Sovereignty and Social Justice: The "Haitian Problem" In the Dominican Republic

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Abstract

THE ISSUE OF DOMINICAN SOVEREIGNTY with regard to the rights of those of Haitian parentage seeking to secure Dominican nationality came to the fore recently in the case of Haitian rights activist Sonia Pierre. The Dominican Central Electoral Board produced evidence that Pierre's parents obtained citizenship for their daughter, born on a sugar plantation in the Dominican Republic in 1963, by irregular means – that is, with forged documents. Legislator Vinicio A. Castillo Seman invoked the United Nations Assembly Resolution 869 IX General Assembly of 4 December 1975, Article 8, to the effect that the revocation of nationality can be justified in the cases in which it is proven that citizenship was obtained through fraud or false statements. Pierre, argued Castillo Seman, would not remain stateless as a result of the revocation, insofar as the Haitian constitution guarantees Haitian nationality to children of Haitian parents regardless of the place of birth. Confirming or consolidating Pierre's claim to Dominican nationality, he asserted, would set a dangerous precedent of jus soli, or citizenship based on the territory of birth, for all Haitians seeking to obtain Dominican citizenship through similar channels.

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Inequality and Stratification | Latin American Languages and Societies | Politics and Social Change | Race, Ethnicity and Post-Colonial Studies

Comments

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Sovereignty and Social Justice
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EUGENIO MATIBAG AND TERESA DOWNING-MATIBAG

Introduction

THE ISSUE OF DOMINICAN SOVEREIGNTY with regard to the rights of those of Haitian parentage seeking to secure Dominican nationality came to the fore recently in the case of Haitian rights activist Sonia Pierre. The Dominican Central Electoral Board produced evidence that Pierre’s parents obtained citizenship for their daughter, born on a sugar plantation in the Dominican Republic in 1963, by irregular means – that is, with forged documents. Legislator Vinicio A. Castillo Seman invoked the United Nations Assembly Resolution 869 IX General Assembly of 4 December 1975, Article 8, to the effect that the revocation of nationality can be justified in the cases in which it is proven that citizenship was obtained through fraud or false statements. Pierre, argued Castillo Seman, would not remain stateless as a result of the revocation, insofar as the Haitian constitution guarantees Haitian nationality to children of Haitian parents regardless of the place of birth. Confirming or consolidating Pierre’s claim to Dominican nationality, he asserted, would set a dangerous precedent of jus soli, or citizenship based on the territory of birth, for all Haitians seeking to obtain Dominican citizenship through similar channels.

Allowing citizenship based on forged documentation would send the wrong message of “Entren to”, said Castillo Seman, using the phrase coined by legislator Ramón Alburquerque: “Open the gates, all are welcome.” He emphasised furthermore that “Mrs Pierre, her defenders and powerful nations (that do not want a single Haitian in their own vast territories), want to abolish, diminish and contract our laws and our sovereignty to draft immigration
policies. They want to claim, as they have been claiming, that anyone who can cross the border, be born or say they were born here, that Haitians can obtain their nationality with fake statements through forged declarations and with the last names of Dominican parents.” Haitian immigrants in Florida, Castillo Seman pointed out, do not enjoy such privilege; why should they in the Dominican Republic? To allow such to happen on Hispaniola would be to “officialise” an illegitimate means of obtaining Dominican nationality and would lead to grave widespread consequences.1

What Castillo Seman did not include in his statement, however, is reference to the barriers to achieving legal status for Haitians living in the Dominican Republic that make it difficult to distinguish between those who are Dominican-born and have a birthright to such status and those who are truly living there in transit, either because they have temporary work permits or are working in the underground economy. As we shall elaborate further on, these barriers to legal status have included the following: a) the refusal of the Dominican government to acknowledge the legitimacy of birth certificates that it issued to Dominican-born Haitian children in the past; b) the refusal of the Dominican government to issue birth certificates to Dominican-born Haitian children in the first place; c) the charging of exorbitant fees for birth certificates, which are nearly impossible for Haitian or Haitian-Dominican families to afford; and d) the forcing of persons of Haitian descent out of the country through mass deportations that disallow time for gathering their belongings, including papers that might provide evidence of legal documentation. It is for these reasons and partially in response to pressure from the Inter-American Court of Human Rights that the vice-president of the Dominican Supreme Court of Justice ruled in Pierre’s favour in 2007. At issue here is not whether Pierre’s documents were originally forged, but that the Dominican government had an interest in declaring them illegitimate so as not to set a precedent for granting legal status to Dominican-born persons of Haitian descent.

