



**DISCRIMINATION  
and  
DENATIONALIZATION  
in the  
DOMINICAN  
REPUBLIC**

Photo: Cesar de la Cruz

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# DISCRIMINATION and DENATIONALIZATION in the DOMINICAN REPUBLIC

A humanitarian crisis is unfolding in the Dominican Republic. Four generations of workers and their families, primarily of Haitian descent, face violations of their fundamental rights and growing insecurity. Thousands have been shut out of participation in society: denied access to education, formal sector employment, medical and financial services, registration for their children, marriage and the right to vote. They have been left vulnerable to xenophobic attacks and arbitrary detention and expulsion.

In September 2013, the Dominican Constitutional Court determined that individuals who are unable to prove their parents' documented regular migration status in the country can be retroactively stripped of their Dominican citizenship. This discriminatory ruling disproportionately affects individuals of Haitian descent living and working in the Dominican Republic. By the country's own calculations, approximately 86% of the people born to foreign parents in the country are of Haitian descent.<sup>1</sup>

The government has instituted a severely flawed naturalization program that threatens to deny thousands of Dominicans of Haitian descent their right to citizenship, barring them from participating in the only society they have ever known. This is an egregious abuse of fundamental human rights and a clear violation of international law.<sup>2</sup>

The government's citizenship policy also threatens to force migrant workers originally from Haiti, many of whom have spent decades contributing to Dominican society, out of their homes. Haitian migrants, who constitute at least a half-million workers in the Dominican Republic,<sup>3</sup> labor under often exploitative conditions in some of the most valuable sectors of the national economy.<sup>4</sup>

The deliberate creation of a stateless underclass increases the already formidable risks of exploitation to Dominican workers of Haitian descent and Haitian migrant workers.

Workers without documentation cannot enter the formal economy and are pushed into dangerous, low-wage work. Workers are less likely to report abuse, as they have few legal protections and fear the threat of deportation if they seek help from government officials.<sup>5</sup> The Dominican Republic does not recognize undocumented workers as trade union members, leaving them without a voice on the job or access to social services. Stateless children often have trouble registering for high school and sitting for requisite exams that require identity documents, making them more likely to end up working in the worst forms of child labor.<sup>6</sup>

The Dominican government has set the beginning of August as an official deadline for registration, but thousands already have fled out of fear or been deported. Military and civil authorities have engaged in profiling, arbitrary detentions and deportations against individuals they suspect to be of Haitian descent. Some of those targeted possessed documentation proving their Dominican citizenship, including several individuals who were detained at checkpoints while they were traveling to government offices to try to complete the country's lengthy and confusing naturalization process.<sup>7</sup> There have been horrific accounts of violence in communities of Haitian descent, including mob beatings and at least one lynching.<sup>8</sup> The Dominican government has a record of engaging in forced, violent deportations,<sup>9</sup> and as the August deadline looms, at least 40,000 individuals have fled to Haiti in fear of persecution.<sup>10</sup> This is a crisis that requires urgent action.

*In Yean and Bosico v. Dominican Republic, expert testimony from Samuel Martínez established: "the refusal to register the children almost inevitably denies Dominican-Haitians a series of human rights, closes the door to financial prosperity and social inclusion, and prevents them from achieving their full potential as human beings."*

## The Right to Nationality in the Dominican Republic

The Dominican Republic has a long and shameful history of denying documentation to individuals of Haitian descent,<sup>11</sup> including hospitals refusing to issue proof-of-birth certificates and registry officials withholding identity documents.<sup>12</sup> Many Dominicans of Haitian descent, particularly agricultural workers, do not have the necessary paperwork to prove their citizenship.

Prior to 2010, the national constitution theoretically granted all children born in the Dominican Republic citizenship. There was a limited exception for those born to diplomats, or parents who were “in transit.” However, in the early 2000s Dominican officials began asserting that all Haitian immigrants were “in transit,” even those who had been in the country for decades. They used this as a pretext to deny documentation to individuals of Haitian origin and their children.

