Profile

Dominicans of Haitian descent constitute a significant minority in the Dominican Republic. This community is comprised of children, grand-children and great-grand-children born in the country to Haitian migrants who arrived in the DR from the early 1900s onwards.

While members of this minority have historically faced profound exclusion and racism, both from state institutions and from other Dominicans, their situation became markedly worse in 2013 when Constitutional Court Judgement 168/13 retroactively (from 1929) stripped thousands of people of their Dominican nationality. As a result, the 2013 ruling rendered this population stateless, as set out in Article 1(1) of the 1954 Convention relating to the Status of Stateless Persons, leaving them unable to access higher education, health care, formal employment or justice.

The judgment retroactively reviewed the nationality status of individuals born in the country to two migrant parents, disproportionately affecting Dominicans of Haitian descent. At the time it was estimated that as many as 210,000 people had been left stateless, though this figure was revised to some 133,770 Dominican-born individuals. However, this estimate only included first generation of Dominican-born individuals: that is, persons born in the country to two parents born abroad. It did not include subsequent generations of individuals of foreign descent, as there is no reliable population data available. As such it did not include all persons without nationality.

The Dominican government has made some steps to restore identity documentation to those affected with the introduction in May 2014 of Naturalisation Law 169/14, but the process has been slow and complicated. According to the Central Electoral Board and by the summer of 2017, only 13,495 individuals have been issued their civil documents as Dominicans, under Law 169/14.
History

Migration of Haitian citizens into Dominican Republic and the nationality status of their descendants born in the country are two issues closely interlinked, though clearly distinguishable in the Dominican context. The Dominican Republic is located in the Caribbean between Cuba and Puerto Rico. It shares the island of Hispaniola with Haiti. Migration on the island has been an on-going issue for centuries, as it was not only invaded by different countries (Spain and France) but also settled by various communities (Lebanese, *Cocolos* or Chinese, amongst others) on both sides of the island. The indigenous community of *Tainos* soon disappeared.

From the 1920s on, Haitian migrants moved to the Dominican Republic on a seasonal basis to work as sugarcane cutters for either state owned or private companies. Haitian migrants were mainly young or middle aged men. Over time, they settled in slums next to sugar plantations called ‘*bateyes*’, bringing their Haitian families or marrying and having children in the country with Dominican women. They integrated into Dominican communities, becoming the most numerous minority group in the Dominican Republic.

The Haitian community in the Dominican Republic was an important source of cheap labour from the 1920s, but migration continued even after the Dominican sugar industry began to decline from the 1980s. Haitian migrants and their Dominican-born descendants continue to play a crucial role in Dominican economy in agriculture, tourism and construction.

In January 2010, the Haitian side of the island of Hispaniola suffered one of the worst earthquakes the world has seen. Dominican society and government showed their solidarity and opened the border to help affected people, and started to invest in Haiti. However, despite many Dominicans, Dominicans of Haitian descent and Haitians coexisting peacefully for decades, old fears – including of a ‘Haitian invasion’ – have increased in the Dominican Republic. This has resulted in heightened discrimination against Haitians and Dominicans of Haitian descent. Discrimination occurs based on their skin colour, Haitian sounding names, or living conditions, barring them from access to higher levels of education, health care, much formal work, international travel and justice, as well as preventing them from getting married or registering their children.

However, this discrimination is not a new phenomenon and is rooted in a long history of human rights abuses against this community: in 1937 between 15,000 and 30,000 people were killed by the regime of dictator Rafael Leónidas Trujillo in the so called ‘Parsley Massacre’ by the Dajabón river. Regime officials asked migrants to pronounce the Spanish word for parsley (**Perejil**): those unable to pronounce the word in the same way as Spanish speakers due to their French accents were then killed.

**A long-standing issue**

Discrimination is a long-standing problem that Dominicans of Haitian descent have been facing for decades and over generations in the Dominican Republic. Most of the members of this community were born in Dominican territory at a time when the Dominican
Constitution specifically stated that those born in its territory, unless in transit for a maximum of 10 days (Migration Law 95/39) or the children of diplomats, would acquire Dominican nationality.

