is seen as "the primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their community".[29]

---

[27] Culture of the Domincan Republic. Accessed on 03 December 2009. http;//www.everyculture.com.
[28] Human Rights Watch, 28.
[29] Minority Rights Group International, 12.

Nevertheless, in the Dominican Republic, stateless Dominican born children of Haitian descent do not experience this right. Often times, they are restricted from entering schools. According to the Human Rights Watch, "Although Dominican law does not bar undocumented children from the classroom, in practice undocumented children have been routinely prohibited from attending school".[30] On the whole, it seems as though documentation requirements varies among school districts, and admission to schools of children lacking birth certificates left to the directors of the schools.[31] Generally, undocumented children of Haitian descent are: 1) unable to register for the national exam which determines whether or not a student is eligible for secondary school or 2) unable to apply for entry to a university as they are denied a diploma at the end of secondary school.[32]

 Section 83 of the UN report describes the case of a stateless Dominican-Haitian student who is facing the consequences of statelessness in Santo Domingo, Dominican Republic:

"I have asked for a *cédula* several times. My father is Haitian but legally

in the country for 35 years. My mother is Dominican and I was born here. I want

to go to university and work but I can't without a *cédula*. I don't know any more

whether I am Dominican or Haitian".[33]

Thus, as a result of stateless, the children of ethnic Haitians in the Dominican Republic are unable to receive the high levels of formal education that is present in the

---

[30] Human Rights Watch, 27.
[31] Mosely-Williams, Richard and Bridget Wooding. "Needed but Unwanted: Haitian Immigrants and their descendants in the Dominican Republic". Catholic Institute for International Relations. Unit 3, 190a New North Road, London N1 78J, UK 2004. pg. 65. http://www.ciir.org.
[32] Human Rights Watch, 27.
[33] UN Human Rights Council, 23.

country. They, in turn, are subjected to low standards of living because, they are unable to access the benefits related to having a formal education. Seldom do these uneducated children find a better life outside of the *bateys*, and they become even more entangled in the perpetual cycle of statelessness that exists in the Dominican Republic.

Deportation

One of the most alarming consequences of stateless in the Dominican Republic is that stateless individuals of ethnic descent continuously face the risk of being deported to Haiti, even if they have lived in the Dominican Republic all their lives.[34] Many are deported along the border area, and Dominican-Haitians or dark-skinned Dominicans who have their identity documents are sometimes accused of false documentation. These individuals are also deported as "the colour of one's skin is the primary determinant of the ease with which you can cross the border without documents or fall victim to deportation or expulsion". [35]

In an 1999 agreement between Haiti and the Dominican republic, the deportation of illegal; Haitian immigrants was deemed as legal if the Dominican government committed to: 1)not deport Haitians between 6:00pm and 6:00am during Saturday afternoons or on public holidays in either country, 2) avoid separating nuclear families during the process of repatriation, 3) allow those being deported to collect their belongings and keep their identity documents, 4) give to each person being deported a copy of their deportation order, and 5) give Haitian authorities prior notice of deportations. Various international and human rights organizations

---

[34] Human Rights Watch, 22.
[35] UN Human rights Council, 22.

argue that these commitments, on the part of the Dominican Republic, are broken and mass expulsions are unlawful as they are discriminatory and arbitrary.[36]

According to Wooding, these deportations often occur without warning, and the checks of identity documents often lead to detention, cruelty or violence, and unwarned mass expulsions towards Haiti.[37] Moreover, according to a report on "Haitian Migration and Human Rights" by the Support Group for Refugees and Repatriated Persons (GARR), "Expellees report being arrested in public places, while shopping, walking on the street, going to or from church, taking a bath, on the way to the hospital and one woman in labour". [38] Also, on some occasions families are divided as individuals are deported without time to inform other family members.[39] Married couples were said to be separated, and children were said to be separated from their parents. Also, the majority of those expelled to Haiti are long term residents of the Dominican Republic.[40] For example, GARR indicates that the average number of years since the deportees had last arrived in the Dominican Republic was 8.3 years.[41] Nonetheless, the number of mass deportations of Haitians in the Dominican Republic is on the rise. As stated in the GARR report, in 2003, 14,700 people were deported to Haiti; in 2004, 15,464; and in 2005, 20,811.[42]

Overall, while the situation of stateless ethnic Haitians in the Dominican Republic is particularly precarious, the consequences of stateless on Dominican born children of Haitian descent is all the more dangerous. These children have to rely on others to better their situation, but without State protection and without the lack of resources handed to their parents, these

---

[36] A life in transit, 13.
[37] Ibid., 2.
[38] Fletcher and Miller, 665.
[39] United Nations Convention on the Right of the Child. 47th session. 11 February 2008. Pg.23.
[40] Fletcher and Miller, 670
[41] L. Fletcher and T. Miller. "New Perspectives on Old Patterns: Forced Migration of Haitians in the Dominican Republic. Journal of Ethnic and Migration Studies Vol. 30, No. 4, July 2004, pp. 664.
[42] Diógenes Pina. Dominican Republic: Children of Haitians Fight for Birth Certificates. Santo Domingo, Aug 28 , 2007. Accessed on 07 March 2010. http://www.ipsnews.net.

stateless children will never be able to enjoy a better standard of living. Sonia Pierre, a

Dominican-Haitian and recipient of the 2006 R.F. Kennedy Human Rights award, describes the

situation of Dominican born children of Haitian descent powerfully.

There is a country in the Caribbean where children cannot go school. These

children do not have a right to healthcare. These children are in danger of being

taken to Haiti [even though they and their parents were born in the Dominican

Republic]. They are victims of discrimination because of the condition of being of

Haitian descent. Many times these children then have a hate for their origins.

One's identity, roots, and values are what make you a human being. This is not

the internal problem of one state. We live in a global world. So we are talking

about world citizens. In the Dominican Republic there exits thousands and

thousands of stateless people-most of them being children.[43]

Data and Methods

Causes of Statelessness

Now, the question becomes what are the origins of this problem? As the first objective of

this thesis, I intend to analyze the causes of statelessness that are relevant to the case of

Dominican born children of Haitian descent. Refugees International lists some of the causes of

statelessness as resulting from:

---

[43] Dominican Republic, Haiti, and the United States: Protect Rights, Reduce Statelessness. http://www.refugeesinternational.org. 01/12/2007.

differences in the laws between countries; laws regulating marriage and birth

registration; failure to register children at birth; nationality based solely on

descent, often of the father; renunciation of nationality (without prior acquisition

of another nationality; political change; discrimination due to race; ethnicity, or

gender; expulsion of people from a territory; abandonment of children; migrant

workers being unable to pass citizenship to their children; and trafficking.[44]

 In the case of ethnic Haitians in the Dominican Republic, persons become stateless

primarily because of differences in laws between the Dominican Republic and Haiti, failure of

the parents of ethnic Haitians to register their children at birth, migrant workers being unable to

pass citizenship to their children and discrimination due to race, ethnicity, or gender. In terms of

the political, economic, and social causes of statelessness, I will use historical texts, online

articles, and legal documents to examine how the causes of statelessness apply specifically to the

case of Dominican born children of Haitian descent.

Discrimination and Statelessness

As we shall see, the most important cause of statelessness in the Dominican Republic is

discrimination based on race and ethnicity, so a second goal of this thesis is to explore the

ideology of anti-Haitianism in the Dominican Republic so that we can get a better understanding

of its impact on the statelessness of Dominican citizenship to children of Haitian descent. On the

whole, individuals of Haitian decent are discriminated against based on their race, ethnic origin,

language, economic status, and nationality.

---

[44] Lynch, M. and Katherine Southwick. Nationality Rights for All: A Progress Report and Global Survey
on Statelessness. Refugees International. pg. 2. March 2009. http://www.refintl.org.

Generally, the UNHCR, the IACHR and Refugees International are the main organizations that work with human right violations dealing with issues such as race and discrimination in the case of stateless individuals. It is important to note that discrimination, like statelessness, is an international problem. The principle of non-discrimination is underlined in several international bodies including the UN International Covenant on Civil and Political Rights, the UN International Covenant on Economic, Social, and Cultural Rights, the American Convention on Human Rights, and the UN International Convention on the Elimination of All Forms of Racial Discrimination.[45]

Moreover, in international terms, states are sometimes encouraged to "go beyond equal treatment and apply preferential treatment to correct inequalities in society, particularly with regard to venerable and marginalized sectors of society".[46] On June 23, 2005, President Leonel Fernández of the Dominican Republic affirmed that "Historically, the Dominican Republic has lacked a migration policy towards Haiti which was just and humane".[47] Still, as stated by Amnesty International, "the Dominican authorities continue to deny that there is persistent discrimination in Dominican society and have failed to take positive action to prevent it".[48]

My research, then, sheds light on the discrimination faced by Haitians in the Dominican Republic, the discriminatory actions of Dominican authorities and their role in perpetuating the status of the stateless. Historical contexts, such as the history of Dominican Haitian relations, the era of Dominican dictator Rafael Trujillo,and a United Nations Human Rights Council Report highlights the impact of racial discrimination on the plight of stateless ethnic Haitians living in the Dominican Republic.

---

[45] Amnesty International. Dominican Republic: A life in transit, 5, 6.
[46] Ibid., 5.
[47] Amnesty International. Dominican Republic: a life in transit, 14.
[48] Ibid., 11.

Finding Solutions to Statelessness

For various reasons, ethnic Haitians in the Dominican Republic have been unlikely to mobilize in order to better their situation. As a third part of my research, I will consider actions that have been taken by various groups such as the governments of the Dominican Republic, Haiti, the United States, their citizens, and international organizations to help address this problem. Seemingly, the role of leadership and the role of second and third generation immigrants are essential to the improved circumstances surrounding international and human rights problems.

Numerous international organizations and non-profit organizations have become involved in the of situation stateless Dominican born children of Haitian descent. International organizations such as UNHCR, the UN Children's Fund, the UN Development Program, the UN Fund for Population Activities, the UN Development Fund for Women, the Organzation of American States, and the UN Educational, Scientific and Cultural Organization works to reduce statelessness and protect the rights of stateless persons worldwide.[49]

The role of the Dominican Republic, including the Dominican government, Dominican citizens, and Dominican NGOs, will be analyzed. Advocates of human rights have sought to alleviate the plight of Haitians by bringing pressure on the host nation. For example, international embarrassment has been a tool used by various human rights organizations to persuade the Dominican Republic to adhere to their obligations. When this measure does not work, appeals are made to "third nations", such as the United States, in this case, which is in a position to influence the offending nation through the possible forms of trading preference and

---

[49] Lynch, M. and Katherine Southwick, 11, 12.

foreign assistance. Unfortunately, the most common response has been attempts to limit the flow of Haitians into the Dominican Republic.[50]

Moreover, I also examine the role played by the Haitian government and Haitian NGO's for these individuals of Haitians descent. I utilize the archives of international organizations such as the UNHCR, Amnesty International, and Refugees International to explore the actions being implemented to alleviate this problem. Furthermore, I examine the laws and policies of Haiti's Tenth Department as a measure taken by the Haitian government to alleviate the problem faced by the Haitian Diaspora, as a whole.

As a summation of my research, I hope to offer possible solutions to the problems of statelessness in the case of ethnic Haitians in the Dominican Republic, in all, by arguing that cultural reform is needed as much as if not more that political and legal reform in improving the status of the stateless.

Overview of Thesis

Consequently, the overall structure of my thesis is as follows. Chapter Two discusses theoretical perspectives regarding the link between human rights and statelessness. I examine the theory of Hannah Arendt, the theory of the transformation of the modern nation-state, the theory of transnationalism, the theory of inclusive exclusion, and the theory of the postnational state. All of these theories related to statelessness, generally. However, I more specifically analyze ways in which these theories relate to the case of ethnic Haitians in the Dominican Republic as

---

[50] De la Dehesa, Rafael and Peggy Levitt. "Transnational migration and the redefinition of the state: Variations and explanations." Ethnic & Racial Studies; Jul2003, Vol. 26 Issue 4, p587-611, 25p. Accessed on 16 September 2009. http://www.ephost.epnet.com.

possible explanations for the reason why particular individuals are either granted or not granted membership within the Dominican nation-state.