Despite the Inter-American Court of Human Rights’ ruling, children of Haitian descent born in the Dominican Republic continue to face discrimination in birth registration practices and barriers to citizenship.2 The ruling in favour of Pierre did not reflect a change in the government’s stance on these matters. The attempt to revoke her citizenship, rather, had been related to political intentions to prevent birthright citizenship to children of Haitian
descent. In fact, in 2005, the Dominican constitution had been altered to specify that citizenship may not be granted to the Dominican-born children of Haitian workers, as these workers living in the country are classified as “in transit”. In an interview with the *Boston Globe*, Ivan Penna, director of Haitian migration at the Dominican Immigration Department, said, “We are not violating their human rights. The constitution says they are in transit. They aren’t Dominicans.”

While there might be grave and widespread consequences to any country that is unable to effectively regulate immigration, as Castillo Seman suggested, there is evidence that the Dominican government’s policies are associated with critical barriers to the wellbeing of individuals of Haitian descent living within its territories, regardless of their immigration status. According to Amnesty International, even Haitians who have secured legal rights to live in the Dominican Republic are at risk of racially and politically motivated discrimination. They are arbitrarily deported, mistreated by employers in the formal and informal economy, and subjected to forced labour in the service, construction, and agricultural sectors. Sometimes, extremely poor Haitian children are sold as domestic helpers to Dominican families and must work beyond their primary school years to pay off their families’ ‘debt’ to their patrons. Such children, called *restaveks*, are allegedly sometimes sexually exploited by adult heads of households, seldom permitted to go to school, and suffer chronic health problems as a result of inadequate care and nutrition.

Sovereignty, social justice, and human rights

In the general treatment of Haitians who live in Dominican national territories, it is clear that national sovereignty and social justice are two principles at odds with one another. In other words, the Dominican Republic’s efforts to enforce its sovereignty conflict with internationally recognised principles of social justice with respect to its relationship with Haiti. While the Dominican government does have the right to designate the privileges of citizenship according to its constitution, its claim that Dominican-born children of Haitian immigrants do not have these privileges threatens these children’s capacity to achieve a productive adulthood. Their access to education, health care, public services, civic participation and legal representation are compromised
due to their lack of legal standing, and they are thus denied what the United Nations Human Rights Convention calls equality in dignity and rights.  

The tension between sovereignty and social justice has been highlighted by events surrounding Haitian immigration which have been noted by the media and have come to the fore since the Sonia Pierre case of 2007. We frame our examination of these events within a broader discussion of the theoretical construct of sovereignty. We then will explore the grounds on which the nation-states of Hispaniola, but especially the Dominican Republic, and other influential actors on the global setting could elaborate a new concept of interdependent nationhood based on internationally recognised principles of social justice.

It seems plausible to surmise that, in order for principles of social justice to have any relevance, the powerful notion of national sovereignty will have to be expanded to recognise the interdependence of “the new economic and cultural zones within and across nations” in an increasingly globalised world. For if the defence of Dominican sovereignty continues to compromise Haitians’ rights to humane and fair treatment and due process, the potential to realise the full benefits of interdependence within Hispaniola will be diminished. Although limited opportunities in the Dominican Republic do serve as a much-needed stopgap solution to Haitian unemployment, Haiti will remain underdeveloped and tensions between the two countries will escalate and de-escalate according to the vicissitudes of the global economy as long as this definition of sovereignty prevails. The ability of employed Haitian families living in the Dominican Republic to achieve intergenerational mobility, furthermore, will be negligible.

