

# Addressing Inequality from a Human Rights Perspective:

Social and Economic Justice  
in the Global South



César Rodríguez-Garavito  
(Director)

**ADDRESSING INEQUALITY FROM  
A HUMAN RIGHTS PERSPECTIVE:**  
SOCIAL AND ECONOMIC JUSTICE IN THE GLOBAL SOUTH

# Addressing Inequality from a Human Rights Perspective:

Social and Economic Justice  
in the Global South

César Rodríguez-Garavito  
Director

---

Rodríguez-Garavito, César (Director), Ana María Belique Delva, Evgeny (Zhenya) Belyakov, Daniel Bertolucci Torres, Andrés Castro Araújo, José Galeano Monti, Juan Ignacio Leoni, Harsh Mander, Karim Nammour, Martha Ramírez Galeana.

Addressing Inequality from a Human Rights Perspective: Social and Economic Justice in the Global South. Bogotá: Center for the Study of Law, Justice and Society, Dejusticia, 2019

291 p; 15 x 24 cm (Dejusticia Series)

ISBN 978-958-5441-92-7 Digital Edition

978-958-5441-91-0 Printed Edition

1. Action Research 2. Economic and Social Rights 3. Discrimination  
4. Inequality 5. Argentina 6. Brazil 7. Colombia 8. Dominican Republic  
9. India 10. Lebanon 11. Mexico 12. Paraguay 13. Russia

---

The publication of this book was supported by the Ford Foundation.

ISBN 978-958-5441-92-7 Digital Edition  
978-958-5441-91-0 Printed Edition

Translation & Copy Editing  
Morgan Stoffregen

Layout  
Marta Rojas

Cover  
Alejandro Ospina

Printed by  
Ediciones Antropos

First English Edition  
Bogotá, Colombia, July 2019

This document is available at <https://www.dejusticia.org>



Creative Commons License 2.5  
Attribution Non-Commercial Share-Alike

Dejusticia, 2019  
Calle 35 No. 24-31, Bogotá D.C.  
Telephone: (+57 1) 608 3605  
[www.dejusticia.org](http://www.dejusticia.org)

# Contents

	Introduction: New Practices and Narratives on Social Justice from the Global South	8
	<i>César Rodríguez-Garavito</i>	
<hr/>		
<b>Chapter 1</b>	From the <i>Bateyes</i> to Activism: Racial Discrimination against and Citizenship of Dominicans of Haitian Descent	16
	<i>Ana María Belique Delba</i> (Dominican Republic)	
<hr/>		
<b>Chapter 2</b>	The Fate of Indigenous Women in Mexico: Ajmú Mbaa and the Roots of the Earth	44
	<i>Martha Ramírez Galeana</i> (Mexico)	
<hr/>		
<b>Chapter 3</b>	Surviving in the City: Indigenous Migration in Northern Brazil	72
	<i>Isabela do Amaral Sales</i> (Brazil)	
<hr/>		
<b>Chapter 4</b>	A Matter of Plastic: Asylum-Seeker Documents in Brazil	100
	<i>Daniel Bertolucci Torres</i> (Brazil)	
<hr/>		
<b>Chapter 5</b>	Personal Narratives from the Margins: Empathy and Public Policy in Buenos Aires	126
	<i>Juan Ignacio Leoni</i> (Argentina)	
<hr/>		

<b>Chapter 6</b>	What Outrages Society: The Living Conditions of Women Deprived of Liberty in Paraguay	156
	<i>José Galeano Monti</i> (Paraguay)	
<b>Chapter 7</b>	Neoliberalism and Authoritarianism: How Radical Market Reforms in Russia Destroyed a Fledgling Democracy	184
	<i>Evgeny (Zhenya) Belyakov</i> (Russia)	
<b>Chapter 8</b>	Battle for Artificial Paradises: The War on Drugs in Lebanon, Its Consequences, and the Fight to End It	210
	<i>Karim Nammour</i> (Lebanon)	
<b>Chapter 9</b>	The Power behind Numbers: Statistical Visibility and Inequality in Colombia and the Dominican Republic	246
	<i>Andrés Castro Araújo</i> (Colombia)	
<b>Chapter 10</b>	Human Rights, Ethics, and Love: Dilemmas of Practice	272
	<i>Harsh Mander</i> (India)	
	<b>Contributors</b>	<b>290</b>

**Introduction:  
New Practices and Narratives  
on Social Justice from the Global  
South**

*César Rodríguez-Garavito*

**In an article published in the early 1980s,** Amartya Sen wrote, “It is not surprising that no famine has ever taken place in the history of the world in a functioning democracy” (Sen 1982). Comparing the absence of famines in post-independence India with the tens of millions of deaths during the Chinese famine of 1958–1961, Sen concluded that the key difference was the existence (or lack thereof) of democratic institutions, such as human rights, a free press, and regular elections. If even a small fraction of the Chinese death toll had occurred in India, Sen argued, it “would have immediately caused a storm in the newspapers and a turmoil in the Indian parliament, and the ruling government would almost certainly have had to resign” (ibid.).