Chapter Three examines the political, economic, and social causes of statelessness in the Dominican Republic. In particular, I present issues relating to the differences in laws between the Dominican Republic and Haiti, laws regarding the failure of the parents of ethnic Haitians to register their child at birth, migrant workers being unable to pass citizenship to their children and discrimination due to race, ethnicity or gender as it relates to statelessness. Overall, discrimination is the main cause of statelessness of Dominican born children of Haitian descent living in the Dominican Republic. Therefore, Chapter Four is dedicated to this individual cause.

Thus, Chapter Four centers around the ideology of anti-Haitianism in the Dominican Republic and its impact on perpetuating the status of the stateless. I discuss the history of anti-Haitianism in all aspects of Dominican society as well as the manifestation of this ideology during the dictatorship of Rafael Trujillo in the Dominican Republic. I also discuss findings on the presence of anti-Haitianism in the Dominican Republic today while arguing that the problem of statelessness in the Dominican Republic is exacerbated by the problem of discrimination against Haitians.

The final chapter of this thesis summarizes all previously mentioned information relating to the problem of statelessness in the Dominican Republic. Furthermore, it concludes this particular discussion on statelessness in the Dominican Republic by analyzing what is being done by various organizations to reduce statelessness and offering possible recommendations and final thoughts on statelessness in the case of Dominican born children of Haitian descent living in the Dominican Republic.

Chapter 2 Human Rights and (Non)Membership within the Modern Nation-State: Theoretical Perspectives

Due to the current phenomenon of globalization, the international movement of goods, ideas, and people has increased rapidly. This movement of people, in particular, serves as the basis of the international system's interconnectivity. However, the movement of large groups of people linked by cultural ties to areas that share uncommon practices and traditions also accounts for various divisions within the international system as these groups, or diasporas, are not accorded the full rights of membership as granted to other citizens of the state in which they currently reside.

According to scholar Paul Brodwin, diasporas are defined by the cultural connections and flows that knit together a single geographically dispersed group.[51] Correspondingly, diasporic groups confront tensions relating to living in one place and maintaining strong ties to their place of origin. They are also marginalized from the society of the place in which they are now settled as they are placed in unequal and disadvantaged positions within that society. Browdin argues, then, that while each diasporic group's experiences differ from place to place, in each case "transnational diasporic groups will be simultaneously included and excluded in distinctive ways".

The Haitian diaspora in the Dominican Republic is often times not legally or culturally granted full membership in the Dominican nation-state, and in turn, many individuals within the Haitian diaspora in the Dominican Republic lack certain basic human rights. Therefore, it is

---

[51] Brodwin, Paul. Marginality and Subjectivity in the Haitian Diaspora. *Anthropological Quarterly*. Institute for Ethnographic Research 76.3 (2003) 383-410. Accessed on 16 September 2009. http://www.ebscohost.com.

important to explore theoretical debates about transnational diasporic groups. In particular, I

examine Arendt's theory regarding statelessness and human rights, the theory concerning the

transformation of the nation-state, the theory of transnationalism, the theory of inclusive

exclusion, and the theory of the post-national state.

Arendt's theory

Hannah Arendt (1906-1975), a German political philosopher, was left in the position of

statelessness after she fled Germany without travel documents in 1933 until she became a U.S.

citizen in 1951.[52] While Arendt's theories cover many diverse topics, she is one of the first to

explore the issue if statelessness theoretically. One of her theories is that human rights is, above

all else, contradictory.[53] Arendt's key argument is that it is impossible for the people's

sovereignty to guarantee human rights, or *vice versa*. This implies that any attempt to realize

human rights, by applying the sovereign will of the people, must end with the rights of the

individual being sacrificed, mainly at the will of popular demand.[54] The cause of this

contradiction is realized through the conflict of the nation-sate.

Arendt believes that the nation conquered the state and destroyed law.[55] She suggests the

following:

The ascendancy of nationalism transformed the state from an entity whose

supreme function was the protection of the human rights of all inhabitants in its

territory no matter what their nationality, into one whose function was to

---

[52] Brunkhorst, Hauke. "Are Human Rights Self-Contradictory? Critical Remarks on a Hypothesis by Hannah Arendt. 190. 23 November 2009". http://www.ebschhost.com.
[53] Hayden, 249.
[54] Brunkhorst, 190.
[55] Ibid., 193.

distinguish between nationals and non-nationals and on this basis to grant full

civil and political rights only to those who belonged to the national community by

right or origin and fact of birth."[56]

In order to distinguish between nationals and non nationals, then, certain sections of the

nation-state's population are excluded from becoming members of that nation-state. To address

this exclusion, Arendt brings into account the notion of the sovereign power of the state. As

Arendt explains, "States have been empowered historically with the sovereign right to determine

who is entitled to nationality and thus the possession of human rights" and that "any person not

accorded full citizenship status is thus excluded from human rights".[57] Therefore, the sovereign

power of the state implies a systemic form of exclusion and inequality of certain members in

order to maintain power and authority over the larger, more dominant members of society.

Consequently, these excluded sections of the population become part of an ongoing

condition of lawlessness. As Arendt believes, the stateless, as excluded members of a state's

society, suffer from the loss of the most basic human right which is "the right to have rights",

and even more, "statelessness is equivalent to the loss of all human rights and dignity".[58]

Moreover, Arendt sees statelessness not as an accident of the nation-state, but as "a permanent

phenomenon constituted by the sovereign rights of expulsion and denationalization".[59] In this

case, the national interest of the state has become prioritized over the interests of individual

rights, and the stateless are excluded from not only one state, but they are also excluded from

membership in all states. Therefore, Arendt indicates that the destructive contradiction between

---

[56] Hayden, 251.
[57] Ibid., 253.
[58] Ibid., 256.
[59] Ibid., 255.

universal human rights and the sovereign power of the modern state is manifested through statelessness.[60] This loss of rights further perpetuates the cycle of statelessness as it does in the case of children of Haitian descent in the Dominican Republic.

As it relates to the role of the nation-state in the treatment of Dominican born children of Haitian descent, the sovereign power of the Dominican Republic gives it the ability to create and enforce the laws it sees as best beneficial to the Dominican state, even if the application of these laws conflicts with international norms. According to Arendt's view, the Dominican state would be the primary actor in the granting citizenship rights to stateless persons, and international organizations would serve as agents with only a slight influence over the state's actions under the obligation to act in accordance with the sovereign Dominican nation-state. Thus, both the Dominican and the Haitian nation-states serve as the key to understanding why children of Haitian descent born in the Dominican Republic become stateless, and how the continual and systematic denial of rights continues to plague the overall problem of statelessness in the Dominican Republic?

The Transformation of the Nation-State

In order to better understand statelessness and its relation to the Haitian and Dominican modern nation-states, one must first understand the function of the modern nation-state in the role of state practices today. According to scholars Nina Glick Schiller and Georges Fouron, the term state refers to "a sovereign system of government within a particular bounded territory", whereas the term nation refers to "the sense of peoplehood a particular population uses to distinguish itself from other national groups". They further suggest that, taken together, the modern-nation state is continually a part of a nation-state building process which can be

---

[60] Hayden, 250.

described as "a set of historical and affective processes that link disparate and/or heterogeneous population together and forge their loyalty to and identity with a central government apparatus and institutional structure". [61]

However, as Schiller and her colleagues suggests, the myth of the nation-state is that it is defined by a single people within a common territory who are loyal to a common government and who share a cultural heritage.[62] Here, the main focus of the nation-state is territory as defined by its geographic borders, but as Schiller and others note, increased migration is the primary phenomenon in which the significance of national borders is diminished. Scholars Peggy Levitt and Rafael de la Dehesa agree that migration has, indeed, aided in the transformation of the modern nation-state. They explain that migration, as a part of the larger process of globalization, both allows and prevents migrants to maintain strong ties from the country in which they migrated as they are creating new lives in the countries in which they settle.[63] Bridget Wooding ties all of this together by stating, "Where citizenship is a lens into the question of rights, immigration is a lens to understand the strains and contradictions of nation-state membership".[64]

In the case of ethnic Haitians in the Dominican Republic, the impact of Haitian migration to the Dominican Republic has created tremendous difficulties for the Dominican Republic and Haiti as nation-states. For various reasons, a number of Haitians have migrated to the Dominican Republic, and many have sustained some sort of political, economic, or cultural relationship with Haiti. This sense of Haitian identity poses an enormous threat to the Dominican nation-state, and the threat is so strong that is affects the lives of those Haitian migrants who have lived in the

---

[61] Bach, Linda, Cristina Szanton Blanc, and Nina Glick Schiller. "From Immigrant to Transmigrant: Theorizing Transnational migration." Anthropological Quarterly; Jan1995, Vol. 68 Issue 1, p48-63, 16p. http://www.ebscohost.com.

[62] Levitt, Peggy and Rafael de la Dehesa. "Transnational Migration and the Redefinition of the State: Variations and Explanations."Ethnic and Racial Studies Vol. 26 No. 4 July 2003 pp.588. Accessed on 16 September 2009. http://www.ebscohost.com.

[63] Levitt and de la Dehesa, 588.

[64] Wooding, 374.

Dominican Republic on a long-term basis, many of them having lived in the Dominican Republic so long that they do not have any indication of life in Haiti. Therefore, the threat of the Haitian identity of children of Haitian migrants born in the Dominican Republic undermines what the Dominican authorities believe to be the true definition of what it means to be Dominican. Statelessness is an example of the consequences posed by this threat, and since the two nation-states share one island, the threat of the Haitian nation-state to the Dominican nation-state is magnified. Also, any problems facing these two nation-states are also magnified. The question then arises of to what extent does the role of the Haitian identity cause in the denial of Dominican citizenship?

Thus, as the case of the Dominican Republic and Haiti serves as an example of the diminishing significance of the nation-state, both countries also serve as an example of ways in which states are dealing with this transformation. Are there state policies put into place to maintain the nation-state or are states changing their policies to take into account their transforming nation-states? Moreover, how does the transformation of the modern nation-state affect state sovereignty, citizenship, and membership? In particular, are there failed state policies in the Dominican Republic that have been put into place for the preservation of the Dominican nation-state that have eventually resulted in the occurrence of stateless ethnic Haitians in the Dominican Republic? All of these questions will be examined in Chapter 3.

Transnationalism

Still, the question arises of what exactly is the end result of the nation-state transformation? As previously mentioned, Schiller and Fouron argue that instead of a common language, history, culture, territory, and set of responsibility of responsibilities and rights that

nation-states shared, the modern nation-state is now built on commonality amongst people who share neither territory nor emersion in a single society. They describe the transformation of the nation-state as resulting in transnational nation-states.[65]

Both Haiti and the Dominican Republic, within the larger global community, then, are said to be redefining themselves so that both the nation and state are perceived to be transnational. The term transnationalism is used to describe the global community's transformation and general reformation of the state as it is linked to the diminished significance of national boundaries and a shift in belief that the modern nation-state is one that shares a common territory, government, culture, and national identity.