The implicit corollary of the principle of belonging to a sovereign state presents itself in the issue of what to do with those residents who are assigned the status of non-citizens, whether they be visitors or resident ‘aliens’, and the related issue of who has the right to decide their fate. In an era of global interdependence, the issue of what to do with such non-citizens is especially salient, as their conditions of life affect those of citizens themselves. When non-citizens have inadequate access to health care, for example, they might incur illnesses that endanger citizens, or when non-citizens do not have rights to education, they might raise generations of children within the country who become part of a permanent underclass. Such is the case of the residents of bateyes of the Dominican Republic, the plantation compounds where deeply impoverished
sugar workers and their families, most of Haitian descent, live in barrack quarters plagued by squalor, disease and illiteracy.\textsuperscript{9}

In the case of political entities such as in the Dominican Republic, furthermore, the underlying concept of legitimate sovereignty is open to contestation not only by citizens but also by global actors who have an interest in the way inter-state relations affect the wellbeing of citizens and non-citizens alike. Foremost among these global actors are entities such as the United Nations, the International Labour Organisation, and the Inter-American Court of Human Rights, all of which have an interest in and wield some influence on differends over social justice that impact individuals, regardless of their territorial or national affiliations. Also among the global actors are the leaders of sender nations, in this case Haiti (and in similar cases other impoverished countries), who might question how a receiving country enacts its sovereignty when they perceive its leaders and people disrespecting the rights of its citizens-in-transit.

The Dominican Republic finds itself in an untenable situation because, although its economy’s dependence on cheap Haitian labour is apparent, the Dominicans will tend to express anger and even fear at the idea of hundreds of thousands of poor Haitian migrants in search of scarce jobs and resources. Racial biases and ethnic prejudices rooted in a history of conflict between the two countries, in which the peoples of each nation have engaged in egregious and inhumane acts against one another, also colour Dominican perceptions of the Haitian ‘other’. As such, the legitimacy of Dominican leaders’ rule is consistently questioned by Dominican citizens wary of greater Haitian infiltration into their economy and society, by persons of Haitian descent denied access to resources and equal rights, and by international governance entities demanding compliance with universal human rights principles.

According to David Robertson, the term sovereignty “entirely refers to the ideas of independent rule by a country or institution over a certain territory or set of political concerns”. Tied up with this concept of independent rule in Robertson’s definition is the legitimacy of rule, wherein the right of national authorities to govern the activities of its citizenry derives from the will of the people.\textsuperscript{10} This legitimacy invested in the rulers accords with the tenets of social-contract theory,\textsuperscript{11} in that the delegated rulers of a state may lose their legitimacy if they act in a way that offends or violates the rights of those they serve. Under the crossings of globalisation, however, questions arise as to
whom national leaders serve, which international authorities may impose their will upon any given nation, and whether any nation’s social contract is with citizens only or also includes non-citizens. Questions arise, moreover, as to the rights and limitations of non-citizens who live among the citizens of sovereign territories.

Unfortunately, the Dominican government has performed its sovereignty in a manner as unwieldy as a horse held by the reins of multiple masters, while Haitians’ lives have been torn asunder in the turmoil. In this global era, the general tendency is for leaders to maintain their power through the approval of their citizenry; in the case of Dominican leaders, such approval requires a show of solidarity against and resistance to the presence of Haitian communities. This resistance, as we shall see, has often involved attempts to eliminate Haitians from Dominican territories and elicited global outcries in the name of human rights, by both international courts and human rights organisations.

Statelessness and deportation of Haitians from Dominican territories

In a 21 March 2007 press release, Amnesty International reported cases of people of Haitian origin deported from the Dominican Republic without due process. The government authorities had expelled, according to the human rights organisation, from 20,000 to 30,000 Haitians per year; even those that “look like Haitians” were deported, whether or not they had legal residency. Some half a million Haitians were then working in the Dominican Republic, according to the report, while the US State Department put the numbers of undocumented Haitians as high as 650,000–1,000,000. According to Gerardo Ducos, Amnesty International researcher, “From the workplace to the streets, Haitian migrants living in the Dominican Republic are at the very bottom of the social ladder. They and their Dominican-born children are being denied the most basic rights before the eyes of the Dominican state and society.” Found in the construction and agricultural sectors, not to mention the growing tourist industry, Haitian labourers are the country’s largest and most vulnerable minority population.