Thirty-five years later, Sen is less optimistic about the potential of democracy and human rights to resolve other radical injustices. As he notes in his most recent book, “While democratic dialogue has taken on famine prevention as a social commitment, this has not yet happened with persistent hunger and chronic undernourishment, nor with continued illiteracy and massive lack of elementary health care” (Sen 2015). Put another way, democratic tools and human rights instruments have been insufficient to prevent extreme forms of exclusion.

They have also been insufficient to prevent inequality. Although human rights have played a fundamental role in highlighting inequalities based on factors such as gender and ethnic and racial identity, they have coexisted alongside persistent socioeconomic injustices. What is more, the growth of socioeconomic gaps in recent decades—linked to phenomena such as neoliberal deregulation, globalization, and automation—has facilitated the



rise of authoritarian populism that is placing human rights institutions and discourses around the world in a tight spot.

Against this backdrop, the debate over the present and future of human rights has divided scholars and practitioners into three camps. According to the first camp, human rights norms and strategies have ignored or are ineffective at combatting inequality, especially economic inequality (Moyn 2018). As these critics argue, this—together with the waning of Pax Americana, which served largely as the basis for human rights—is causing us to witness “the endtimes of human rights” (Hopgood 2014).

The second camp includes observers and activists who believe that increasing inequality is not a problem of the human rights movement; rather, the redistribution of resources is an issue that falls into the lap of social justice movements. According to this perspective, human rights standards are useful for protecting civil liberties and defending individuals against abuses committed by the state. Incorporating social rights and redistributive campaigns into the human rights agenda would require the movement to alter its mission and would endanger its accomplishments (Neier 2013).

Finally, the third camp avoids each of these extremes and calls instead for a reflective repositioning of the human rights movement. As I have argued in defense of this position (Rodríguez-Garavito 2013a), it is not true that the human rights movement has neglected the problem of inequality, as Moyn asserts. Additionally, it is unrealistic and unwise to draw a rigid line between the human rights and social justice movements, as proposed by Neier and as practiced for a long time by international organizations such as Human Rights Watch (Roth 2004). It is in the middle of these two positions that the most promising ideas and practices for combatting inequality can be found. Activists, scholars, and the courts of countries such as Argentina, Colombia, India, Kenya, and South Africa have developed robust and effective understandings of social rights (see Langford 2009; Rodríguez-Garavito and Rodríguez-Franco 2015). International human rights bodies such as United Nations treaty bodies and special rapporteurs, the African Commission on Human and Peoples’ Rights, and the Inter-American Court of Human Rights are providing content for social and cultural rights, at the urging of social movements and nongovernmental organizations. And in examples ranging from

campaigns to limit pharmaceutical patents and increase people's access to medicines in South Africa, to the regulation of the food supply chain in India, human rights actors and tools have helped build more robust social movements against inequality and de-regulated markets. Importantly, all of this is taking place without diluting the idea of human rights in that of social justice, and without weakening civil and political rights.

But the increase in inequality and the rise of authoritarian-populist governments make it clear that much more remains to be done. To this end, it is critical that we document, reflect on, and learn from the myriad efforts of activists and organizations from the global South that have been struggling against various forms of inequality and which have largely been ignored by both critics and defenders of the classical human rights tradition. That is precisely the aim of this book: to gather and recognize the value of these efforts, recounted firsthand by activists who are fighting inequalities of all kinds across the globe, from Argentina to India, from Brazil to Lebanon, and from Russia to Mexico.

### **Amphibious Narratives on Human Rights**

This book, and the Dejusticia initiative that inspired it, seeks to promote this type of analysis and narrative. In doing so, it proposes a new type of writing on human rights, one with three specific characteristics. First, the writing is reflexive: its authors, who are the very people working in organizations and on the ground, pause to think about the potential, achievements, and limits of their knowledge and their practice.

In this sense, both this book and Dejusticia's larger project, described below, seek to amplify the voices of human rights defenders in academic and practical discussions about the future of the field, which have tended to be dominated by academic studies. In the spirit of the type of action research that elsewhere I describe as "amphibious research" (Rodríguez-Garavito 2015), the chapters combine the methodological and analytical strengths of academic research with the practical experience of the authors and the organizations and communities with whom they work. The objective is to foster a new hybrid genre that is as robust as it is relevant, and which contributes to maintaining and broadening the window of reflection and discussion within the human rights field.

Second, the genre of writing proposed in this book—and the series of which it is part—is narrative. Partly because of the human rights community’s excessive mastery of legal language and knowledge, its preferred mode of writing is that of technical reports and legal briefs. While this genre has enjoyed notable achievements for decades, it has hindered organizations and activists from effectively sharing and communicating the stories that they live and learn about firsthand: those of the victims, of campaigns, of moral dilemmas, of injustices, of victories. Opening the human rights field to other types of actors, knowledge, and audiences means telling these stories—and telling them well. To that end, the contributors in this volume—with the help of techniques borrowed from fields such as narrative journalism—tell and are part of these stories (Rodríguez-Garavito 2015).

Third, the stories come from the global South, from the countries and regions that have tended to be objects rather than subjects of the knowledge and decisions within the human rights field and which have been leaders in ensuring the inclusion of redistributive justice within the human rights movement, through standards and strategies related to socioeconomic rights. In this sense, they attempt to respond to the challenges of an increasingly multipolar world and to counteract the organizational, economic, and epistemological asymmetries between the South and North that have limited the effectiveness and legitimacy of the global human rights movement. The authors of the chapters are activist-researchers who belong to human rights organizations and who write from this geographic and professional angle to enrich global dialogue on the future of the field.