For some years, Dominican authorities denied birth certificates to Dominican-born descendants of Haitian migrants. This led to some individuals having birth certificates while others were discriminated against and were unable to obtain such civil documentation. This problem became more visible in 2004, when the Dominican Parliament passed the new Migration Law 185/04. This legislation changed the concept of 'in transit' to an unlimited period, and created the so-called ‘Book of Foreigners’. This registry entered into force in 2007. Since then, it has segregated those born in Dominican territory of foreign parents, even though the Constitution still accepts nationality acquired by *jus soli*. Those registered in the ‘Book of Foreigners’ are not issued any identity documents and cannot enjoy their basic rights.

Restrictions to the acquisition of Dominican nationality were further imposed in 2010 when the Dominican Parliament passed a new Constitution. This text limited the *jus soli* acquisition of Dominican nationality. From 2010, those children born to individuals in an irregular migratory situation are no longer able to acquire the Dominican nationality through the principle of *jus soli*.

The de-nationalisation process of Dominicans of Haitian reached a peak with the judgment of the Dominican Constitutional Court in September 2013 (TC/0168/13). This judgment retroactively deprived hundreds of thousands of people born in the Dominican Republic between 1929 and 2010 of their nationality. This violates a fundamental right to which everyone is entitled: the right to nationality. This judgment is considered unconstitutional by local and international civil society organizations as it violates, amongst others, Article 110 on retroactive laws and Article 18.2 on nationality of the Dominican Constitution. It also run contrary to a judgement in 2005 by the Inter-American Court of Human Rights on the issue of the nationality of Dominicans of Haitian descent. UNHCR, which has been given the mandate by the UN General Assembly to help states prevent and reduce statelessness, also expressed its deep concern at the adverse impact of the ruling on those affected.

Dominican authorities subsequently passed Naturalization Law 169/14 in order to address the situation created by the judgment. This Naturalization Law divided the community into two groups. However, both solutions are inadequate and fail to restore Dominican nationality to the affected population, as required by international human rights standards.

The first group, known as ‘Group A’, are those already registered in the Dominican Civil Registry. According to this law, their nationality documents had to be validated by the civil registry, after which they would be recognized as Dominican nationals. The Central Electoral Board has reviewed its registries and by October 2015 it had identified just over 61,000 people as part of this group. However, only 13,495 individuals had been issued nationality documents as Dominicans as of January 2017, with the large majority of those who lost their nationality in 2013 having not yet recovered it after almost four years. The transcription of registries, in itself a problem as it risks further segregating Dominicans of Haitian descent, can also lead to those
registered twice having their status challenged in court. This predicament was highlighted by the case of Juliana Deguis Pierre, the subject of a high-profile court case after she challenged the refusal of authorities to issue her with identification documents because of her Haitian surname. Although the Central Electoral Board identified a large number of people, there are still many others missing from their list, with representatives from civil society organizations suggesting that a similar number may not currently be included in the list.

The second group, known as ‘Group B’ and created by Law 169/14, is made up of those born in Dominican territory but who were never registered under the Dominican Civil Registry. This group had to register as foreigners in a complex and bureaucratic procedure in order to be naturalized in two years’ time after they were issued a residence permit. The criteria set for this form of registration were difficult to fulfil by those affected. Dominicans of Haitian descent had to submit numerous documents, which in some cases had to be notarized, and in other cases officials requested separate documents which were not detailed in the law as reported by local civil society organizations. This increased the costs of the whole process for a community that has little access to work and lives mainly in remote areas. Also, initially the law established a very short timeframe for registration – three months – which was then extended for another three-month period. This period proved insufficient, and the criteria too restrictive for all community members affected to be registered. This resulted in only 8,755 people being registered out of the more than 73,000 targeted according to estimations taken from the 2012 National Survey on Migrants. As a result, the overwhelming majority are still stateless and undocumented today, and in danger of expulsion from their own country.

It is important to differentiate between those people who moved to the Dominican Republic and those born in that country. Dominicans of Haitian descent continue to struggle to be recognized as Dominicans. These are children, women, men and old people who are at risk of being arbitrarily detained and even expelled from their own country, because they are stateless. This has been constantly reported by international organizations including MRG, UNHCR, the Inter-American Commission on Human Rights, the European Network on Statelessness, Amnesty International and Human Rights Watch.