Within the transnational process, today's immigrants can be seen as transmigrants. Transmigrants are defined as "immigrants whose daily lives depend on multiple and constant interconnections across international borders and whose public identities are configured in relationship to more than one nation-state".[66] Transmigrants, then, operate within transnational social fields which implicate a simultaneous incorporation of lives in the state from which immigrants migrated and the state in which they settled.[67]

It is important to note that these concepts give heavier weight to the social and cultural norms that define a nation rather than political and economic norms that define the state.[68] This is especially made evident in the fact that children born in the Dominican Republic to parents of Haitian descent may not have political or economic ties to Haiti. Rather, these children would participate much more in the social and cultural norms that characterize the Haitian nation-state such as the use of the French or Kréyòl languages, the listening of kompa (the official genre of

---

[65] Fouron and Schiller. Transnational Lives and Identities, 133.
[66] Schiller et.all. From Immigrant to Transmigrant, 1.
[67] Fouron and Schiller. Terrains of blood and nation, 344.
[68] Ibid., 342.

music in Haiti), the celebration of holidays specific to the Haitian nation-state, and the pride that Haitians attribute to being of African-descent, in particular in relation to the history of Haiti as the first black republic. All of these examples provide a stark contrast to the social and cultural norms that characterize the Dominican nation-state and provide further evidence of the role of culture and society in the transnational process. These examples continue to address the issue surrounding the extent to which the Haitian transnational field impacts the Dominican Republic in terms of the causes of statelessness in the Dominican Republic. Nevertheless, these examples also raise questions such as how is statelessness related to the inclusion or exclusion of Haitian transmigrants in the Dominican Republic, and what is being done by the Dominican Republic and Haiti to address the rights of stateless persons in the Dominican Republic?

Inclusive Exclusion

Transmigrants such as those Haitians living in the Dominican Republic have found full incorporation into the countries in which they resettle either impossible or undesirable. As scholars believe, the rise in transnational nation-states is accompanied by a rise in nationalism which encourages discrimination in the host country of these immigrants.[69] According to Schiller and Fouron, "These concepts foster racism and national chauvinism by revitalizing and popularizing links between the concepts of race and nation that exclude those defined as racially different from access to citizenship, rights, and territory".[70]

In the article "From exclusion to Containment: Arendt, Sovereign Power, and Statelessness", the concept of inclusive exclusion goes further to explain the relationship

---

[69] Bach, Linda, Cristina Szanton Blanc, and Nina Glick Schiller. "From Immigrant to Transmigrant: Theorizing Transnational migration." Anthropological Quarterly; Jan1995, Vol. 68 Issue 1, p48-63, 16p. Accessed on 16 September 2009. http://www.ebscohost.com.
[70] Fouron and Schiller, 343.

between discrimination and statelessness, and it explains how the incorporation of transmigrants into the countries in which they settle remains difficult by contending that the stateless are simultaneously integrated within the decision-making authority of sovereign power and segregated from the normalized territory of potential host states. This theory claims that the state "exploits racist and xenophobic tendencies in order to shape perceptions about stateless persons as undesirable others seeking to squander the resources of the state and exploit the good will of the nation". Overall, its purpose is to "buttress states' denial of responsibility to those outside of their borders".[71]

Generally, according to the theory, the matter of inclusion seems to be structurally tied to national identity.[72] In this case, discrimination is used not only as a means by which the marginalization and subjectivity of a certain group in society is revealed, but also as a means by which discrimination is used to shape nation-state policies. At this point, the role of public opinion is seen as especially important as feelings of discrimination and racism flow from the general public to officials in charge of creating nation-state policies. In the Dominican Republic, this concept can be seen as it relates to the issue of the extent to which anti-Haitianism in the Dominican Republic perpetuates the status of statelessness in the case of Dominican born children of Haitian descent, a topic which will be addressed in Chapter 4.

Thus, the issue becomes how discrimination is linked to the plight of stateless persons of Dominican born children of Haitian decent? Are individuals of Haitian decent discriminated against based on their ethnic origin, language, economic status, and nationality? In particular, are Dominican born children of Haitian descent especially vulnerable as they are continually left in

---

[71] Hayden, Patrick. From Exclusion to Containment: Arendt, Sovereign Power, and Statelessness. Societies without Borders 3 (2008). 20 November 2009. 262.
[72] Ibid., 258.

limbo between the Dominican and Haitian Constitutions and state policies on the granting of birthright citizenship?

The Haitian Diaspora

In Haiti, the government has recognized the importance of the Haitian diaspora as it relates to the future stability of Haiti. The government initiated *Lavalas* Movement created what is known as Haiti's 10th Department. The idea of the creation of the Department began in the 1980s with the establishment of The Office of Diasporic Affairs under the leadership of Henry Namphy. The office was placed under the Office of the President under the leadership of Jean-Betrand Aristide, and in relation to Haiti's nine regional administrative units known as departments, Haiti's 10th Department Organization was created to oversee regional committees from each city abroad where there were large numbers of Haitian immigrants. In 1994, a Ministry for Haitians Living abroad was created to incorporate persons of Haitian descent living abroad.[73] Such cities with large number of Haitian descendents include various places in Africa and the Caribbean, New York, Boston, Miami, Chicago, Montreal, Paris, and the Dominican Republic.

Overall, the Department and the Movement acknowledges the fact that the Haitian government sees the benefit that the Haitian diaspora, and believes in the overall strengthening and developing the Haitian transnational nation-state. Even more, the term *lavalas*, the Haitian Kréyòl word for avalanche depicts, in a more figurative manner, the incorporation of the Haitian Diaspora in the transnational nation-state building process.[74]

---

[73] Levitt and de la Dehesa, 591.
[74] Fouron, Geroges E. and Nina Glick Schiller. "Transnational Lives and National Identities: The Identity Politics of Haitian Immigrants".Transnationalism from Below -Comparative Urban & Community Research; 1998, Vol. 6, p138. Accessed on 16 September 2009. http://www.ebscohost.com.

Nonetheless, several points must be made in relation to Haiti's 10th Department. Foremost, the 10th Department has no formal legal status or representation in Haiti's national government to date. It currently stands as a body independent of the Haitian government, so the extent to which this establishment extends beyond political and economic influences into social and cultural processes outside of Haiti is unknown. Moreover, the role of the 10th Department in the statelessness of ethnic Haitians in the Dominican Republic is unknown. If the 10th Department does play a role in the situation of stateless in the case of ethnic Haitian in the Dominican Republic, might the problem of statelessness in the Dominican Republic be easier to solve? If the 10th Department does not play a role in the situation of stateless Haitian transmigrants in the Dominican Republic, it is unfortunate. The lack of Haitian influence over its diaspora in the area of social and cultural norms leaves few to protect those vulnerable Haitian migrants worldwide who continue to experience human rights violations outside of Haiti. The lack of human rights of stateless Dominican born children of Haitian descent and the lack of the Haitian government's influence in this matter solidifies this assumption. In general, this is an example of a government's acknowledgement of the importance of a given diasporic group to the well being of a nation state and the challenges faced by the modern nation state to address the membership of citizens to a given nation-state, regardless of geographical or cultural boundaries.

Post-Nationalism

At this point, it is important to further analyze the state's role in assigning membership and the rights of the stateless as deemed through the nation-state. In regards to the rights of the stateless, Scholar Pedro Pimentel writes about the relationship between human rights and universal rights. By incorporating the idea of the diminished significance of the modern nation-

state, Pimentel claims that the importance of territorial boundaries has been eroded by a growing discourse on human rights that relies on a theory of universal tights. He goes on to state that "states are not bound by ethnic ties of sentiment, but that the qualitative benefits of citizenship the state gives can now be obtained by any person who chooses to settle within the territorial confines of a given nation".[75] This idea is defined as a postnational model of citizenship.

Scholar Yasemin Soyal defines the post-national state as "what were previously defined as national rights become entitlements legitimized on the basis of personhood".[76] Soyal believes that immigrants can achieve legal incorporation into the societies in which they settle through institutions within the nation-state, and even though these institutions are constrained by the principle of national sovereignty, the principle of universal rights trumps these nationalist considerations.[77] If this theory is upheld, this concept implies that certain citizenship rights should be granted to any person choosing to live within the territorial boundaries of that state. Therefore, stateless children born in the Dominican Republic of Haitian descent, who represent the highest level of non-membership within any given nation-state, should be able to enjoy the same rights as Dominican citizens.

The question now, as Pimentel poses, is whether or not postnational citizenship exists in the Dominican Republic. I would argue that it does not, and the extensiveness of lack of rights of stateless Dominican born children of Haitian descent is a testament to this point. However, something must be done to address the issue of human rights or the lack thereof to stateless individuals in the Dominican Republic. I discuss the measures that have been taken by various groups to solve the problem of statelessness in the Dominican Republic in Chapter 5.

---

[75] Pimentel, Pedro. "Postnational Pressures". Harvard International Review; Fall98, Vol. 20 Issue 4, p40, 4p, 2 Black & White Photographs. pg. 2.
[76] Ibid., 2.
[77] Ibid., 1-7.

Chapter 3   Causes of Statelessness in the Dominican Republic

As mentioned in the introduction, Refugees International lists some of the causes of statelessness as resulting from:

> differences in the laws between countries; laws regulating marriage and birth
> registration; failure to register children at birth; nationality based solely on
> descent, often of the father; renunciation of nationality (without prior acquisition
> of another nationality; political change; discrimination due to race; ethnicity, or
> gender; expulsion of people from a territory; abandonment of children; migrant
> workers being unable to pass citizenship to their children; and trafficking."[78]

These causes are very general, and they apply only to certain situations. In the Dominican Republic, differences in laws between countries, laws regulating marriage and birth registration, failure to register children at birth, migrant workers being unable to pass citizenship to their children, and discrimination due to race, ethnicity or gender are the main causes of statelessness in the case of Dominican born children of Haitian descent living in the Dominican Republic. I will now discuss the specific causes in detail.

Differences in the laws between the Dominican Republic and Haiti

One of the main causes of statelessness in the Dominican Republic stems from the differences in laws regarding birthright citizenship in the Dominican Republic and Haiti. The

---

[78] Lynch, M. and Katherine Southwick. Nationality Rights for All: A Progress Report and Global Survey on Statelessness. Refugees International. pg. 2. March 2009. http://www.refintl.org.

Dominican Republic grants birthright citizenship based on the rule of law known as *jus soli*, which is the rule of law that states that birthright citizenship is a right by which nationality or citizenship can be recognized to any individual born in the territory of the related state. However, Dominican authorities assert that ethnic Haitians in the Dominican Republic are not entitled to Dominican nationality and are not left stateless because the Haitian constitution establishes birthright citizenship by *jus sanguinis*- the rule of law that states that birthright citizenship is a right by which nationality or citizenship is not determined by place of birth, but by having an ancestor who is a national citizen of the state.

Moreover, according to the Haitian Constitution and Haiti's 1984 Law on Nationality, certain groups of individuals are excluded from Haitian nationality. According to Amnesty International, groups of individuals of Haitian origin, such as many Dominican born children of Haitian descent, born outside of Haiti will not have access to Haitian nationality if: 1) they are the grandchildren or great-grandchildren of Haitians, since their parents have to be native-born Haitians; 2) they are the children of one Haitian parent; and 3) they are children of Haitian parents who do not have identity documents, as they cannot prove they are native-born Haitians.[79]

All of these circumstances apply to Dominican born children of Haitian descent living in the Dominican Republic as they are left in limbo between the constitutions. These issues are further exacerbated by the fact that the interaction between these two differing countries is more profound, mainly because the Dominican Republic and Haiti share the island of Hispaniola. As Haitian migration to the Dominican Republic increase, so does the uncertainty in status of stateless children in the Dominican Republic.

---

[79] Schaaf, Bryan. Dominico-Haitians: Stateless in the Dominican Republic. Haitian Innovation. Accessed on 17 April 2010. http://haitiinnovation.org.

