

A photograph of a woman and a man in a rural setting. The woman, in the foreground, is wearing a green polo shirt and a headscarf, with a large white bucket balanced on her head. She is looking upwards with a concerned expression. The man, standing behind her, is wearing a grey t-shirt with text that reads "CREEK HIGH COUNTRY SENIOR GAMES 5K/10K Race & 2-Mile Fun Run". He is also looking upwards. The background shows a clear sky and some greenery.

DISCRIMINATION and DENATIONALIZATION in the DOMINICAN REPUBLIC

Photo: Cesar de la Cruz

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IN SEPTEMBER 2013, the Dominican Constitutional Court determined that individuals who are unable to prove their parents' regular migration status can be retroactively stripped of their Dominican citizenship. The targets of this ruling will be excluded from any activity that requires official identification, including working in the formal sector, attending school, opening a bank account, paying into retirement or social security funds, accessing health services, getting married, traveling or voting. For the many potential victims of this shameful policy who were born in the Dominican Republic, it means being barred from participating in the only society they have ever known.

This discriminatory ruling will disproportionately affect individuals of Haitian descent¹ living and working in the Dominican Republic. By the country's own calculations, 244,151 people in the country were born to foreign parents, and approximately 86% of them are of Haitian descent. The ruling likely will affect a greater number of individuals, as the court mandated retroactive application going back several generations.²

This deliberate creation of a stateless underclass is an egregious abuse of fundamental human rights and a clear violation of international law.

Juliana Deguis Pierre and the Right to Nationality in the Dominican Republic

The court case centered on Juliana Deguis Pierre, who was born in the Dominican Republic to Haitian parents in 1984. Her parents entered the country under a program between the two nations designed to supply Dominican sugar plantations with cheap labor. Juliana was registered as a Dominican citizen at birth and has spent her whole life in the country. However, she was denied a national identification card when she applied in 2008. Instead, authorities confiscated her birth certificate, denying her access to many public services and the ability to register her own children.³ Dominicans of Haitian descent long have had trouble obtaining official documentation due to discrimination. Juliana

decided to fight for her rights and appeal the denial to the Constitutional Court.

From 1929 to 2010, all children born in the Dominican Republic were granted citizenship under the national constitution. There was a limited exception for those born to diplomats, or parents who were "in transit." In 2004, 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 individuals of Haitian origin and their children citizenship.

In 2005, the Inter-American Court of Human Rights (IACHR) reviewed the practice of declaring any Haitian immigrant "in transit," along with other aspects of Dominican policy, including onerous requirements for proving an individual was born in the country and the uneven application of these requirements to disproportionately target areas with larger immigrant populations. The IACHR concluded the Dominican Republic's citizenship policies 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 IACHR ordered the country to honor its commitments and comply with international law, but the ruling was ignored.⁴

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."

Judgment 168-13: A Flagrant Violation of Human Rights

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 by changing a provision to apply to all undocumented immigrants.⁵

In Judgment 168-13, decided on Sept. 23, 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.⁶ The court brazenly recognized this directly contradicts the 2005 IACHR ruling. The decision cannot be appealed.⁷

The Dominican government adopted a "National Regularization Plan" to implement the ruling, and produced a preliminary list of 45,000 people to be reviewed under the program. The government has initiated proceedings against Juliana and other individuals to nullify Dominican birth certificates granted "in error."⁸ Dominican officials have claimed they merely are complying with the court order, but other remarks demonstrate the depths of entrenched discrimination. At a press conference, President Danilo Medina defended revoking citizenship from thousands, callously declaring "you can't take away something they don't have."⁹

Xenophobic Policy Leaves 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. These workers are concentrated particularly in industries with low pay and precarious conditions, like sugarcane, construction and domestic work. They play an important role in the economy, but are left open to abuse by discriminatory laws and lax enforcement of what protections do exist. The citizenship ruling further imperils these vulnerable workers.¹⁰

The deliberate creation of a stateless underclass increases the already formidable risks of exploitation. Workers without documentation cannot enter the formal economy and are pushed into dangerous, low-wage work. With limited job options, workers are more dependent on their employers. Workers also are less likely to report abuse, as they have few legal protections and face the threat of deportation if they seek help from government officials.¹¹ The Dominican Republic does not recognize undocumented workers as trade union members, leaving them without a voice on the job or access to the pensions or social security systems that they contribute to. Stateless children often have trouble registering for high school, and are more likely to end up working in the worst forms of child labor.¹²

In a press release condemning the decision, the Inter-American Commission on Human Rights stated arbitrary denial of nationality "leads to a situation of extreme vulnerability.... The IACHR visited several *bateyes* (communities of sugar workers) in various parts of the country and took note of the conditions of poverty, exclusion and discrimination in which its inhabitants live. Poverty disproportionately affects persons of Haitian descent, and this is related to the obstacles they face in terms of access to their identity documents."