The international community has also highlighted the problem of statelessness affecting Dominicans of Haitian descent. The Inter-American Court of Human Rights has published two judgments on the right to nationality, finding against the Dominican government in, for example, the case of the Girls Yean and Bosico v. Dominican Republic in 2005 or, most recently, the case Expelled Dominicans and Haitians v. Dominican Republic in 2014 which stated that the solution given to Group B contravened the American Convention on Human Rights. The Inter-American Commission of Human Rights has also visited the country and has organized specific hearings on this topic.

At the United Nations (UN) level, the Independent Expert on minority issues and the Special Rapporteur on racism concluded in 2007, at the end of their joint visit to the Dominican Republic, that there was in the country a ‘profound and entrenched problem of racism and discrimination’ affecting the population of Haitian descent. Their plight was one of the issues most raised at the Universal Periodic Review of the Dominican Republic in February 2014.
And the High Commissioner for Human Rights, for the first time, mentioned the Dominican Republic in the opening statement at the 30th session of the Human Rights Council. The High Commissioner urged the Dominican authorities to ‘ensure that those with a valid claim to remain are allowed to do so’.

Current situation

According to the latest available data from the Central Electoral Board, 13,495 people from Group A were able to re-access their Dominican identity documents. However, local civil society groups have been unable to verify this and claim that problems persist for many members of Group A. Also, as mentioned above, the Central Electoral Board is taking some cases of nullification to the courts where authorities argue that cases of double-registration between the original and transcribed registries has occurred. In any case, taking this figure and subtracting it from the total of Group A individuals leaves over 47,000 still in need of regaining their Dominican identity documents.

In the case of Group B, those who have managed to register have had to wait two years for the naturalization process to begin. Yet local civil society groups and international organizations still do not know what this process will entail. A key concern is that authorities may require passports and birth certificates from a country of origin, documents that stateless Dominicans of Haitian descent will be unable to provide, leaving them highly vulnerable.

Another concern is that the figure given by officials of 8,755 is not clear. Out of this total, some people were from Group A and had to be removed; some are incomplete; others were registered after the deadline; and some were registered under the Book of Foreigners instead of group B. By April 2017, according to various local sources, only 2,400 people had been able to secure documents. The Socio-Cultural Movement for Haitian Workers (MOSCTHA) has proved that this figure is not higher because in at least 40 per cent of their cases when people affected go to get their documents after seeing their names in the list of documents ready to be collected, they are being told these are not ready, although officials argue it is because people do not go to collect them. MOSCTHA, together with other local civil society groups, has requested the Ministry of Interior and Police to provide a list with the people who did not complete the process in order to help authorities in speeding up the process. What remains clear is that, until these individuals acquire the Dominican nationality, they are stateless.

The rest of those who were not able to register but were subject to this registry (approximately 64,000 individuals, according to official estimates) also remain stateless and they are unable to continue with their lives. They cannot continue with their studies, access healthcare, legally work or travel within the island.

Thus, based on official figures and estimates, there are still over 110,000 people who are stateless. However, civil society groups highlight that this figure could be higher as there are still people missing from Group A and descendants of those affected should also be included, and there is no information on people registered under the Book of Foreigners.
Ways forward

The full restoration of nationality and respect of the rights of Dominicans of Haitian descent in the Dominican Republic remains a major area of concern. There have been a number of demonstrations and actions against Haitians and Dominicans of Haitian descent that have triggered a wave of racism and discrimination across the country.

The Dominican authorities have already taken some steps to resolve the problem, including the establishment of an Inter-institutional board to review cases. To fully comply with national laws and follow international recommendations, the government should also take other steps, including:

1. a) Take all necessary measures to fully restore nationality for those individuals who were arbitrarily deprived of it and rendered stateless by the 2013 ruling;
2. b) Fully implement the 2014 ruling of the Inter-American Court of Human Rights on the issue of nationality;
3. c) Take all necessary action to eliminate any forms of discrimination in the civil registry.
4. d) Comply with international norms and standards, and fulfil all international judgements.

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