### **The Origin of This Book**

This book forms part of a long-term project undertaken by Dejusticia as part of its international work. The project revolves around the Global Action-Research Workshop for Young Human Rights Advocates that Dejusticia organizes each year to foster connections among and train a new generation of action researchers.

The workshop helps participants develop action-research tools, understood as the combination of rigorous research and practical experience in social justice causes. For one week, Dejusticia brings approximately fifteen participants and ten expert

instructors to Colombia for a series of practical and interactive sessions on research, narrative writing, multimedia communication, and strategic reflection on the future of human rights. The aim is to strengthen participants' capacity to produce hybrid-style texts that are at once rigorous and appealing to wide audiences. Participants are selected on the basis of an article proposal, which is then discussed during the workshop and subsequently developed with the help of an expert mentor over ten months until a publishable version is achieved, such as the chapters that make up this volume.

The workshop also offers participants the opportunity to take advantage of new technologies and translate the results of their research and activism into diverse formats—from blogs, videos, and multimedia to social network communications and academic articles. Therefore, in addition to the annual volume comprising participants' texts, the workshop produces a blog in Spanish and English that features weekly entries by workshop alumni, written in the style described above. The title of the blog—*Amphibious Accounts: Human Rights Stories from the Global South*—owes itself to the fact that action research is “amphibious” in that its practitioners move seamlessly between different environments and worlds, from academic and political circles to local communities to media outlets to state entities. For those who are dedicated to the promotion of human rights, this often implies navigating these worlds in the global North and South alike.

Each year, the workshop is centered on a particular current issue. In 2016, the topic was inequality and human rights, which I described at the beginning of this introduction. In addition to providing coherence to the book and the group of participants, the selected topic determines the workshop site in Colombia—for the sessions are held not in a classroom or convention center but in the middle of the field, in the very communities and places that are witnessing the issue firsthand. For example, the 2016 workshop took place in Cartagena, a city in Colombia's Caribbean region, which is the site of historical and modern forms of inequality—as well as campaigns against them—due to discrimination based on race, gender, sexual orientation, and other factors.

## Acknowledgments

A long-term initiative such as this one is more than a collective effort—it requires the support of an entire organization. This text and the ongoing commitment that it represents is an institutional effort of Dejusticia that involves, in one way or another, all of the organization’s members. For the unconditional support that Dejusticia’s staff have dedicated to this project, and for embodying the hybrid of research and action in their daily work, I extend enormous thanks to all of them.

Particular thanks is due to the colleagues and friends who were co-architects of the 2016 workshop and subsequent publication process. First of all, I would like to thank Meghan Morris, senior researcher at Dejusticia, for having believed in the idea of the workshop from the beginning, when it was a mere dream, and for having dedicated her unparalleled talent, generosity, and commitment to the immense task of ensuring that the workshop, this volume, and the blog became a reality. Nelson Fredy Padilla, Claret Vargas, Camila Soto, and Carlos Andrés Baquero did a fantastic job serving as mentors during the workshop and the subsequent writing process.

Finally, any initiative of this nature requires considerable logistical support, which William Morales assumed with an admirable mixture of efficiency, solidarity, and optimism. At the workshop, significant contributions were made by the instructors, some of whom also served as mentors to participants during the subsequent writing process. In this regard, I extend my deepest thanks to Diana Rodríguez, Tianna Paschel, and Rodrigo Uprimny.

During the publication phase, three colleagues were fundamental. Morgan Stoffregen and Sebastián Villamizar went above and beyond their duties as translators, becoming unwavering allies who made continual improvements, proposed alternatives and ideas, and ensured that a polyphonic manuscript was converted into a coherent and legible whole. Elvia Sáenz, in coordinating Dejusticia’s publication process, never ceased to demonstrate precision and creativity.

Both Dejusticia’s international program and the workshop and book were made possible thanks to the generous and enduring support of the Ford Foundation.

I would like to conclude by recognizing perhaps the most essential players of all: the activist-researchers who authored the chapters in this volume. Both during and after the workshop, they enthusiastically supported Dejusticia's commitment to action research and took time from their busy lives to reflect, write, revise, and write again. If the space that we created for them is helpful in their work to contribute to a more effective, horizontal, and creative human rights movement, this effort will have been worth it.

## References

- Hopgood, Stephen. 2014. *The Endtimes of Human Rights*. Ithaca, NY: Cornell University Press.
- Langford, Malcolm (ed.). 2009. *Social Rights Jurisprudence: Emerging Trends in International and Comparative Law*. Cambridge: Cambridge University Press.
- Moyn, Samuel. 2018. *Not Enough: Human Rights in an Unequal World*. Cambridge, MA: Harvard University Press.
- Neier, Aryeh. 2013. "Misunderstanding Our Mission." *OpenGlobalRights*, July 23. <https://www.openglobalrights.org/misunderstanding-our-mission>
- Rodríguez-Garavito, César. 2013a. "Against Reductionist Views of Human Rights." *OpenGlobalRights*, July 30. <https://www.openglobalrights.org/against-reductionist-views-of-human-rights/?lang=English>
- . 2015. *Amphibious Research: Action Research in a Multimedia World*. Bogotá: Dejusticia.
- Rodríguez-Garavito, César, and Diana Rodríguez-Franco. 2015. *Radical Deprivation on Trial: The Impact of Judicial Activism on Socioeconomic Rights in the Global South*. New York: Cambridge University Press.
- Roth, Kenneth. 2004. "Defending Economic, Social and Cultural Rights: Practical Issues Faced by an International Human Rights Organization." *Human Rights Quarterly* 26(1): 63–73.
- Sen, Amartya. 1982. "How's India Doing?" *New York Review of Books*, December 16.
- . 2015. *The Country of First Boys*. Oxford: Oxford University Press.