The mass deportations carried out in the absence of judicial oversight occur along with the denial of Dominican citizenship to large numbers of Domini-
Hundreds of thousands of Haitians live illegally in the Dominican Republic, fleeing the severe poverty in their homeland. Since the devastating earthquake in January 2010 and then a cholera outbreak, Haitians have been crossing the border in even greater numbers.
can-born children of Haitian parentage. Both of these practices obey what is dictated by the dominant ideology of Dominican antibaitianismo, an ideology that masks the real character of socioeconomic inequality in Dominican society by turning Haitians into scapegoats and the social ‘others’ of the Dominican citizenry. In speeches of election year 1996, Dominican leaders appealed to the ingrained sentiment of antibaitianismo among the voters. On Independence Day, 27 February, President Joaquín Balaguer on national television voiced support for cooperation, but not unification with Haiti, stating that its citizens belong to “another etnia”; and although the two countries of Hispaniola had shared “152 years of history”, and ways of collaboration should be sought – nonetheless, insisted Balaguer before the Dominican congress, “Cada quien debe vivir en su propia casa (Each should live in their own house”).

Throughout this history, the antibaitianismo ideology has served to justify an ongoing programme to minimise the Haitian presence in Dominican society, and above all to physically remove Haitian bodies, of those identified as Haitian, from Dominican national territory. In the aftermath of the 2010 Haiti earthquake, this policy has not yet changed, even though the Dominican Republic was the first country to give aid to Haiti following the disaster and opened its hospitals to Haitian patients. Despite the improvement in relations signalled by this assistance and the suspension of deportations in the months immediately following the earthquake, Dominican authorities resumed roundups of illegal immigrants in January 2011. Hundreds of Haitians were deported in this sweep, which involved checkpoints that were established in various sites around country, including the roads in the outskirts leading into the capital; those without proper documentation were forced onto buses that took them to the border. Dominican officials stated in justification of this action that illegal immigration had increased since the earthquake, and with it the threat of cholera. Said Director of the Department of Migration Sigfrido Pared Perez, “We are trying to strengthen our immigration controls to prevent Haitian citizens and people of other nationalities from illegally entering our territory.” He stressed the point, “In no case have we violated anyone’s human rights.”

The facility with which the Dominican Republic can remove Haitian bodies from its territory is eased by residential segregation, such as occurs in the bateyes and similarly impoverished residential areas. Residential segregation allows the Dominican police and military immediate oversight of thousands
of persons of Haitian descent. Such de facto segregation prevents the assimilation of persons of Haitian descent into Dominican society, likely sustaining the ‘we’ versus ‘them’ mentality that lies at the heart of antihaitianismo.

The fact that Haitian migrants do not even with passports, visas and work permits tend to escape mass expulsions indicates that even those with the legal documentation qualifying them to live in the country do not integrate into Dominican society. According to Jesuit Refugee Services, the deported commonly and frequently include the Dominican-born, as even they are kept segregated from the social mainstream. This same Jesuit-sponsored agency has denounced the deportations as violations of the national migration law on repatriation (No. 285-2004), the 1999 Dominican-Haitian Protocol of Understanding, and Article 22.9 of the American Convention on Human Rights (ACHR). At minimum, according to the Protocol of Understanding of Repatriation Mechanisms, which was agreed upon by both countries in December 1999, the deportations of undocumented residents are to be respectful of human rights, occur within reasonable hours of the day, and should allow deportees the opportunity to keep their personal documents. Cases of this agreement being broken, however, are both frequent and tragic.

In March 2007, Amnesty International detailed the case of one Matilde, an eight-year-old girl of Haitian descent, who in January 2004 was apprehended by Dominican authorities on the assumption that she was Haitian and detained overnight as an “irregular migrant” without means to contact her parents. Her brutal treatment included being slapped twice in the face, causing her mouth to bleed. A local human rights organisation prevented her deportation by proving that she was born in the Dominican Republic and thus had the legal right to live there.