Laws Regulating Marriage and Birth Registration and Failure to Register Children at Birth

The birth certificate and the *cédula de identidad* or identity card are the documents used to demonstrate Dominican citizenship and nationality. The hospital, clinic, or midwife issues a declaration of birth (*constancia de nacimiento*) which is submitted to the registration office that registers the child's birth and issues a birth certificate. The birth certificate is used for registering for school, obtaining health insurance, obtaining a passport at 18 years of age, and other public services. [80] *Cédulas* are given with the presentation of the birth certificate. The c*édula* is a plastic card with name, registration number photograph, and a thumb-print at the 18 years of age. It is required to cash a check, open a bank account, sign a contract, and to vote.[81] The *cédula* is also used for enrolling in a university, obtaining lawful employment, eligibility for health insurance and social security, purchasing property, getting married, and for registering and baptizing children.[82]

However, many Dominican-Haitians and children born on Dominican soil of Haitian descent are denied Dominican citizenship and thus their right to a nationality. The denial of birthright citizenship to Dominican born children of Haitian descent usually begins at the hospital.[83] In some cases, undocumented parents of Haitian descent are denied "maternity papers" (papeles de maternidad) which describe the date and location of the child's birth.[84]

When parents are unable to register their child's birth at the hospital, they must visit a civil registry office in order to obtain a birth certificate and register the birth of their child. At the civil registry office, applicants are required to show either maternity papers or acts of notoriety

---

[80] Amnesty International. Dominican republic-A life in transit, 22-24.
[81] Needed but Unwanted, 49.
[82] Ibid., 49.
[83] Human Rights Watch. April 2002, Vol. 14, no. 1(B) pg. 3.
[84] Ibid., 23.

as proof of their child's birth in the country. However, many believe that it is difficult to obtain such documents at the registry offices.[85]

Applicants who try to register their child's birth ninety days after the date of birth must have their applications viewed by a civil judge. In this case, the child can receive Dominican citizenship based upon the judge's approval. This process may take months to complete, and many applications do not reach the judge because civil registry officers may tell parents that it is unnecessary to take this step as the courts will automatically reject it.[86] For instance, according to an NGO based in Santo Domingo, The Movimiento de Mujeres Dominico-Haitianas (MUDHA) "Since 1994 at least three-quarters of their applications for Dominican identity documents on behalf of persons of Haitian descent have been rejected", and they believe that "rejection rates have been steadily increasing in recent years".[87]

Overall, the process of obtaining a Dominican birth certificate and identity card is long and difficult. As presented in the Human Rights Watch report, "The costs alone, as well as the substantial practical difficulties involved in obtaining these certifications, bar most families from complying with these requirements".[88]

Migrant Workers being unable to Pass Citizenship to their Children

The Inter-American Commission on Human Rights asserts, "While many countries grant citizenship or permanent resident status after lengthy periods of residency, this is not the case for Haitians in the Dominican Republic".[89] Haitian immigrants are considered illegal when they lack Dominican birth certificates and *cédulas*, or Haitian passports, visas, or other work related

---

[85] Human Rights Watch. April 2002, Vol. 14, no. 1(B) pg. 23.
[86] Ibid., 24.
[87] Ibid., 24.
[88] Ibid., 24.
[89] United Nations Convention on the Right of the Child. 47th session. 11 February 2008. Pg.17

migration papers.[90] As such, under Dominican law, many Haitian migrants are deemed as "in transit", and not legal residents of the Dominican Republic.

The term "in transit" generally refers to people such as travelers, sailors and aircraft crew, diplomatic and consular staff, and tourists. In 2004, however, the Dominican Congress approved a General Migration Law (Ley General para las Migraciones, No. 285-04), in which the term was used to relate to foreign nationals living in the Dominican Republic on a long term basis. Dominican migration regulations state that the term in transit applies to "those foreigners who try to enter the Republic with the principal intention of proceeding through the country to an exterior destination", but all Haitian migrants who work in the country legally or illegally are described as being "in transit" because they are considered visitors for the purposes of citizenship rules.[91]

Also, "In effect the law means that children born to parents of Haitian heritage who have no legal documents are not granted Dominican citizenship or nationality, despite being born in the Dominican Republic, their parents being born there or the fact that their parents, may, in some cases, have been settled in the Dominican Republic for decades".[92] Thus, the undocumented status of Haitian migrants is inherited by their children.

Regarding the situation of Dominican born children of Haitian descent living in the Dominican Republic, the Inter-American Commission on Human Rights describes the situation of ethnic Haitians in the Dominican Republic as living in a state of "permanent illegality".[93]

The following is an example of an individual case of the cycle of statelessness in the Dominican Republic:

---

[90] Needed but Unwanted, 50.
[91] Human Rights Watch. April 2002, Vol. 14, no. 1(B).
[92] UN Human Rights Council, 18.
[93] Human Rights Watch. April 2002, Vol. 14, no. 1(B) pg. 22.

"Victoria Balusia is a second generation Dominican of Haitian descent. When she was born, Dominican officials refused to give her parents a Dominican birth certificate for her. Her three children, Ronnie (age three0, José Enrique (age two), and Vladimir (age six months), all of whom were born in the Hospital Los Minas in Santo Domingo, have received similar treatment. After each birth, medical staff at the hospital told Victoria that she could register her baby for a birth certificate if she could present her own Dominican *cédula*. Without any identification, Baluisa was unable to obtain birth certificates for her infants. Baluisa's children, third generation Dominicans of Haitian descents, remain undocumented".[94]

Discrimination to due to Race, Ethnicity, or Gender

The issue of race affects almost every aspect of Dominican life, and these issues also affect the denial of citizenship to Dominican born children of Haitian descent. Concerning the exclusion faced by ethnic Haitians in the Dominican Republic because of race or ethnicity, the UN reports, "No other children born in the Dominican Republic to parents from other nations face this exclusion".[95] In general, it is argued, "While the Government reports that a large percentage of all Dominicans have no identification documents, in practice, this presumption of illegality is applied only to people with dark skins and Haitian features". [96] Discrimination as a cause of statelessness in the Dominican Republic occurs at several levels.

---

[94] Ibid., 25.
[95] Pierre, Solange. "The Human Rights of Migrants in the Dominican Republic: Equality, Protection, Nationality". Women's Health Journal 4/2006. 21-2-2010. 56.
[96] UN Human Rights Council, 18.

In one instance, the denial of Dominican citizenship based on discriminatory practices occurs from those responsible for issuing identity documents to these children. In the Dominican Republic, the *Junta Central Electoral* (Central Electoral Board) oversees the 158 Oficialías del Estado (registry offices) located throughout the country.[97] Section 72 of the UN report states, "There is a widely held belief, supported by NGO research and interviews with civil registry officials, that those instructions to staff have specifically stated that they are not to issue any documents to 'Haitians' or those of Haitian descent even when they have documents attesting to their Dominican nationality".[98] Also, many times, children are denied documentation if they have Haitian sounding names or if they are black and speak accented Spanish. Moreover, children may be denied documentation if their parents are Haitian.[99]

In another instance, children of Haitian descent are discriminated against even if they have a particular form of documentation, because while white papers declaring births are given to children born on Dominican soil, occasionally, "pink certificates" are given to the children of non-legal residents.[100] The United Nations Committee on the Rights of the Child submitted a report on 11 February 2008 concerned that "a large number of children still remain unregistered and that the 'pink certificate' can be used as a basis for discrimination against these children and their exclusion from the right to a nationality".[101] Also, it is recognized that the 'pink certificates' are given on the assumption that the child's mother is "in transit". This action disregards the long-term residence of ethnic Haitians in the Dominican Republic and "prevents the acquisition of any nationality by the child". [102]

---

[97] Ibid., 17.
[98] Ibid., 21.
[99] Mosely-Williams, Richard and Bridget Wooding. pg. 51.
[100] United Nations Convention on the Right of the Child. 47th session. 11 February 2008. Pg.19
[101] Ibid., 19.
[102] Ibid., 19.

Overall, the discrimination faced by ethnic Haitians in the Dominican Republic is the most important cause of statelessness. "States frequently justify citizenship policies with national security, economic, and public health concerns", and thus, anti-Haitian Discrimination contributes to the perpetuation of statelessness in the Dominican Republic.[103] As the increased migration of Haitians to the Dominican Republic fosters discrimination against these migrants, laws regarding citizenship and nationality acquisition are frequently catered to protect Dominican identity and condemn those things associated with Haiti. Likewise, as stated by Morel, "Citizenship in many states has been manipulated and restricted to deny rights to those whom the state wishes to marginalize".[104] Thus, "The issue of the birth certificates, part of the broader question of nationality and citizenship, has become where the battle line between anti-Haitianism and human rights is increasingly drawn."[105] As discrimination in the Dominican Republic is of major importance, all of these ideas will be discussed in the following chapter.

---

[103] Lives on Hold, 3.
[104] Morel, Cynthia. Minority Rights Group International. Before the Inter-American Court of Human Rights. Case No. 12.189. Amicus Cruiae Brief. 15 03 2005 .pg. 11
[105] Needed but Unwanted, 52.

Chapter 4   Race, Nationality, and Statelessness

Dr. Joaquín Balaquer (President of the Dominican Republic from 1960 to 1962, from 1966 to 1978, and again from 1986 to 1996) once wrote "the race problem is the principal problem of the Dominican Republic".[106] From its colonial origins to its present manifestation in Dominican-Haitian relations, the topic of race is key to the discussion of nationalism in the Dominican Republic.[107] David Howard, the author of <u>Coloring the Nation: Race and Ethnicity in the Dominican Republic</u> suggests, "Dominicans rarely speak of *la nación dominicana*, they are far more likely to mention *la raza Dominicana*. Race and nation are effectively entwined, *nación* is a term seldom used in everyday language. The national territory is racial territory; national belonging denotes racial belonging".[108]

Additionally, Howard considers the national identity of the Dominican nation-state to be both inclusive and exclusive. Included in *la raza dominicana* is the White, Catholic, Hispanic heritage. Excluded from *la raza dominicana* is the Black, *vodú*, and African heritage that characterizes Haiti.[109] Even more, Howard states, "Historical notions of *la raza dominicana* have combined overt racism and nationalism".[110] He argues, "European and indigenous heritages in the Dominican Republic have been celebrated at the expense of an African past", and "Dominican identity is constructed vis-à-vis Haiti".[111]

Thus, on numerous occasions, the term *anti-Haitianismo* (anti-Haitianism) is used to describe or explain the racist construction of the Dominican identity and nation-state, vis-à-vis

---

[106] Howard, David. <u>Coloring the Nation: Race and Ethnicity in the Dominican Republic</u>. Oxford : Signal Books ; Boulder, Colo. : L. Rienner Publishers, 2001. Pg. 20.
[107] Ibid., 1.
[108] Ibid., 154.
[109] Ibid., 17.
[110] Ibid., 17.
[111] Ibid., 1.

Haiti, as it relates to the past and present relations between the Dominican Republic and Haiti. This chapter will discuss how the line between race and nation in the Dominican Republic is very thin, and how the perceptions of Dominican racial structures and Dominican national identity has been created relative to this anti-Haitianist ideology especially as they relate to discrimination and the denial of citizenship rights to Dominican born children of Haitian descent.

The History of *anti-Haitianismo*

According to Ernesto Sagas, "Antihaitianismo ideology is the manifestation of the long-term evolution of racial prejudices, the selective interpretation of historical facts, and the creation of a nationalist Dominican false consciousness".[112] First of all, the colonial administration in the colony of Santo Domingo put into place racial and social structures that lasted for nearly three centuries. Overall, Santo Domingo's colonial society consisted of a white Spanish elite that ruled over a racially mixed population of Creoles and slaves.[113] The issue of race during this time was similar to that of other colonies in Latin American and the Caribbean. As suggested by Teresita Martínez-Vergne, race during these colonial times was used as a means of "recasting hierarchy as a function of biological and not material inheritance".[114] In other words, with the rise of capitalism within the slave system, wealth spread amongst other groups of the population, and the status of individuals outside of the white Spanish elite began to rise. Therefore, racism was used to point out negative characteristics in certain groups of the population in order to justify the domination of people of color by Europeans.[115]

---

[112] Sagás, Ernesto. <u>Race and Politics in the Dominican Republic</u>. Gainesville, FL : University Press of Florida, c2000. Pg.21.
[113] Ibid., 23.
[114] Martínez-Vergne, Teresita. <u>Nation & Citizen in the Dominican Republic, 1880-1916</u>. Chapel Hill : University of North Carolina Press, c2005. Pg. 101
[115] Howard, 101.