**CHAPTER 1**  
**From the *Bateyes* to Activism:  
Racial Discrimination against  
and Citizenship of Dominicans  
of Haitian Descent**

*Ana María Belique Delba*  
(Dominican Republic)

## Introduction

As a human rights researcher and defender, I feel a strong connection with the situation of citizens of Haitian descent in the Dominican Republic. I am not only a defender and activist who works on this issue but also someone who is directly affected by this reality. As a child, I dreamed about being a social leader or participating in important struggles on behalf of my community, but I never imagined that the cause would be so real and close as the situation that I have personally experienced on account of being of Haitian descent. For this reason, throughout this chapter I speak in the first person and sometimes simply include myself within the collective of Dominican citizens of Haitian descent who struggle to change their situation.

My parents, like others who have been affected by the situation described in this chapter, are Haitian immigrants. My mother came to the Dominican Republic at the end of the 1960s and my father at the end of the 1970s. They met in the agricultural *bateyes*<sup>1</sup> in the eastern part of the country. As the daughter of Haitian immigrants, I was born in a *batey*; there, I went to school until fourth grade, which was as high as the education went. Life in a *batey* is not easy, but I didn't grasp the vicissitudes of such living until I became older; I lived in a bubble, always protected by my own, given that most residents there were Haitians and their children, even if there was a marked difference among newcomers, veterans,<sup>2</sup> and Dominicans.

---

1 A *batey* is a small settlement around a sugarcane plantation.

2 The derogatory term *congos* is also used among day laborers to refer to Haitians who have recently arrived to the *bateyes* to cut sug-



Protected within my surroundings, I was not conscious of discrimination based on origin, even though I was bullied by my classmates. I remembered how they would tease me because of my curly hair and the way my mother would fix it. Nonetheless, the word “discrimination” was not a part of my vocabulary. Nobody talked to us about discrimination or its manifestations, so if someone had asked me if I experienced it, I wouldn’t have known what to say.

The first time I truly felt discriminated against, I was already quite aware of what it was. I was twenty-four and had gone with one of my brothers to the civil registry office to request a birth certificate so I could enroll in college, and they denied my request. The way the civil servant talked to me made me feel the bitter taste of being different. Despite my insistence, I did not get a copy of my birth certificate because they claimed that they needed to investigate my parents’ immigration status at the time I was born.

The sense of powerlessness I felt led me to tears. I also had the feeling that this “investigation” would never come to fruition, as my brother Isidro, who accompanied me that day, had been waiting for two years for the same thing, with no results. He needed his ID card since he was already of legal age and didn’t have any papers, while I already had my ID card but simply needed a copy of my birth certificate for college. Back home, feeling indignant, I told myself that this was not how it would be—I didn’t know what I would do, but I knew that I could not stand idly by waiting for a response that might never come.

Thus, the following year, the Jesuit Refugee and Migrant Service launched a campaign to raise awareness of the reality of Dominicans of Haitian descent who were being denied access to their ID documents through an administrative decision of the Central Electoral Board. My brother and I participated in that campaign, and together with a larger collective of Dominicans of Haitian descent, we formed the movement known as Reconoci.do (meaning recognized).<sup>3</sup> I am one of the leaders of this movement, which is a

---

arcane. Veterans are those who have more experience cutting sugarcane; they come from Haiti, but they have several seasons of work under their belt.

3 See [www.reconoci.do](http://www.reconoci.do).

collective of young Dominicans of Haitian descent who are fighting for access to our identity documents and our citizenship and who stand up against racial discrimination, knowing that it is the main problem that afflicts us as descendants of Haitians, blacks, *bateyeros*, and the poor.

## The Dominican-Haitian Relationship

The Dominican Republic and Haiti are two countries occupying the same island. Following the Haitian Revolution, Haiti made up the entire island of Santo Domingo for twenty-two years (1822–1844). After that period, a relationship of differences emerged between inhabitants of the eastern part of the island and those of the west: each place sees itself as the opposite of the other, where Haiti is equal to black Africans and the Dominican Republic identifies as Spanish, denying its African roots.

Unlike most Latin American countries, which gained their independence from Spain, the Dominican Republic gained its independence from Haiti (Franco 2014). Since then, a strong anti-Haitian sentiment has taken root, backed by the dominant intellectual Dominican class. According to author Pedro L. San Miguel, “anti-Haitianism as a discourse has led Dominicans to define themselves in opposition to Haitians, a dichotomy that is present in nearly all levels of Dominican society. The ideology around national Dominican identity has gravitated markedly around an ‘otherness’ in the Haitian [identity]” (San Miguel 1997, 65–67). Further, Frank Moya Pons has pointed to a distinction between political anti-Haitianism and state anti-Haitianism, which reveals a deep-seated sentiment within Dominican culture of differentiation between state policies and discourse, both of which have capitalized on this sentiment to legitimize their power (Moya Pons 1986).