In 2005, the Inter-American Court of Human Rights (IACHR) reviewed Dominican citizenship policies, including onerous requirements for proving an individual was born in the country and the uneven application of these requirements disproportionately to target areas with larger immigrant populations. The court concluded the Dominican Republic violated numerous fundamental human rights, including the rights to nationality, equal protection, humane treatment, recognition of legal personhood and freedom from discrimination, all of which the country committed to uphold when it signed the American Convention on Human Rights. The court further concluded these policies actively undermined the state’s duty to prevent and reduce statelessness. The ruling was ignored.<sup>13</sup>

Instead of enforcing the country’s obligation to respect fundamental human rights, a 2010 amendment to the Dominican Constitution cemented the government’s discriminatory citizenship policies.<sup>14</sup> In September 2013, the Constitutional Court not only upheld the provision denying citizenship to individuals who could not prove their parents’ regular status, but concluded it applied retroactively across multiple generations. The court ordered the government to begin auditing national records going back to 1929 to identify individuals who should be stripped of their citizenship.<sup>15</sup> The court brazenly recognized this directly contradicts the 2005 IACHR ruling. The decision cannot be appealed.<sup>16</sup> At a press conference, Dominican President Danilo Medina defended revoking citizenship, callously declaring “you can’t take away something they don’t have.”<sup>17</sup>

## The Flawed Regularization Plan

After an international outcry, the Dominican government adopted a naturalization plan to allow Dominicans with documentation proving their status to gain formal recognition, and a “National Plan for the Regularization of Foreigners,” which required migrant workers to register and claimed it would provide a path for those born in the Dominican Republic without documentation to achieve citizenship.<sup>18</sup> However, the process has been plagued by confusing and contradictory instructions, unnecessary bureaucratic hurdles, arbitrary fees, unrealistically short deadlines and continued systemic discrimination by authorities.<sup>19</sup> Many Dominican citizens of Haitian descent were not able to complete the application process at all.

The government claims the process is free and only requires a few documents, but many individuals were



Photo: Cesar de la Cruz

## WORKERS' STORIES

Dominicans of Haitian descent are struggling to maintain their status, seek opportunities for meaningful work and career advancement, obtain justice against abusive employers, pursue higher education, and ensure their children are recognized as citizens and have access to critical services.<sup>33</sup> The ongoing denationalization campaign leaves them with an uncertain future.



Photo: Julio Lantigua

**ROSALBA JEAN** is a domestic worker and organizer with the Association of Home Workers, which aims to improve labor rights and living conditions. Rosalba's mother is Haitian and was undocumented when she gave birth at Santo Domingo's Maternity Hospital. Rosalba's father, a Dominican, did not declare her birth with registry officials.

Rosalba and her mother, who is also a domestic worker, earn meager wages, with no benefits and very few protections under Dominican labor law. Rosalba is a strong student and would like to pursue a career in medicine, but her legal status has made pursuing her dream difficult. She earned high marks her senior year in high school, but she only was allowed to finish after lawyers pressured the Board of Education in her school district, and her lack of documents prevented her from moving on to college.

Despite her father's nationality and her birth in the country, she was unable to register as a Dominican citizen. "There were times when I cried alone and asked myself how long I could go without being recognized," she says.



Photo: Alexis Rosalie

**JUAN ASTIL** is a sugarcane worker. He was born in the southern city of Barahona in 1975. His parents were recruited into the Dominican Republic from Haiti under programs designed to supply sugar plantations with cheap labor. Like other recruits, Juan's parents were told they would be repatriated to Haiti on the national sugar corporation's dime after the harvest, but this promise was not fulfilled. Juan's parents have lived on the same *bateye* ever since. He now resides there as well.

Juan is worried he and his children will be expelled from the country where he was born and raised. Juan's mother registered Juan and his four siblings as Dominicans, but she herself does not have a birth certificate. "The Central Electoral Commission has refused to send me my birth certificate. Without it, I cannot marry my Dominican girlfriend, who I have been with for more than 20 years, or give my children my last name."

Juan has an adopted daughter named Miriam, whose own parents originally came from Haiti and who have now passed away. "She was born here, and she was not accepted at school. I was forced to register her as a Haitian citizen so she could attend school. Miriam does not know any other country or culture but the Dominican Republic, but she could not apply for citizenship. I am very worried she could be deported."

asked for as many as 12 different identity documents, and obtaining them can cost as much as several months' wages.<sup>20</sup> The process requires in-person processing in urban centers, which costs many both time and money to access, a particular hardship on rural workers. Some impoverished individuals do not have the resources to engage with the process at all. Others report authorities demand applicants pay additional costs despite there being no requirement in the law to do so.

People born in the country without documentation have faced particular hardship. The government requires these individuals to first register as foreign nationals, even those who have never left the country. For the vast majority of applicants, this means they must obtain documentation from the Haitian government despite having no contact with the country, which has been fraught with its own complications and delays. The Dominican government created a window of only 180 days for individuals to complete this onerous application process, and only some 9,000 were able to do so successfully,<sup>21</sup> out of an estimated 209,912 born in the country to foreign parents.<sup>22</sup>

After a two-year waiting period, these 9,000 individuals supposedly will become naturalized Dominican citizens through a presidential decree. However, with the constantly shifting political landscape, it is far from certain this promise will be honored. In 2014, the Inter-American Court of Human Rights concluded the Dominican government's process violates human rights,<sup>23</sup> but the ruling predictably was ignored.