The perception of Dominican slaves as racially superior to Haitian slaves existed during colonial times. As a result of the lack of wealth in the Dominican colony, fewer slaves were imported to the eastern part of the island. Consequently, slave owners had to take better care of their slaves, the average ratio of slaves to freeman was small, blacks or mulattos sometimes occupied midlevel administrative positions usually reserved for whites, and racial mixing among the lower classes frequently occurred. More importantly, as most slaves were born and raised in the colony of Santo Domingo, they too, in this sense, possessed a Hispanic culture, and they looked down upon the pure African heritage of slaves in Saint-Dominigue.[116]

This feeling of superiority lasted throughout the colonial period and emerged again following independence. To begin with, Haitian independence had a strong impact on Dominican society. After the 1789 French Revolution, the ideals of "Liberty, Equality, and Fraternity" spread throughout France's colonies. Wealthy whites in colonial Saint-Dominigue demanded autonomy, poor whites demanded political and economic equality, and mulattos demanded racial equality. All three groups tried to rally their slaves behind their cause, but eventually, the slaves came together and revolted against their owners in a fight for their own autonomy, equality, and freedom. Thus, in 1791, the first and the largest slave revolt of the Americas was held in Saint-Dominigue, a struggle which continued until Haiti gained its independence on January 1, 1804.[117]

In the Dominican Republic, Haiti's independence from France was viewed as a race war in which "the savage destroyed the civilized".[118] The large number of African slaves in colonial Saint-Dominigue who overthrew their white French ruling elite were accused of "racial

---

[116] Sagás, 24-25.
[117] Ibid., 23.
[118] Vergne, 95.

exclusivism, isolationism, and anti-Europeanism".[119] They did not mix racially, and even more,

they embraced their African heritage. Also, many Dominicans believed, "For this reason, blacks

and mulattoes in Haiti hated each other and continued to fight, condemning the country to

material poverty".[120] Hence, Dominicans claimed that "Haiti would always resent its eastern

neighbor and try to neutralize it".[121]

By the time that Haiti annexed the eastern part of the island of Hispaniola from 1822-

1844, the accumulation of disdain for Haitians by the Dominican Republic instilled a fear which

exists even today. To many Dominicans, the unification of the island is seen as a failure,

economically, culturally, and emotionally.[122] Moreover, the main success of Dominican's

independence from Haiti is that the Dominican Republic maintained its Hispanic-Catholic

culture. Dominican ideologue Manuel A. Peña Batllee wrote, "The separation from Haiti was a

reactive movement, in defense of Hispanic culture."[123]

Anti-Haitianism and the Dominican National Project

Still, after independence, Dominican elites were left with the task of forming Dominican

national identity.[124] Vergne asserts that at the center of the Dominican national project was a

need for the Dominican Republic to modernize, a task that Dominican policy setters sought to

fulfill by improving its population base.[125] This idea stemmed from the Argentine saying

"*poblar es gobernar*" (to populate is to govern).[126] Thus, immigration was used as one tool of

progress so that the agriculture sector of the Dominican economy could be more productive and

---

[119] Vergne, 95.
[120] Ibid., 95.
[121] Ibid., pg. 95.
[122] Sagás, 30.
[123] Ibid., pg. 48.
[124] Sagás, 31.
[125] Vergne, 82.
[126] Ibid., 82.

so that the eastern half of the island could be more populated. During this push for immigration,

European settlers were preferred as a "biological element to increase the vitality of the

Dominican race with a contingent of new blood that will activate and strengthen that which

circulated in its veins".[127] These people would use these European immigrants to aid in the

development of the Dominican nation-state because there image as "white, healthy, and

hardworking" appealed greatly to Dominican elites.[128] Instead, many black workers from

"Africanized areas of the Caribbean" migrated to the Dominican Republic.[129] From 1882-1916,

only a small portion of these immigrants were Haitians. By 1919 however, 10,000 of the 14,000

wage workers in the Dominican sugar industry were Haitians.[130]

During the 1900s, anti-immigration sentiment in the Dominican Republic intensified, and

with the rising influence of Haitian immigrants on the Dominican society, anti-Haitian sentiment

also intensified. Immigrants were accused of "not spending money in the Dominican economy,

sending their savings abroad, begging, being dirty, spreading disease, monopolizing the (sugar)

industry, and depressing salaries".[131] According to Vergne, the anti-immigrant sentiment was not

a result of the immigrants themselves, but it was a result of internal conflicts among Dominican

society, a cause of the Dominican's elite dissatisfaction with their own position in the Dominican

economy.[132]

Of major significance to the Dominican Republic regarding the disdain of Haitian

immigrants in the country was the "Haitian Domination" which lasted from 1822-1844.[133]   The

22 year Haitian rule of the island was still a part of the Dominican mind-set as the fear of

---

[127] Vergne, 83.
[128] Ibid., 83.
[129] Ibid., 89.
[130] Ibid., 89,93.
[131] Ibid., 87.
[132] Ibid., 89.
[133] Ibid., 94.

subsequent Haitian invasions plagued the Dominican Republic. The large influx of Haitian migrants around 1916 provided the little evidence needed for Dominicans that one goal of the Haitians was to invade the Dominican state once again. A quote presented by Vergne in relation to Haitian immigrants in the Dominican Republic asserts, "Haitians are pretentious, arrogant, and contrary to the simplicity and morality of Dominican habits and do not want to submit nor to adjust to them; and as a consequence, only think of the absorbing desire for domination of the conquerors".[134]

Consequently, as a result of the failure of the Dominican Government to modernize the country with European immigration, they continued to seek ways in which to better develop the Dominican nation-state being that they now had to manage a newer, larger flow of Haitian immigrants in the country. Overall, if they wanted to compete in the increasingly globalized world, they needed a national identity. Unfortunately, one major characteristic of this identity was that it had to set them apart from the western neighbors, and quickly, strong sentiments of nationalism became even more infused in the existing sentiment of *anti-haitianismo*.

The Trujillo Era

Although the term *anti-haitianismo* has its roots in the colonial past of the island of Hispaniola, it is most notably associated with the Trujilista anti-Haitian nationalist discourse, and this discourse was constructed during the dictatorship of Rafael Leónidas Trujillo Molina and his ideologues Manuel Arturo Peña Batlle and Joaquín Balaguer during the 1930s.

As Sagás indicates, "The Trujillo regime and its intellectuals did not invent antihaitianismo; it already was an integral part of Dominican culture. What the Trujillo regime did was to take antihaitianismo to new intellectual heights and convert it into a state-sponsored

---

[134] Vergne, 94.

ideology."[135] The *indio* myth and the 1937 Massacre serves as the two most notorious examples of Trujillo's work in carving out a clear definition of the Dominican nation-state.

The Indio Myth

During the Trujillo regime, the term *indio* was established as an official description of the Dominican race.[136] The term *indio* literally translates to Indian or indigenous. Ironically, however, there is almost no trace of the indigenous culture or population in the Dominican Republic. When Columbus arrived at the eastern half of the island of Hispaniola in 1492, there were an estimated 3 million Taíno Indians inhabiting mostly the eastern side of Hispaniola. Within the next 50 years, the indigenous population was reduced by 98%.[137] Today, the influence of the indigenous population in the Dominican Republic is limited to the names of places or objects as well as artifacts and certain foods.

Moreover, unlike the terms *mestizo* or *mulato*, *indio* denotes, above all else, a mixing of races without the connotation of African origins.[138] The term is used in conjunction with the words such as *claro/a* (clear, pale), *fino/a* (finer facial features), *oscuro* (dark), *quemado/a* (burnt), and *canelo/a* (cinnamon) to more specifically define the range of Dominican skin colors.[139] The terms *negro* and *negra* were, then, more closely associated with being Haitian and not necessarily associated with being black. Even more, although the majority of the Dominicans are mulattos, the upper classes tend to have lighter-skin than does the lower classes.[140] Thus, the use of the term was used as a means by which dark-skinned Dominicans

---

[135] Sagás, 46.
[136] Simmons, 26.
[137] Race and Dominicanness: A struggle for identity. http://www/dr1.com. 17- 02- 2010.
[138] Howard, 43.
[139] Ibid., 41.
[140] Sagás, 65.

who are the same color or even darker than Haitians are still able to hold on to feelings of superiority over Haitians because by claiming an "indio" heritage they can assert their Domincan nationality over one linked to Haiti.

The 1937 Massacre

With the establishment of *indio* as the official description of Dominican skin color, the identity of the Dominican nation-state in terms of race was further separated from that of Haiti. Now, Trujillo turned his focus even more to the separation of nations, especially in regards to the Dominican-Haitian border.

However, the legal border drawn between President Trujillo and Haitian President Sténio Vincent of Haiti in 1935 and 1936 did little to separate the two nations. Crossings along the border continued as it had been for decades, and the Haitian culture, more importantly was filling the borderland. Many Dominicans who lived along the border spoke Haitian Creole as well as they did Spanish, for example.[141]

Nevertheless, in Trujillo's eyes the establishment of the border was to serve the purpose of not only defining a geographical separation of the two nations, but its purpose was also to define the cultural separation of the two nations. Hence, in October 1937, a massacre of approximately 30,000 Haitians along the border between the Dominican Republic and Haiti was carried out by Dominican authorities in what is known as Trujillo's "Dominicanization" campaign. It is believed that Trujillo ordered the attack of Haitians along the border because of the fear that Haitians were "darkening the Dominican nation" under their overall plan to once

---

[141] Sagás,.45.

again unify the island under Haitian control.[142] Haitians were sought out and killed "by descent, language, and culture", and by their inability to utter the word *peril*. This Spanish word for parsley is distinguishable because many individuals with strong French or Creole accents are unable to pronounce the "r" or the "j" correctly. [143] Haitians pronounced the word "pelegil".[144] It is important to note that no Haitians were killed on the American owned sugar estates.[145]

This single act serves as the most extreme documented case of anti-Haitianism in Dominican history as thousands of not only Haitians but also dark-skinned Dominicans along the border were killed by machetes. The first mention of the massacre occurred on October 21, 1937 in *The New York Times*.[146] Aided by the U.S government that helped to instill Trujillo into power, an agreement was reached by the Dominican Republic and Haiti in which the Dominican government was consented to pay an indemnity of US$750,000, a figure later reduced to US$525,000.[147] After the 1937 Massacre, the Trujillo regime focused on creating a myth to justify the massacre and develop a nationalist ideology that clearly separated the Dominican Republic and Haiti and build loyalty to his regime.[148]

Anti-haitianismo and Trujillo's Legacy

In regards to the two examples given in this chapter, the legacy of Trujillo continues to exist in the Dominican Republic. In a 1993 interview presented by Howard, over half of the individuals in Santiago, Dominican Republic described themselves as *indio/a*, and of these, over

---

[142] Sagás, Ernesto. A Case of Mistaken Identity: Antihaitianismo in Dominican Culture. 30 November 2009. http://webster.edu.
[143] Matibag, 139.
[144] Crassweller,155.
[145] Ibid., 155
[146] Sagás, 47.
[147] "Haitian Massacre in the Dominican Republic". http://www. Haitianmedia.com. 17-02-2010.
[148] Sagás, 47.

70 percent refused to consider themselves as *mestizo/a*.[149] Furthermore, even now, official references to the 1937 massacre have not been found in Dominican archives.[150]

Much has been written about Trujillo and his lasting impact on the Dominican Republic in terms of his justifications behind his actions. It is often reported Trujillo was greatly influenced by Hitler, and he even wore make-up to lighten his skin so that he could cover up his interesting link to Haiti.[151] It is well known that Trujillo's maternal grandmother Luisa Erciná Chevalier was Haitian – the illegitimate daughter of a Haitian Army officer and a Haitian woman who arrived in Dominican territory during the Haitian occupation.[152] This fact serves as an example of Trujillo's self hatred for his own identity, and it serves as an example of the extent to which Trujillo sought to alienate Haitian identity from Dominican identity.