One marked difference is the fact that Dominicans see Haitians as descendants of black slaves from Africa who practice voodoo and speak Creole, while seeing themselves as Hispanic people who are white, *mestizo*, Catholic, and Spanish speaking, thus valuing Spanish traits above African ones. Haitians, for their part, recognize their blackness and do not claim to be white, much less Spanish.

Anti-Haitian sentiment reached its peak as an ideology and a policy in the Dominican Republic during the dictatorship of Rafael Leónidas Trujillo (1930–1960). In 1937, a massacre killed an estimated 5,000–20,000 Haitians (including black Dominicans) along the border. This massacre was prompted by an unfounded fear within the Dominican population of Haitians’ supposed “peaceful invasion” of the Dominican Republic and by Trujillo’s desire to “whiten” the Dominican people.

Intellectuals such as Emilio Rodríguez Demorizi (1955, 1957), Manuel Arturo Peña Batlle (cited in Henríquez Gratereaux 1996), and Joaquín Balaguer (1990) played a key role in constructing the anti-Haitian ideology. In fact, Balaguer was the one tasked with writing political speeches and with spearheading the negotiations in 1937 following the massacre.

The ideological and political vision of Haitians as the black, poor enemy that brings its misery to the Dominican Republic can still be seen today among a small group that has managed to remain close to power since the Trujillo dictatorship. This group’s main aim has been to infuse fear in the Dominican population by perpetuating the myth of Haiti’s desire to merge the two countries together and the supposed conspiracy of major powers to force the Dominican Republic to assume Haiti’s problems.

Despite the racist ideology that has sought to infiltrate Dominican society, a double standard has been created with respect to Haitians. The same Haitians that Dominicans don’t want to see in the streets, to use the hospitals, or to exercise their rights are the same people who, for decades, have propelled the national economy to the point where practically all economic sectors feature a significant Haitian workforce (Cefasa and Cefinosa 2012). Nearly all sectors of the national economy have benefitted from the cheap and undocumented labor of Haitians (“Detienen alcalde de Las Yayas” 2017), and on many occasions the very representatives of the government are the ones who, in their quest to lower costs, promote the illegal labor of Haitians. In fact, the current president of the Constitutional Court, Milton Ray Guevara, before becoming a pioneer of massive denationalization,<sup>4</sup> was a Dominican government representative for the hiring of Haitian laborers (Vásquez

---

4 In 2013, the Constitutional Court issued a ruling permitting the

Frías 2013)<sup>5</sup> to work in Dominican sugar mills in 1978, during the administration of Antonio Guzmán.

In other words, one could argue that the Dominican economy would be unable to sustain itself were it not for Haitian workers. These people, who in the Dominican Republic are illegal immigrants, are the same ones who have benefitted various presidential administrations through cheap labor (Peña 2013; Yangüela 2001), at the same time that the government promotes a double standard against it.

In light of the Dominican Republic's geographic proximity and its relatively better economic opportunities compared to Haiti, the country has been the main destination for Haitian migrants. Such migration, in addition to being voluntary, could even be seen as induced on both sides of the border. Such urging has been present since the US occupation at the beginning of the twentieth century, when Haitians were urged to work as temporary sugarcane cutters in the Dominican Republic. Haitians who came for this purpose were housed in settlements known as *bateyes*. Anchored around the cane fields (Moya Pons 1986), these settlements led to the creation of small communities of Haitian immigrants throughout the country.

The hiring of Haitian laborers greatly benefitted not only the Dominican sugarcane sector but also the Haitian government, which received a payment for every migrant hired. More than a few times, during protests by the National Federation of Sugarcane Workers, I have heard people shout that "Haiti sold us like slaves" to the Dominican sugarcane industry.

### Racial Discrimination and Citizenship

Some people in the Dominican Republic do not see rude gestures, disparaging words, or insults toward black individuals who "seem to be" Haitians as acts of discrimination. Sometimes, those who commit such acts are unaware that these words, gestures, and attitudes are discriminatory, and they justify them as normal behavior, acts of "affection," or even expressions of "closeness."

---

retroactive revocation of citizenship of thousands of Dominicans of Haitian descent.

5 According to a bilateral agreement, the Dominican Republic would recruit 15,000 day laborers for the 1978–1979 harvest.

For example, in popular Dominican vocabulary, the words *moreno*, *haitiano*, and *piti* are actually derogatory ways of referring to someone with a dark complexion, of Haitian nationality, or of Haitian descent. Being Haitian in the Dominican Republic is sometimes seen as offensive or insulting, in light of the perception that everything bad emanates from blackness or Haitianess, as if being white were synonymous with good and being black synonymous with bad.