Also in recent years, the government began to require all residents to carry the identification card called the cédula. One adult Dominican-born individual of Haitian parentage who lacked a birth certificate and the cédula was forty-two-year-old Eduardo. His four Dominican-born children were unable to obtain cédulas as well, due to the financial obstacle to securing the necessary documentation. The application alone for a birth certificate, with no guaranteeing of his obtaining one, would have cost Eduardo a fee of US$147, an amount that exceeded his family’s income for a month. As in the case of Matilde, such Dominican-born individuals of Haitian origin lacking birth certificates are not allowed access to the necessary civic, cultural, economic,
or social resources to facilitate their becoming independent, self-sustaining members of society. Their education is stunted by prohibitions against their taking classes beyond the primary levels, and their civic and political efficacy is stymied by prohibitions against their obtaining the identity card that would enable them to vote or secure jobs in the formal economy.  

During March 2007, the Dominican government did bow to international pressure in granting compensation to two girls of Haitian origin to whom it had denied citizenship. One of the girls, who was of legal age, was set to receive a compensation of US$8,000 and an additional US$6,000 for legal fees. The compliance with the ruling issued by the Inter-American Court of Human Rights on 8 September 2005 surprised the public, as it occurred in the wake of President Leonel’s announcement, made earlier in the month in Puerto Rico, that the Dominican government would not make the compensation. Nevertheless, the reason given for the denial, that the girls’ parents had failed to satisfy the requirement for late registration, reflected the spirit of the government’s concerted efforts to refuse citizenship to Dominican-born children in similar situations.  

Subsequently, in order to assure that compliance with the Inter-American court did not establish a precedent for granting citizenship or compensation to children in similar situations, the Dominican government altered its constitution. In the year of the Inter-American Court’s verdict, 2005, the constitution was changed so that persons of Haitian descent living in the Dominican Republic would be considered living in the country “in transit”, and therefore ineligible to present their children as candidates for citizenship. A consequence of this action, of course, was to assure the continued exclusion of those of Haitian origin from integration into Dominican society.  

More recently, the United Nations Commission on Human Rights (UNCHR) has asked the Dominican Republic to grant one-year multiple entry visas to Haitians who must travel back and forth between Haiti and the Dominican Republic in order to visit loved ones whose earthquake-related injuries were severe enough to require care in Dominican hospitals. As of May 2010, however, only six such visas had been granted, and whether or not the Dominican Republic will offer additional multiple-entry visas to Haitians whose families have medical or other humanitarian needs remains to be seen.
Backgrounds to anti-Haitianism

It is known that throughout their shared history, the two nations that occupy the island of Hispaniola have sustained an often antagonistic relationship with one another. The processes of colonisation on Hispaniola have established a pattern of conflictive nationalisms between them, with Haiti and the Dominican Republic each defining itself in relation to the insular other. The emergence of conflicting yet complementary ‘creole nationalisms’ has shaped a legacy of defensive sovereignty legitimating governmental control over immigration, residency, and access to the financial, educational, and medical resources of each country. This legacy has established the basis on which exclusions and denial of resources can be made to those deemed as ‘foreign’.

In spite of the designated ‘foreignness’ of one country to the other, mutually drawn arrangements regarding issues of labour, migration, citizenship, and other matters have of necessity been negotiated. One of these intra-insular dispensations has resulted in thousands of Haitians making their way to the Dominican side to take up the backbreaking toil of cutting cane. In an earlier period, the Haitian government made a tidy profit on this transfer of human labour units: for each fifteen days of work, Dominican officials sent one dollar to the Haitian embassy in Santo Domingo. So, in exchange for cheap labour, poor Haitians were better able to survive the ravages of poverty and unemployment, and the Haitian government was better able to fund its offices. The Dominican Republic no longer offers money to the Haitian embassy in exchange for labour, however, because the vast numbers of Haitians attempting to cross the border for work do not require such expense. Across the growing tourism industry, in a construction industry that has been booming in a diversifying economy, in the domestic realm and in agriculture, Haitian migrant workers fill positions at the lowest rungs of the Dominican economic ladder. And the positions that they fill help to ensure the stability of that ladder, similar to situations in other more developed countries around the world, for better or worse, where immigrant workers’ cheap labour serves an important economic function.