Photo: Cesar de la Cruz

WORKERS' STORIES

The stories below illustrate some of the repercussions this ruling will have. Dominicans of Haitian descent are struggling to maintain their status, pursue higher education, seek opportunities for meaningful work and career advancement, obtain justice against abusive employers, and ensure their children are recognized as citizens and have access to critical services.¹⁴

Photo: Alexis Rosalie



Juan Astil is a sugarcane worker. He was born in the southern city of Barahona in 1975. His parents were recruited to come to the Dominican Republic from Haiti under programs designed to supply the sugar fields 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. Recently, Juan and his wife had trouble registering the birth of their own child. "The officials did not want me to sign," Juan reports.

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, no benefits and have very few protections under Dominican labor law. "The work is very hard because one has to leave their family in order to go work somewhere else," Rosalba says.

Rosalba is a strong student and would like to pursue a career in medicine. However, her legal status is preventing her from pursuing her dream. She earned high marks her senior year in high school, but she was only allowed to finish after lawyers pressured the Board of Education in her school district. After that, "I still have problems with attending college because I have no birth certificate or other identification that says I exist in the world," she says. Prevented from furthering her education and seeking new career opportunities, she has continued as a domestic worker for the last five years.

"The ministry representative then told me that since I don't have any papers, I should take whatever I can get."

Domingo Concepcion is a 24-year-old undocumented Dominican of Haitian descent. He was born in the Dominican Republic to two Haitian parents, who were brought to Monte Plata province as sugar workers. He lived on the farm and was required to purchase meals from his employer—often at an elevated cost. "It is a double labor in order to get your food," he said. "I would have to pay for what I ate at the end of the month and would be left with nothing."

In 2012, Domingo was fired without receiving the compensation he was owed. Domingo's employer offered him only \$128 for his last month's work. Domingo confirmed with the Labor Ministry that he was legally owed a total of \$410, more than three times what the employer was offering. However, Domingo reports he was advised against pursuing the compensation he was legally entitled to receive because of his status. "The ministry representative then told me that since I don't have any papers, I should take whatever I can get," he says. Domingo fought his case after receiving outside legal assistance, but many do not have the resources to fight against a system that actively seeks to enforce discrimination and bar access to justice.

The Abuse Must End

The Constitutional Court's ruling legitimizes a system aimed at denying Dominicans of foreign descent their fundamental rights. Four generations of workers and their families, predominantly from Haiti, face egregious violations of their fundamental rights and growing insecurity for their families. Most of the workers interviewed now effectively are stateless, increasing their risk of exploitation and deportation. Thousands are

shut out of any participation in society; denied access to education, formal sector employment, registration for their children, marriage and the right to vote.

These workers' stories represent only a handful of the potential victims of this discriminatory policy. The Dominican Republic must comply with its international obligations, and ensure Dominicans of foreign descent are given the ability to fully and freely participate in society.

ENDNOTES

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13 Inter-American Commission on Human Rights, "IACHR Wraps Up Visit to the Dominican Republic," press release, Dec. 6, 2013, *available at* www.oas.org/en/iachr/media_center/PReleases/2013/097.asp

14 Gathered from worker interviews conducted by the Solidarity Center.

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 initial consultations were abandoned after the Constitutional Court's ruling.

CNUS denounced the court's ruling and has expressed opposition through a number of channels, including a joint forum the Trade Union Confederation of the Americas signed in coalition with Haitian unions in Port-au-Prince, written correspondence to President Medina, press conferences, a meeting with an IACHR delegation and outreach to members regarding the harmful impact of the ruling. CNUS and coalition members submitted a draft bill to congress seeking justice for Dominicans of foreign descent. The proposal is expected to go to the commission in late March 2014.

CNUS continues to lobby for increased safeguards for migrant workers through the national labor code reform process that is currently under way, and has called on the government to include unions in a plan to regularize migration in accord with human rights and decent work standards for all.

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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