Analyzing the connection between racial discrimination against Dominicans of Haitian descent and the acquisition of Dominican citizenship is important because this has been a key issue facing this population. In a 2015 report on human rights in the Dominican Republic, the Inter-American Commission on Human Rights describes structural and intersectoral discrimination against Afro-descendants, particularly Dominicans of Haitian descent (Inter-American Commission on Human Rights 2015).

As part of the racist ideology against Haitians in the Dominican Republic, the groups that have upheld a discourse of racism, fear, and hate toward Haiti have developed political strategies to curtail the rights not just of Haitians but also of their descendants. In particular, the last ten years have seen the implementation of administrative and legal mechanisms aimed at restricting the acquisition and enjoyment of Dominican citizenship for the descendants of Haitian immigrants.

Moreover, a series of decisions and policies have shaped the process of the “denationalization” of Dominicans of Haitian descent, which culminated in Sentence 168-13 of the Constitutional Court establishing that children born to migrants under irregular conditions<sup>6</sup> between 1929 and 2007 are not Dominican nationals. This ruling was the final seal of legitimacy for a range of measures used to discriminate against and strip of citizenship a population that makes up 2.7% of the Dominican Republic’s residents. It seems that the civil registry has offered the perfect tool for restricting the rights of the children of migrants.

---

6 Under Dominican law, migrants are considered to have an irregular migratory status when their particular situation is not covered by Dominican immigration law, when they are undocumented, when they entered the country illegally or with illegal documents, or when they did not renew their paperwork after coming to the country legally.

## Administrative Measures to Restrict Citizenship

For several decades, attempts were made to pass laws and other restrictive measures preventing Haitian migrants and their children from acquiring citizenship. Figure 1 shows a letter sent to the head of the armed forces suggesting that people hired for temporary work be granted an identity document marked with the category of “foreigner in transit.”

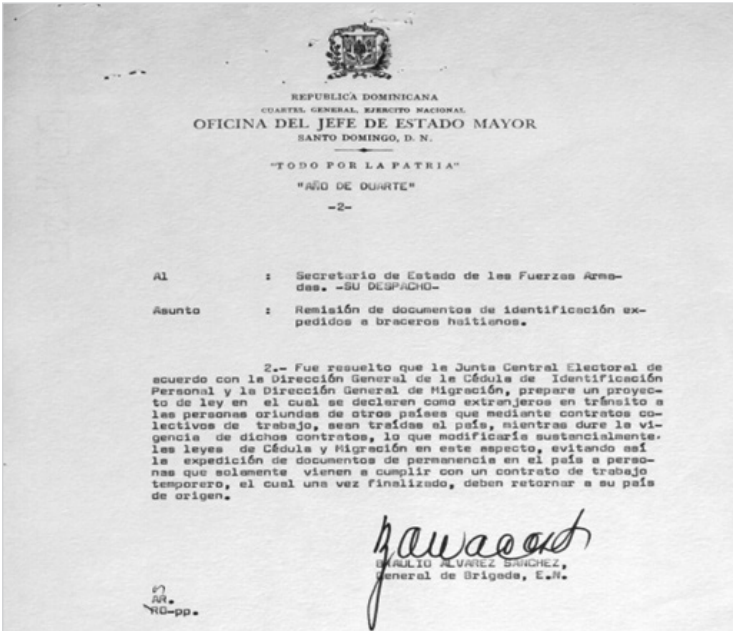


Figure 1  
Letter to the minister of the armed forces  
Source: Fondo Presidencia Palacio Nacional

Figure 2 shows a letter from 1969, directed to then president Joaquín Balaguer, warning of the danger posed to the nation if the large number of Haitians was left uncontrolled. The letter also stated that the situation was even more dire because Haitians were procreating with Dominicans, and their children would have the right to Dominican citizenship, thus “increasing the invasion” of Haitians. Since that time, the children of Haitian immigrants have been seen as a form of peaceful invasion of the Dominican Republic.

In 1996, during the administration of Leonel Fernández, ultra-nationalist groups acquired greater power within the government,

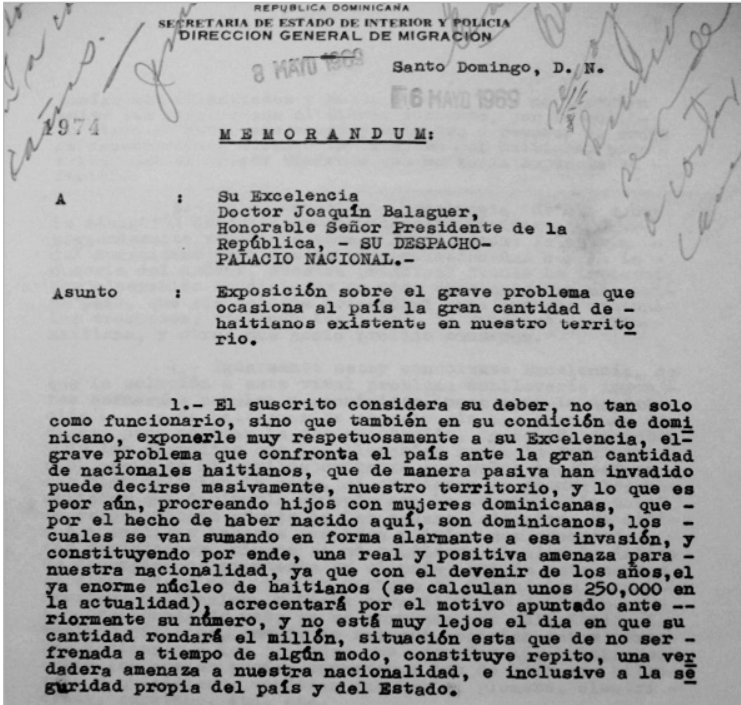


Figure 2  
Letter to the president from Manuel de Jesús Estrada Medina, undersecretary of state and director of the National Migration Office, May 1969  
Source: Archivo General de la Nación-Santo Domingo