While *anti-haitianismo* is only considered as a state sponsored ideology during Trujillo era, Sagás suggests, "After the Trujillo regime ended, antihaitianismo ideology took new forms".[153] Sagás also suggests, "Antihaitianismo is part of a set of attitudes that are acquired early in life and reinforced by the socialization process".[154] Elementary school textbooks claim that "the language of the Dominican people is a mix of Spanish and Taíno (continuing to dismiss the State's African heritage) and that "the Dominican people inherited a new race from the Spanish".[155]

---

[149] Howard, 41.
[150] Sagás, 47.
[151] Wucker, Michael. The River Massacre: The Real and Imagined Borders of Hispaniola.. Accessed on 17 February 2010. http://www.haitiforever.com
[152] Crassweller, 27.
[153] Sagás, 69.
[154] Ibid., 73.
[155] Ibid., 74.

Anti-Haitianism and Statelessness

Overall Sagás suggests, "The uniqueness of antihaitiansmo as a Hispanic Caribbean dominant ideology lies in the fact that it involves a foreign threat: Haiti."[156] Sagás also indicates, "The effectiveness of the regime's antihaitianismo ideology lay in the fact that it was easily accepted by Dominicans".[157]

It is important to note, again, that this sentiment of anti-Haitiansim did not begin during the Trujillo era, but the defining border between the Dominican Republic and Haiti and the 1937 Massacre of thousands of Haitians along that border serves as the most apparent realization of anti-Haitianism within the Dominican political sphere. Both of these acts were important to the protection of the Dominican identity and the formation of the Dominican nation-state.

In regards to any other acts involving hints of anti-Haitian sentiment, Sagás suggests, "Though the cases of mistreatment of Haitians and Haitian-Dominicans are not a result of official polices, but of individual actions, many of these cases involve government officials, and typically they act with impunity".[158] An example of this assertion lies within the case of *Yean and Bosico children v the Dominican Republic* in which Civil Registry Officials and other government officials were blamed for now allowing the girls birthright citizenship and Dominican nationality.

Still, Vergne asserts that there are continued arguments of whether or not anti-Haitiansim can be classified as a pure racist ideology, because as Sagas suggests, *antihaitiansimo* includes race, nationalism, culture, and history.[159] Nevertheless, most academic writing about the subject never fail to mention the term as significant to past, present, and future Dominican-Haitian

---

[156] Ibid., 121.
[157] Ibid., 67.
[158] Sagás,123.
[159] Ibid., 126.

relations. Moreover, the impact of anti-Haitianism on the political, economic, and social

structures of the country, whether it is manifested from Dominican authorities to the public of

from public opinion to Dominican authorities. Consequently, anti-Haitianism serves as an

explanation as to how and why the statelessness of Dominican born children of Haitian descent

is perpetuated in the Dominican Republic. Haitians in the Dominican Republic are often

marginalized from Dominican society and subjected to various other human rights abuses such

as the rejection of the right to a nationality. All in all, the granting of Dominican citizenship and

nationality to ethnic Haitians in the Dominican Republic is, for various reasons, a threat to the

Dominican nation-state, and anti-Haitianism is justification of the exclusion of individuals within

the territory of the Dominican Republic, regardless of any Dominican constitutional law.

International Law and the United Nations Mission to the Dominican Republic

Given the impact of globalization, one important concern is that the Dominican Republic

is expected to uphold the laws of the international community. According to Goldston, "There is

an emerging international consensus that nationality laws and practice must be consistent with

general principles of international law".[160] Often times, international organizations take

responsibility for the protection of individuals who, for various reasons, do not receive State

protection. Of the most important rights that international law seeks to protect is the right to a

nationality. Moreover, international law recognizes that the loss of the right to a nationality leads

to the loss of other rights, such as the right to be free from discrimination. Likewise, while the

treatment of noncitizens in regards to racial discrimination is a priority of the international

community, international norms also prohibit states actions in "denying, depriving, and

---

[160] Goldston, 332.

withdrawing access to citizenship".[161] Additionally, under International Law, non-citizens are granted the same rights as citizens except for the right to vote, hold public office, and exit or enter at will. However, according to Goldston, this protection of non-citizens under international laws is one of the greatest challenges to national sovereignty.[162]

Thus, various international organizations provide information regarding events associated with human rights abuses, as is the case with the situation of Dominican-Haitians living in the Dominican Republic. Many believe that Dominican-Haitians living in the Dominican Republic are among the worst treated individuals in the country. However, in 1999, in response to questions raised by the U.N. Committee on the Elimination of Racial Discrimination the Dominican government stated, "It is worth emphasizing that there is no racial prejudice [in the Dominican Republic]… [and] there is absolutely no foundation for the belief that there is discrimination against Haitians living in the country".[163]

Between October 23-29, 2007, Doudou Diène, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and Gay McDougall, the UN independent expert on minority issues visited the Dominican Republic and found that "there is a profound and entrenched problem of racism and discrimination in Dominican society, generally affecting blacks and particularly such groups as black Dominicans, Dominicans of Haitian descent and Haitians".[164] Diène and McDougall visited Santo Domingo, Dajabón and the border region with Haiti, Santiago, and San Pedro de Macroís. They conducted their research through interviews with senior Government representatives, members of the legislative and judiciary branches, NGOs, community members, academics and students, political parties, media

---

[161] Goldston, 332.
[162] Ibid., 323.
[163] Human Rights Watch. April 2002, Vol. 14, no. 1(B) pg. 10.
[164] UN Human Rights Council, 2.

and other institutions and individuals working in the field of minority issues, social inclusion, anti-racism and discrimination.[165]

Overall, the reports states, "While there is no Government policy of racism and no legislation that is on the face of it clearly discriminatory, the experts highlight the discriminatory impact of certain laws, particularly those relating to migration, civil status, and the granting of Dominican citizenship to persons of Haitian heritage born in the Dominican Republic".[166] Moreover the experts noted, "The factors of race and skin colour profoundly pervade Dominican society and racial prejudice is an important dimension of anti-Haitianism".[167] The following are excerpts of the report regarding race and anti-Haitianism as presented to the Unites Nations General Assembly on March 18, 2008.[168]

The close associations of the Dominican and Haitian identities are more evidently noted as one Dominican respondent claimed, "If you want to be a good Dominican, you have to be anti-Haitian".[169] Regarding racism and discrimination based on color, the UN officials reported that even today being black in the Dominican Republic is an extension of the African heritage, a trait chiefly connected with Haitians. The dislike of blacks is so deep that often times, that the word "Haitian is also used as a label for improper behavior, lack of civility, and often as an insult in Dominican society".[170]

Although these associations with Haiti were also used by black Dominicans as a means to separate or distinguish themselves from Haitians, in the Dominican Republic, the determination

---

[165] UN Human Rights Council. Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Doudou Diène, and the independent expert on minority issues, Gay McDougall: addendum : mission to Dominican Republic. 18 March 2008, A/HRC/7/19/Add.5; A/HRC/7/23/Add.3. http://unhcr.org. 22-02-2010. Page 2.
[166] Ibid., 2.
[167] Ibid., 2.
[168] Ibid., 2.
[169] Ibid., 15.
[170] Ibid., 15.

of whether someone was Haitian or not is based on skin color. This explains why there are numerous deportations and expulsions of not only Haitians from the Dominican Republic, but also dark skinned Dominicans as well as black foreigners with no ties to Haiti are threatened with deportation are also deported from the Dominican Republic to Haiti. [171] As one respondent stated, "The most important passport is skin colour. Those with light skin rarely have a problem. Those who are black and look poor face problems all the time, no matter whether Haitian or Dominican. If you are black, you are Haitian". [172]

If there is a question of whether or not anti-Haitiansim still exists in the Dominican Republic, the UN Official's statement regarding the origins and existence of anti-Haitian in the Dominican Republic sums it up nicely. They assert, "Anti-Haitianism, being a construct that results not only from the evolution of racial prejudice against Haiti, but also from political, historical, sociological and economic factors that characterize the relationship between the two countries, was said to be permeating every aspect of today's Dominican culture". [173] The justification that usually arises from common perceptions of disdain and dislike of individuals of Haitian descent in the Dominican Republic is that the negative attitudes expressed about Haitians stems from the confrontation of the "Haitian threat" or "the need to preserve national security and national identity". [174] Stemming from past colonial experiences up until present day immigration issues, the presence of Haitians in the Dominican nation-state is a direct threat to the Dominican nation-state, on the whole.

While many groups are reluctant to relate anti-Haitianism and the rejection of human rights to individuals of Haitian descent to government officials or state led ideologies, "There is a

---

[171] UN Human Rights Counil, 14.
[172] Ibid., 14.
[173] Ibid., 15.
[174] Ibid., 15.

widely held belief, supported by NGO research and interviews with civil registry officials, that those instructions to staff have specifically stated that they are not to issue any documents to "Haitians" or those of Haitian descent even when they have documents attesting to their Dominican nationality". [175] Also, Officials noted that, *"Without exception, individuals of Haitian descent born in the Dominican Republic reported that, because of their colour or their Haitian looks or name, it is virtually impossible to obtain identity documents or even copies or renewals of previously issued documents".*[176]

In this chapter, I have explored the roots of anti-haitianism and how this discrimination is a catalyst for statelessness. Moreover, after onset this discrimination continues to negatively affect the lives of the stateless in a way that perpetuates the status of the stateless as marginalized and excluded members of Dominican society.

---

[175] UN Human Rights Council, 21.
[176] Ibid., 17.

Chapter 5: Conclusion on the Problem of Statelessness in the Dominican Republic

Overall, in this thesis, I have explored the main causes and consequences of statelessness in the Dominican Republic. Of those most affected in this case were Dominican born children of Haitian descent living in the Dominican Republic. Hence, they were deemed stateless for several reasons.

First, the differences in laws between the Dominican Republic and Haiti and the fact that Haitian migrant workers are unable to pass citizenship to their children are of main concern. Being that Dominican law grants birthright citizenship by the *jus soli* rule of law and Haitian law grants birthright citizenship by the as *jus sanguinis* rule of law, these two laws are used in conflict with one another at the expense of the children of ethnic Haitians in the Dominican Republic. For example, even though the Dominican Constitution grants birthright citizenship to all of those born within the territory of the state, the Dominican Migration Law deems the children of Haitian migrants as "in transit" and not legal residents of the Dominican Republic. In all, the Migration Law gives precedence to Haitian law in the Dominican Republic as it implies that these children are not left stateless due to Haiti's rule of law which states that birthright citizenship is granted to those having an ancestor of the related state. However, according to Haiti's 1974 Law on Nationality, these children do not possess the right to Haitian nationality because in order to be granted this right, both parents of the child are to be native born Haitians and both parents of the child are to have proof of their Haitian identity.[177] Consequently, the Dominican Migration Law ignores the issue of long term or permanent residents of Haitian descent in the Dominican Republic who have lived in the country for most if not all of their

---

[177] Schaaf, Bryan. Dominico-Haitians: Stateless in the Dominican Republic. Haitian Innovation. Accessed on 17 April 2010. http://haitiinnovation.org.

lives. In this sense, they have no indication of life in Haiti, and many of them do not enjoy the right to Haitian nationality themselves. Even more, the Dominican Migration Law further divides the Dominican and Haitian laws regarding birthright citizenship by justifying the status of statelessness among ethnic Haitians in the Dominican Republic.

One other leading cause of statelessness in the Dominican Republic is the failure of the parents of ethnic Haitians to register their child at birth. In general, often times, in the Dominican Republic, the process of birth registration is long, complicated, and expensive. Also, because of racial and ethnic discrimination, parents are unable to obtain birth certificates or identity cards at all levels of Dominican authority including the hospital, Civil Registry Offices, and at the Judge's office.[178]

This presence of discrimination, as I found, however, does not only relate to the case of stateless ethnic Haitians in the Dominican Republic. As discrimination is a main cause of statelessness in the Dominican Republic, Chapter 4 discussed the issue of anti-Haitian discrimination as a perpetuation of statelessness at its current manifestation throughout all aspects of Dominican society. In general, anti-Haitian sentiment in the Dominican Republic has its origins during colonial times on the island of Hispaniola. More recently, the era of Dominican dictator Rafael Trujillo more specifically exemplified anti-Haitian sentiment as a permanent fixture within Dominican society. The *indio*-myth and the 1937 Massacre are two examples of anti-Haitianism used in this thesis.