Haitian migrants attempting to officially register as foreign nationals report dismissive and discriminatory treatment. Speaking to CNN, one individual recounted how Dominican officials tore up the papers he brought to try to regularize and threw them in his face.<sup>24</sup>

### **Xenophobic Policy Leaves Migrant Workers and Communities More Vulnerable to Abuse**

Dominicans of Haitian descent and Haitian immigrants are a critical source of cheap labor in the Dominican Republic, concentrated in industries with low pay and precarious conditions. Overall, about 70% of agricultural workers are Haitian or of Haitian descent.<sup>25</sup> They also comprise a large percentage of the workforce in areas

like construction, tourism and domestic work. They play a vital role in the economy, but are vulnerable to abuse by discriminatory laws and lax enforcement of what protections do exist.

The ongoing denationalization process further imperils vulnerable workers.<sup>26</sup> Undocumented individuals cannot access the formal economy and have limited job options, making them more dependent on their employers. Ongoing persecution by officials deters workers from reporting violations, and when workers do risk coming forward, the government often does not act to protect them. In February 2015, Haitian construction workers report being shot at by Dominican authorities for demanding they be paid back wages.<sup>27</sup> This climate of fear and impunity has emboldened abusive employers and increased the likelihood workers will be subjected to abuse.

The sugarcane sector is emblematic of the troubled position migrants and Dominicans of Haitian descent have occupied for decades. Many workers arrived in the Dominican Republic in the 1960s and 1970s through government programs to provide sugar plantations with cheap labor,<sup>28</sup> and were not always provided with official documentation of their arrival. Many were told they would be repatriated after a short period, but ended up trapped on plantations without the resources to get home. These workers were geographically isolated and often lacked access to medical care, making it less likely their children have official birth records. The Inter-American Commission on Human Rights visited several *bateyes* (communities of sugar workers) on a fact-finding mission in 2013 and concluded that the crushing poverty workers live in is linked to the frequent obstacles to obtaining identity documents for themselves and their children.<sup>29</sup>

It is also linked to trade with the United States. The United States long has been the largest international purchaser of Dominican sugar. In a 2011 trade complaint, a Dominican priest described how sugar plantations use forced labor and child labor, and systematically deny workers minimum wage, hour, and health and safety protections.<sup>30</sup> The United States Department of Labor confirmed these abuses in a 2013 report.<sup>31</sup> Under the Central America-Dominican Republic-United States Free Trade Agreement (CAFTA-DR), both countries must ensure workers are afforded

fundamental labor rights as a condition of continued preferential trading status.<sup>32</sup> However, there has been no move to suspend trade benefits or to require U.S.-based companies profiting from these abuses to conduct due diligence.

### **The Abuse Must End**

The Dominican Republic must end its discriminatory campaign and protect fundamental rights.

The international labor movement advocates for the fundamental rights of all workers regardless of citizenship or migratory status. The Dominican Republic's largest national labor center, the National Confederation of Trade Union Unity (CNUS), has been a strong advocate for migrant workers' rights, justice for stateless workers and families, and inclusive immigration reform in the Dominican Republic. In 2012, CNUS joined with a broad coalition of labor organizations, religious groups, NGOs and private enterprise organizations to promote immigration reform. The group submitted a consensus proposal to Dominican President Danilo Medina, who initially appeared receptive, but consultations were abandoned after the Constitutional Court's ruling.

CNUS has denounced the Constitutional Court's ruling and expressed opposition through a number of channels, including press conferences, written correspondence to President Medina, meetings with

an IACHR delegation and outreach to members regarding the harmful impact of the ruling. CNUS participated in a coalition that submitted a draft bill seeking justice for Dominicans of foreign descent. Some aspects of the proposal were included in the naturalization plan, but many were ignored.

Since then, CNUS has issued press statements demanding the government extend the regularization plan, denouncing the high costs, delays, and lack of functional equipment and coordination between offices that have hindered the process, and calling on the president to ensure "justice and respect for human rights for workers and their families."

"We have also accompanied Haitians and their descendants in delegations to the Haitian Embassy to insist that the Haitian government assume responsibility for providing documentation to Haitians and their descendants so they can to apply for regularization," said Eulogia Famila, vice president of CNUS and coordinator of CNUS's Network in Support of Migrant Workers.

The AFL-CIO and Solidarity Center are committed to working with our union partners in the United States, the Dominican Republic, Haiti and worldwide to ensure all workers and their families in the Dominican Republic have full protection of their human and labor rights.

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