securing strategic positions in entities such as the National Migration Office, the Central Electoral Board, and the Ministry of Foreign Affairs. They took advantage of this power to roll out their plans to limit the rights of Dominicans of Haitian descent and further restrict immigration procedures for those Haitians seeking to settle and obtain legal residence in the country.

In 1999, a group of organizations filed a claim in the inter-American human rights system centering on the government's refusal to issue birth certificates for two girls born in the Dominican Republic.<sup>7</sup> In 2005, the Inter-American Court of Human Rights issued its ruling in this case, *Girls Yean and Bosico v. Dominican Republic*, condemning the Dominican Republic for denying the girls' rights to legal personality and to nationality. Thereafter, the state not only disregarded the court's ruling—thereby ignoring

<sup>7</sup> Inter-American Court of Human Rights, *Girls Yean and Bosico v. Dominican Republic*, judgment of September 8, 2005.

the orders contained therein—but also, through the Central Electoral Board, began to implement administrative measures aimed at denying and further restricting access to citizenship for the Dominican-born children of immigrants.

In other words, perhaps as a form of retaliation, the state began to implement even more restrictive administrative procedures. One such measure was Circular 017-2007 issued by the Central Electoral Board, requiring civil registry officers to “thoroughly examine birth records before issuing certified copies of or any document related to the civil status of persons.” Moreover, it claimed that “in the past, [civil registry offices] issued birth certificates in an irregular manner to children of foreign parents who did not prove their legal status or residence in the country” and, finally, called on officials, when confronted with any such irregularities, to “abstain from issuing and signing copies of such documents and to refer any such cases to the administrative chamber [of the Central Electoral Board].”

On its face, this circular appears harmless. Nonetheless, it was utilized to deny us access to documents that we already possessed, such as birth certificates, on account of being the children of “irregular immigrants.” This administrative instrument also led to controversy within the Central Electoral Board, with some judges in favor of the tool and others viewing it as discriminatory and an overreach of the board’s power (“JCE decidirá con circular 017” 2008).

Following Circular 017-2007, the Central Electoral Board issued Resolution 12-2007, which served to cement the circular’s provisions within an administrative framework, as resolutions have greater force than circulars. This resolution ordered essentially the same actions as the circular, but this time with stronger justifications, as can be seen from its very title: “to establish procedures for the temporary suspension of state-issued identity documents obtained in an irregular manner.” The resolution is based on the discourse of modernizing the country’s civil registry, where even the World Bank has financed programs, such as the program on late birth registration aimed at reducing the under-registration of births. The “irregular” documents referred to in Resolution 12-2007 are defined as birth registrations declared by parents with irregular migratory status—essentially meaning that



the children of immigrants would not have the right to the documents that they already possessed.

These processes of modernizing and “cleaning” the civil registry have been nothing more than instruments to restrict Haitian descendants’ access to their rights as Dominicans. The processes have been based on the argument that these certificates were issued in an irregular manner. According to the Central Electoral Board, the certificates are invalid because our parents were here illegally when the documents were issued. But even if that were true, the very Dominican Constitution, prior to its reform of 2010, recognized the right to nationality under the principle of *jus soli*, or birthright citizenship. Thus, even though our parents may have been in the country illegally, the law ensured our right to citizenship.<sup>8</sup>

### Why argue that our parents are not irregular migrants in the Dominican Republic?

Most of the parents of Dominicans of Haitian descent arrived to the country under the agreements that were signed between Haiti and the Dominican Republic during the Trujillo, Balaguer, and Guzmán administrations. On January 5, 1952, Haitian president Paul Magloire signed an agreement with his Dominican counterpart, Rafael Leonidas Trujillo, concerning the hiring of seasonal cane cutters from Haiti (Páez Piantini 2007). The agreement established a course of action for both countries and for companies that hired Haitian day laborers with regard to these workers’ conditions for stay and work. Articles 5 and 6 of the agreement stated:

Art. 5. Within one month of the workers’ arrival to their destinations, the companies that have hired them shall take steps to obtain their temporary residence permit and the Dominican identity card, as well as the registration card in the Haitian consulate. The registration card shall contain the first and last names of the day laborer as they appear on the list stamped at the border.

A company’s employment of a Haitian worker who does not have, within thirty days of their arrival to the Dominican Republic, their

---

8 The Constitution that was in effect until January 2010 stated, in article 11, that “Dominicans are those persons born in the national territory, with the exception of the children of foreign members of diplomatic and consular delegations, and of foreigners in transit.”

registration card will be sanctioned with the fine stipulated for employment of a foreigner without a residence permit.