Furthermore, fueled by immigration, this anti-Haitian sentiment aids in the construction of Dominican identity and Dominican nationalism in its present forms. More importantly, anti-Haitianism seems to play a key role in the formation of Dominican state policies that exclude ethnic Haitians from Dominican society. The exclusion of Haitians from Dominican society is

---

[178] Human Rights Watch. April 2002, Vol. 14, no. 1(B) pgs. 1-24.

based on several factors that have come to characterize Haiti. A few characteristics of Haiti in the Dominican Republic centers around the fact that Haiti is seen as being a poor Black nation that practices voodoo and speaks French and Haitian Kréyòl. All of these characteristics are the opposite of what the Dominican Republic aims to be, especially with regards to the country becoming a major actor in the international community. Statelessness, then, is a consequence of the exclusion of the Haitian identity within Dominican society and a means by which the Dominican nation-state is protected from the threat of the Haitian identity.

While the causes of statelessness in the Dominican Republic are important to analyze, the consequences of statelessness are far reaching. The most important consequence of statelessness is that it denies the most fundamental right of every human being to enjoy the right to a nationality. The denial of this right does not allow individuals to enjoy the rights of citizenship and State protection. However, as in the case of ethnic Haitians in the Dominican Republic, many stateless individuals not only lack the right to Dominican nationality, but they also suffer the loss of other rights such as the right to be free from discrimination, the right to an education, and the right to remain in their country of origin. Regarding these last two topics, education and deportation are discussed in greater detail in the thesis. Taken as a whole, Dominican born children of Haitian descent suffer from a low standard of living, and because of statelessness, they are deeply entangled within a perpetual status of statelessness.

Now that the issue of statelessness in the case of Dominican born children of Haitian descent has been analyzed in greater detail, it is important to refer back to the main question of this thesis: how do current theoretical debates about statelessness apply to the experience of the Haitian diaspora in the Dominican Republic?

The first theory explored was that of Hannah Arendt. Mainly, Arendt asserts that it is impossible for the people's sovereignty to guarantee human rights, or *vice versa*, as she believes that human rights are contradictory. The importance of her theory as it relates to the research topic is that it generally introduced us to several main concepts furthered explored in Chapter 2. These concepts include: the role of the nation state in causing statelessness, the exclusion of groups from obtaining membership within a state, and the formation of state policies in justifying this exclusion. As this applies to the case of Dominican born children of Haitian descent, according to Arendt's theory, the role of the Dominican nation-state is of upmost importance when analyzing the problem of statelessness within its territory. The Haitian diaspora consists of those excluded from membership within the Dominican nation-state, and Dominican state policies such as the Dominican Migration Law serve as a justification of the previously mentioned exclusion.

Nonetheless, Arendt's theory does not resolve three principle issues faced by ethnic Haitians in the Dominican Republic. First, why are ethnic Haitians excluded from membership in the Dominican Republic? Two, to what extent does the Dominican Republic view Haitians as a threat to the Dominican nation-state? Three, since the sovereign power of the Dominican nation-state gives it the ability to create and enforce it laws as best it sees fit, how much of a role can and should international organizations play in granting rights to stateless persons? This contradiction, according to Arendt is realized through the conflict of the nation-state.

The theory of the transformation of the nation-state goes further in addressing these issues. Principally, unlike Arendt's theory, the theory of the transformation of the nation-state introduces the important role of globalization in causing statelessness. This theory suggests that the modern nation-state is not in conflict, but it suggests that the nation-state is being

transformed into an entity whose geological borders are eroding and giving way to one in which diverse people, things, and ideas share a common territory, government, culture, and national identity. This transformation is made possible by globalization, especially through agents such as migration.

The issue of migration is important to this case as it plays a key role in the history of Dominican-Haitian relations and in causing statelessness, particularly for the large number of children of long term Haitian migrants who inherit their parents' irregular status as previously mentioned. Even more, this influx of individuals across mainly uncontrolled and unrestricted borders into the Dominican Republic with identities contrasting that of Dominican identity is the first step in examining the threat posed by Haitians and the Haitian nation-state to the Dominican nation-state. This, too, will also be examined in greater detail momentarily. Nonetheless, the theory of the transformation of the modern nation state in regards to the restructuring of national boundaries parallels to the situation facing the Dominican nation-state. As both the Haitian and Dominican nation-states confront issues regarding problems with border control on top of the geographical setting of the two counties in the occupation of the same island, the Dominican Republic faces the more challenging issue of how to incorporate the approximately 100, 000 immigrants of Haitian descent into the Dominican nation-state.

The theory of transnationalism, then, describes the current trend in the state's reaction to immigrants, and it leads into the discussion of how and why states are willing to grant membership to certain groups and unwilling to do so to other groups. The significance of the theory of transnationalism is that it changes the basic idea of an immigrant into one of a transmigrant. In this sense, the identity of the transmigrant is dependent both on the country of origin and the country in which the migrant chooses to settle. The theory dispels the notion of

belonging to a new state while losing the identity of the old, and it describes the situations of more and more immigrants today. The evolution of the immigrant to a transmigrant applies to the Haitian diaspora because it provides a valid reasoning behind the non-assimilation of the Haitian transmigrant in the Dominican Republic, and it invokes a sense of responsibility upon the sending countries in addition to the countries in which the transmigrant chooses to settle.

Haiti's 10th Department serves as an interesting example of how and why states recognize the importance of their Diaspora and use it to better help the nation-state. It also serves as an example of a state's policy to include its transmigrants in the activities of the nation-state. However, transmigrants do not often enjoy this level of inclusion outside of their state of origin.

At this point, we find full inclusion and incorporation of the transmigrant into the country in which they now settle difficult. This idea is enforced by the theory of inclusive exclusion, and it is further highlighted by the case of the Haitian Diaspora in the Dominican Republic. As transmigrants are continuing to create dual identities based on their past and present country identities, states are reluctant to grant human rights and membership to these transmigrants. In the Dominican Republic, the exclusion of Haitian transmigrants in made evident through discrimination and racism. Overall, the construction of the Dominican identity vis-à-vis the Haitian identity had helped to develop a strong sense of Dominican nationalism intertwined with anti-Haitianism, and as the theory of inclusive exclusion suggests, a heightened level of nationalism automatically results in a heightened levels of discrimination. This concept is invoked by a sense of needed state protection. This concept is further invoked by the need for the state to protect itself against any perceived threat. Chapter 4 provided the link between statelessness and discrimination, and if the theory of inclusive exclusion holds true to this case, the perceived threat of the Haitian identity on the Dominican nation-state has led to a heightened

level of Dominican nationalism (one that already consists of anti-Haitianism ideologies). This has, in turn, led to the heightened levels of discrimination in the Dominican Republic that excludes membership of the Dominican State to certain individuals within the Haitian Diaspora based on the idea that this exclusion protects the Dominican identity. Therefore, this exclusion as seen through statelessness, serves several purposes. First, the exclusion of groups such as Dominican born children of Haitian descent helps shape negative perceptions about Haitians among the Dominican popular class. In this way Dominican authorities use the negative images of Haitians in the Dominican Republic as means to better solidify their position within Dominican society as being a strong Dominican nationalist. Next, it helps justify various state policies that continue to marginalize these individuals. This is made evident in the construction of the Dominican Migration Law and the disregard of the Dominican Constitution's law regarding birthright citizenship at the expense of the Haitian Constitution's law regarding birthright citizenship. Finally, the exclusion of ethnic Haitians from Dominican society helps perpetuate the status of the stateless by continuously viewing the Haitian identity as a threat to the Dominican nation-state. In this way, Haitians will remain in the lower classes of Dominican society, and the Dominican Government will not be pressured from within to bring about much change in regards to the plight of ethnic Haitians living in the country.

It is here where we come full circle and respond to Arendt's main concern about statelessness that focuses on the contradiction of human rights. Arendt's theory about the contradiction of human rights does not hold because the argument is based on the idea that the nation-state was in conflict with itself. As made evident by the theory of the transformation of the nation-state, there is no conflict within the Dominican nation-state. It has only given way to theories involving transnationalsim which has been fueled by agents of globalization such as

migration. While Arendt's theory and the theory of transnationalism lead to discussions regarding non-membership within the modern-nation state, the theory of inclusive exclusion exemplifies the plight of the Haitian Diaspora in the Dominican Republic and raises questions regarding who and by what means might citizenship rights be granted to stateless persons.

Thus, we rule out Arednt's view that human rights are contradictory and we focus on the theory of Post-nationalism. The theory of Post-nationalism better relates to the issue of statelessness today as it takes into account the effects of globalization and the diminished significance of the modern nation-state by suggesting that the principle of universal rights trumps nationalist considerations. Therefore, although States are bounded by principles of national sovereignty and have the right to set its own laws, the rights of the any individual, regardless of country of origin or national ties, should be upheld. This belief includes the idea that the main right to which the individual should be granted is that of citizenship.

As it applies to the case of Dominican born children of Haitian Descent living in the Dominican Republic and in developing solutions regarding statelessness in the Dominican Republic, this Post-national mode of citizenship implies that the focus should not be whether or not the Dominican Republic has the right to grant citizenship to ethnic Haitians. The focus, more importantly, is that it is the right of that stateless individual to have some clear nationality, whether it be Dominican or Haitian nationality.

The question mentioned in Chapter 2 was whether or not post-national citizenship exists in the Dominican Republic? I predicted that it did not, and given the research presented throughout this thesis, my prediction holds. As of now, the focus of the Dominican government is not the right of the individual to enjoy the benefits of having a nationality. The focus is currently on the rights of the nation and national sovereignty. This is made apparent by the lack

of response from the Dominican government in dealing with specific cases that link

discrimination and statelessness as in the case of *Yean and Bosico children v the Dominican*

Republic.

As of now, the Dominican Republic remains reliant upon its national sovereignty, but I

predict that given the increased rise in globalization and the movement of people, things, and

ideas, more States will be inclined to follow this post-national mode of citizenship. According to

the Human Rights Watch, "Even though the Dominican Republic is not obligated under

international law to extend Dominican citizenship to all persons born on its territory, having

made the constitutional decision to do so, it may not arbitrarily deny citizenship to ethnic

Haitians in violation of its own law".[179] This leads to the prediction that human rights groups and

international organizations will play major roles is advocating this idea of post-national

citizenship within given territories as their main concern is the right of the individual and not the

right of the nation. This point is made evident in the fact that the UNHCR and the IACHR are the

main actors advocating the protection of human rights for ethnic Haitians in the Dominican

Republic.

Through all of this, we see that the Dominican Government has the main responsibility in

finding solutions to the problem of statelessness in the Dominican Republic, especially as it

relates to the individuals within the Haitian Diaspora. We also see that because of discrimination,

the problem of statelessness in the Dominican Republic is exacerbated and harder to solve. As

made evident in Chapter 4, the long and complicated history between the two nations closely

links the manifestation of anti-Haitianism and statelessness in the Dominican Republic. Thus,

embedded deep within the complexities of Dominican law regarding citizenship lies a serious

---

[179] Human Rights Watch. April 2002, Vol. 14, no. 1(B) pg. 26.

racial overtone that makes the situation of Dominican born children of Haitian descent living in the Dominican Republic all the more difficult to untangle.

On the whole, the Dominican government has failed to establish a legal framework compatible with international norms to address the nationality of the descendants of ethnic Haitians. The consequences which these children suffer are unimaginable. Hence, while the Dominican Republic is the main actor responsible for developing a solution to statelessness in the case of ethnic Haitians living in the Dominican Republic, those who lack Dominican citizenship look for other actors for protection.