Art. 6. Companies must send to the Haitian consulate, through the Directorate General of Migration, a complete list of Haitian temporary day laborers whom they employ. Alongside each name should appear the numbers of their residence permits, of their Dominican identity cards, and of their registration cards.

On this basis, we can ascertain the obligations held by the Dominican state through the companies that hired Haitian day laborers. However, virtually none of the companies complied with their obligations to document immigrant employees. In most cases, including for state-owned companies, the companies merely delivered a data sheet containing a list of day laborers.

Another agreement between the two countries—signed on November 14, 1966, between Presidents François Duvalier and Joaquín Balaguer—reaffirmed the abovementioned conditions. But it went even further, stating in its article 8 that “workers and their families shall remain on the companies’ land parcels during the entire employment period. Any abandonment by an employee of the location indicated in the labor contract will result in their immediate repatriation. Abandonment shall be understood as the refusal, duly confirmed, by the employee to reintegrate into the company’s fields.” This gave rise to day laborers’ obligation to remain in the *bateyes* without any possibility of mobility.

It is also important to mention that the companies did not comply with their duty to arrange for workers’ return to their country after the harvest, as it was cheaper for them to keep Haitian laborers in the *batey* during the off-season. This way, they had cheap workers handy throughout the year, without the need to prepare new labor contracts, pay for transportation expenses, or cover any additional expenses other than the monthly salary.

The Dominican state directly benefitted from this arrangement, as several sugar mills belonged to and were administered by the State Sugar Council (Vásquez Frías 2013). These mills, like many others, hired Haitian laborers and allowed the workers to stay in the *bateyes* to care for and cut the sugarcane.

This is how our parents, lacking all of the documents outlined in the bilateral agreements, with just the card they were given upon their entry into the country, built their life in the Dominican

sugarcane fields. With this document, they not only received their monthly or biweekly salary but also paid their social security taxes (Pérez 2010) and were able to register the births of their children who were born in the country. Except in very few cases, these birth registrations are not fraudulent or based on falsehoods: they are acts of the Dominican state, enveloped in the principle of legitimate expectations and the presumption of legality, yet before which state officials have attempted to claim that we are “Dominicans by mistake.”

In recent years, a new migration law—Law 285-04—has conflated irregular migrants with migrants who are “in transit.” This new interpretation was upheld in 2005 by the Supreme Court. It was also embraced in a 2013 ruling by the Constitutional Court, Sentence 168-13. According to this ruling, any immigrant who is in the country in an “irregular” manner is considered to be in transit, regardless of whether that person has been there for ten days, twenty days, or twenty years—and as a result, that person’s children, if born after 1929, are retroactively denied Dominican citizenship, even if the state had previously granted it.

### **Circular 32-2011: A Worthless Piece of Paper**

I remember, in 2011, after much national-level lobbying by civil society organizations and the news of an impending thematic hearing on the issue before the Inter-American Commission on Human Rights, the Central Electoral Board tried to ease up the pressure by issuing Circular 32-2011 ordering the delivery of birth certificates to Dominicans of Haitian descent that had been suspended.

The grassroots community that had fought for this cause felt quite content upon having achieved such a victory. Many young people were subsequently able to get copies of their birth certificates, but that is all they got—the birth certificate. When they then used this as a basis to apply for their ID card, they never got the card and, in many cases, were not even allowed to apply. I remember my brother Isidro’s exasperation: “They’ve given us a bad check.” The ultimate goal, which was to obtain the ID card, was not achieved; the very Central Electoral Board that delivered the birth certificates through the civil registry offices

subsequently denied the issuing of ID cards through the Department of Identification.

The issuing of birth certificates lasted only three months. After that point, it became almost impossible for a Dominican of Haitian descent to obtain an official copy of his or her birth certificate. Thus, since 2011, there has been a constant struggle among young Dominicans of Haitian descent to get their birth certificates along with their ID cards, documents that open the door to the enjoyment of other fundamental rights.

During this time, the movement Reconoci.do—as a space for Dominicans of Haitian descent to articulate their struggle—continued to denounce the discrimination being experienced by this population at the hands of the Central Electoral Board. The movement carried out a range of activities to demonstrate to the Dominican population that these were discriminatory and racist actions (Méndez de Vigo and Cruz 2015). Furthermore, we advocated before public officials—including President Danilo Medina and the National Congress—to seek a solution to our problem (“#VigiliaJCE” 2013). Unfortunately, however, they did not heed our calls, preferring instead to say that our accusations were unfounded and that we were being paid by foreign organizations seeking to harm the country.

### **Sentence 168-13 and Retroactive Denationalization**

We spent a lot of time calling for a solution to our situation. During the entire year of 2012, the Reconoci.do movement undertook a series of advocacy activities that brought greater visibility to our struggle. By 2013, we had become nationally renowned experts on the issue of Dominicans of Haitian descent and how Resolution 12-2007 affected us. Our testimonies as directly affected individuals gave strength to the work of a variety of organizations.

At the legal level, we exhausted nearly all relevant remedies; the only one remaining was a decision of the Constitutional Court, a new judicial body created after the 2010 constitutional reform. We thought that the court, in light of its mission, would issue a judgment protecting the fundamental rights enshrined in the Constitution and that, in light of the entity’s incipient nature, it wouldn’t be tainted by bias—but sadly, we were wrong.