As of now, Haiti is not in the position to help these stateless individuals, but as presented in Chapter 2, the formation of Haiti's 10th Department may be beneficial to this process. Those included in the Department, while not residents of Haiti but as members of the Haitian nation-state, have the power to advocate for the protection human rights for those individuals of Haitian descent living in the Dominican Republic. In all, human rights and international organization are often the first to act on behalf of these stateless individuals, and they pressure the Dominican nation-state to cooperate with them as much as possible. While various groups are involved in the search of finding a solution to statelessness, most efforts are realized by the United Nations High Commission for Refugees and The Inter-American Court of Human, and Rights. Other organizations such as Refugees International, Amnesty International, the International Labor Organization, and the Human Rights Committee also work to reduce statelessness and improve the status of stateless persons in the Dominican Republic. Within the Dominican Republic, Sonia Pierre as head of El Movimiento de Mujeres Dominico-Haitiana (Dominican-Haitian Women's Movement) plays an important role in combating discrimination and statelessness against ethnic

Haitians in the Dominican Republic. Nevertheless, viable solutions to these problems are not yet visible.

My recommendation is that the Dominican Government finds alternative means to grant citizenship to ethnic Haitians, especially in regards to the children of undocumented permanent residents of Haitian descent and Dominican born children of Haitian descent living in the Dominican Republic. This can be accomplished by establishing a branch of government focused particularly on this situation and developing measures to increase the registering of the child's birth at the hospital, creating a simple low-cost method of late birth registration, and holding accountable Civil registry Officers and Dominican judges who apply Dominican citizenship laws in a discretionary manner.

Given the differences in laws between the Dominican Republic and Haiti, dual citizenship may be a viable solution to granting citizenship in the Dominican Republic. In this effort, there would be no contradiction to the nationality legislation of the two countries, and the citizens of both Haiti and the Dominican Republic will be better able to address and regulate the issue of stateless persons, specifically that of Dominican-Haitians. An example of the affect of dual citizenship on the country in which immigrants settle is presented in Francesca Mazzolari's article "Dual Citizenship Rights: Do They Make More and Richer Citizens?". Mazzolari's article examines the granting of dual citizenship during the 1990s for immigrants of Colombia, the Dominican Republic, Ecuador, Costa Rica, and Brazil in the United States. According to article, "dual nationality rights promote citizen acquisition in the receiving country".[180] Also, "The granting of dual citizenship caused immigrants to experience relative employment and earning

[180] Mazzolari, Francesca. Dual Citizenship rights: Do They Make More and Richer citizens? Demography; Feb2009, vol. 46 Issue 1. Pg. 187. http://www.ebscohost.com.

gains, and it lowered the immigrants' reliance on welfare".[181] Therefore, if this example is true for other cases involving dual nationality rights, the granting of dual nationality in the Dominican Republic and Haiti will reduce the problem of statelessness, and it will create citizens that are better able to participate in all aspects of the Dominican nation-state.

Moreover, as legal and political reforms are necessary in improving the status of the stateless, in the Dominican Republic cultural reform is needed as much as if not more so than other reforms within Dominican society as "the precarious status of Haitians in the Dominican Republic is primarily due to their racialization".[182] This effort would entail cooperation with human rights groups and international organizations to address issues such as racism, racial discrimination, poverty, the regulation of migration-border controls, labor rights, education laws, and the functionality of the Haitian embassy in the Dominican Republic. All of these issues play a major role in the aspect of discrimination and racism against Haitians in the Dominican Republic.

In general, as long as anti-Haitiansim exists in all aspects of life in the Dominican Republic, it will continue to function as both a cause and consequence of statelessness. With cooperation, however, solutions to stateless in the Dominican Republic can be found. It is my hope that through this work along with the work of the international community, more attention is brought to finding an end to statelessness and a better standard of living for ethnic Haitian children in the Dominican Republic who lack a nationality.

---

[181] Ibid., 187.
[182] Wooding, 373.

Bibliography

Bach, Linda, Cristina Szanton Blanc, and Nina Glick Schiller. "From Immigrant to

   Transmigrant: Theorizing Transnational migration." Anthropological Quarterly;

   Jan1995, Vol. 68 Issue 1, p48-63, 16p. http://www.ebscohost.com.

Brodwin, Paul. Marginality and Subjectivity in the Haitian Diaspora. *Anthropological*

   Quarterly. Institute for Ethnographic Research 76.3 (2003) 383-410.

   http://muse.jhu.edu.

Brunkhorst, Hauke. "Are Human Rights Self-Contradictory? Critical Remarks on a Hypothesis

   by Hannah Arendt. 190. 23 November 2009". http://www.ebschhost.com.

Committee on the Rights of the Child. United Nations Convention on the Right of the Child.

   47th Session. 11 February 2008. pg.19-20. http://www2.ohchr.org.com.

Convention Relating to the Status of Stateless Persons. Office of the United Nations High

   Commissioner for Human Rights. http://www2.ohchr.org.

Culture of the Dominican Republic. Accessed on 03 December 2009.

   http://www.everyculture.com.

De la Dehesa, Rafael and Peggy Levitt. "Transnational migration and the redefinition of the

   state: Variations and explanations." Ethnic & Racial Studies; Jul2003, Vol. 26 Issue 4,

   p587-611, 25p. http://www.ephost.epnet.com.

Diógenes Pina. Dominican Republic: Children of Haitians Fight for Birth Certificates. Santo

   Domingo, Aug 28 , 2007. Accessed on 7 March 2010. http://www.ipsnews.net.

Dominican Republic: A life in transit-The plight of Haitian migrants and Dominicans of Haitian

   descent. Amnesty International. Accessed on 16 September 2009.

   http://www.amnesty.org.

"Dominican Republic, Haiti, and the United States: Protect Rights, Reduce Statelessness."

01/12/2007. Accessed on 16 September 2009. http://www.refugeesinternational.org.

Excom Conclusion on Children at Risk No. 107 (LVII)-2007. UNHCR-The UN Refugee

Agency. http://www.unhcr.org.

Fletcher, L. and T. Miller. "New Perspectives on Old Patterns: Forced Migration of Haitians in

the Dominican Republic". Journal of Ethnic and Migration Studies Vol. 30, No. 4, July

2004, pp. 664.

Fouron, Geroges E. and Nina Glick Schiller. "Transnationa lLives and National Identities:

The Identity Politics of Haitian Immigrants". Transnationalism from Below –

Comparative Urban & Community Research; 1998, Vol. 6, p130-161,32p. Accessed on

16 September 2009. http://www.ebscohost.com.

Fouron, Geroges E. and Nina Glick Schiller. 'Terrains of blood and nation: Haitian

Transnational Social Fields". Ethnic & Racial Studies; Mar1999, Vol. 22 Issue 2,

p340-366,27p. Accessed on 16 September 2009. http://www.ebscohost.com.

Hayden, Patrick. From Exclusion to Containment: Arendt, Sovereign Power, and Statelessness.

Societies without Borders 3 (2008). 20 November 2009. 262.

"Haitian Massacre in the Dominican Republic". 17-02-2010.http://www. Haitianmedia.com.

Helpful Facts and Figures. Refugees International. http://www.refugeesinternational.org.

Howard, David. Coloring the Nation: Race and Ethnicity in the Dominican Republic. Oxford :

Signal Books ; Boulder, Colo. : L. Rienner Publishers, 2001. Pg. 20.

Human Rights Watch, Dominican Republic: *"Illegal People": Haitians and Dominico-Haitians

in the Dominican Republic*, Vol. 14, No. 1 (B), April 2002.

www.hrw.org/reports/2002/domrep/index.html.

Lancer, Jalisco. "The Conflict between Haiti and the Dominican Republic". Accessed on 03

November 2009. http://www.allempires.com

Levitt, Peggy and Rafael de la Dehesa. "Transnational Migration and the Redefinition of the

State: Variations and Explanations."Ethnic and Racial Studies Vol. 26 No. 4 July

2003 pp.587-611. http://www.ebscohost.com.

 Lynch, M. "Futures Denied: Statelessness among Infants, Children, and Youth". Refugees

International. October 2008. htttp://ww.refugessinternational.org.

Lynch, M. Lives on Hold: The Human Cost of Statelessness. Refugees International.

February 2005. p1-52. Accessed on 16 September 2009. http://www.refintl.org.

Lynch, M. and Katherine Southwick. Nationality Rights for All: A Progress Report and Global

Survey on Statelessness. Refugees International. March 2009. http://www.refintl.org.

Martínez-Vergne, Teresita. Nation & Citizen in the Dominican Republic, 1880-1916. Chapel

Hill : University of North Carolina Press, c2005. Pg. 101

Mazzolari, Francesca. Dual Citizenship Rights: Do They Make More and Richer Citizens?

Demography; Feb2009, Vol. 46 Issue 1, p169-191, 23p, 8 charts, 1 graph.

http://www.ebscohost.com.

Morel, Cynthia. Dilicia Yean Violeta Bosico. Before the Inter-American Court on Human

Rights. Amicus Curiae Brief: Minority Rights Group International. London, UK. 15

March 2005. Accessed on 16 September 2009.http://www.minorityrights.org.

Mosely-Williams, Richard and Bridget Wooding. "Needed but Unwanted: Haitian Immigrants

and their descendants in the Dominican Republic". Catholic Institute for International

Relations. Unit 3, 190a New North Road, London N1 78J, UK 2004.

pg. 65.http://www.ciir.org.

Pierre, Solange. "The Human Rights of Migrants in the Dominican Republic: Equality,

Protection, Nationality". Women's Health Journal 4/2006. 21-2-2010. 56.

Pimentel, Pedro. "Postnational Pressures". Harvard International Review; Fall98, Vol. 20

Issue 4, p40, 4p, 2 Black & White Photographs. http://www.ebscohost.com.

Race and Dominicanness: A struggle for identity. 17- 02- 2010.http://www/dr1.com.

Refugees International. Dominican Republic: Time to Move Forward to Resolve Statelessness".

Accessed on 28 May 2008. http:www.refugessinternational.org.

Refugees International. "Nationality Rights for All: A Progress Report and Global Survey on

Statelessness". Accessed on 30 November 2009. http://www.refugeesinternational.org.

Sagás, Ernesto. A Case of Mistaken Identity: Antihaitianismo in Dominican Culture. Accessed

on 30 November 2009. http://webster.edu.

Sagás, Ernesto. Race and Politics in the Dominican Republic. Gainesville, FL : University Press

of Florida, c2000.

The Sugar Babies:It's about Sugar. It's about Children. It's about Change. It's about Time.

Accessed on 11 March 2010.http://www.sugarbabiesfilm.com.

UNHCR Guidelines on Determining the Best Interests of the Child. UNHCR-The UN Refugee

Agency. http://www.unhcr.org.

UN Human Rights Council. Report of the Special Rapporteur on contemporary forms of racism,

racial discrimination, xenophobia and related intolerance, Doudou Diène, and the

independent expert on minority issues, Gay McDougall: addendum : mission to

Dominican Republic. 18 March 2008, A/HRC/7/19/Add.5; A/HRC/7/23/Add.3.

22-02-2010. Page 2. http://unhcr.org.

UNHCR: The world's Stateless People Questions and Answers. Accessed on 16

      September 2009. http://www.unhcr.com.

USAID Dominican Republic: Dominican Republic/Haiti Cross-Border and Conflict Prevention

      Program. 12 March 2010. http://www.usaid.gov.

Wooding, Bridget. "Contesting Dominican Discrimination and Statelessness." Peace Review;

      Jul-Sep2008, Vol. 20 Issue 3, p366-375, 10p. http://www.ebscohost.com.

Wucker, Michael. The River Massacre: The Real and Imagined Borders of Hispaniola. Accessed

      on 17 February 2010. http://www.haitiforeever.com.