The economic and physical hardships to which the Haitian migrant workers have been subjected in Dominican workplaces have been well documented and thus serve as evidence of the low levels of investment in their livelihoods. Particularly compelling is the lot of the children of migrant workers, such as
the children interviewed in 1991 by the Lawyers’ Committee for Human Rights at the Batey Duqueza, Ingenio Rio Haina. Child labourers, aged from eight to sixteen years, “told of twelve-hour days of hard and dangerous work, of compounds without schools, electricity or running water, of payments with vouchers that could be redeemed only the company store, which automatically reduced the face value of those vouchers by 20 percent”. Health care and potable water in the bateyes are also often lacking. Workers may lose large portions of their earnings at gambling houses called bòlès, set up by batey owners apparently with this end in mind.

Dominican responses to international criticism

In 2007 the documentary film Slaves in Paradise which highlighted such conditions was released in Paris, and created a firestorm of denunciations – and counter-denunciations. The Dominican government protested the depiction of its country’s treatment of the migrant workers and the “anti-Dominican” defamation campaign of which the film allegedly formed a part, causing both the French embassy in the Dominican Republic and Amnesty International to distance themselves from the film.

An interview with activist Sonia Pierre, conducted in the Dominican Republic by Robert Bénodin in April 2007, clarifies some of the issues raised in this controversy. In the interview, Pierre related that she was born in the Dominican Republic, at the Cataray batey. She began her work on behalf of the Haitian braceros at the age of thirteen or fourteen, when she served as an interpreter for them in the bateyes and became aware of the inhuman conditions under which they lived and laboured. After founding the Movement for Dominican Women of Haitian Descent, Pierre went on to establish the Dominican-Haitian Cultural Centre, one of the organisations out of which advocates for the braceros could make their denunciations and file their claims to the Dominican government. Pierre told of crimes committed against Haitians, including assassinations, which have gone unpunished. On a regular basis, said Pierre, Haitians are deported before they are given their salaries, making room for new imports of Haitian labourers. On the campaign of the Dominican government to remove Pierre from the country, she said that it
attempted to declare her citizenship void, claiming that her birth certificate was falsified.

On the issue of Dominican citizenship of Haitian-descended people, Pierre detailed her project of bringing to the International Court of Human Rights (located in Costa Rica) the case of the two girls mentioned in the previous section, both of the second or third generation of transplanted Haitians in the Dominican Republic. The case, again referred to in the Inter-American Court of Human Rights ruling on 8 September 2005, had to do with fundamental human rights to access to the resources that would allow Haitian migrant workers and their descendants to leave the bateyes and assimilate into Dominican society. As attested by Pierre in the same interview,

A great effort has been made to claim nationality. We are about to go to school. In the Haitian-Dominican community, one can find today lawyers, doctors, professionals in all branches of education. Each day brings more Haitian teachers, children of Haitian descent born in the country who work in the schools; this means there is a community that is about to move forward. For fifteen years, they’ve been trying to take certain measures not to give to children born of Haitian parents a birth certificate. For that reason, we’ve been having a case before the International Court. This case has been dragged for eight years in the courts, before winning the battle in the International Court. This [legal] battle not only benefits these children, but the International Court has also ordered the Dominican government to regularise the birth certificates of all children found in the same conditions, to open schools’ doors to all these children, and that continues to happen. The International Court ordered the Dominican government to publish their decision in a newspaper of national circulation in order to inform parents of these children about the measures adopted in their favour, that legal reforms be made to allow parents to register their children in school. Another paragraph declares that the condition of parents cannot determine the children’s nationality. If the parents are undocumented, the children born in the country cannot be undocumented themselves.

When this decision was pronounced, there was a protest. We were being accused of bringing the country before the International Court, that we had a plan to throw on the Dominican Republic all the weight of Haiti’s problems – a country that is not viable, a narcotic state. This has created a great confusion in the spirit of the Dominican people. It has forced us to initiate an explanation campaign concerning first the fact there was an internal process taking place, and it’s not about going to the International Court but rather to the Regional Court to which all Dominicans have access.26
The international attention brought to this case did not, however, change the Dominican government’s stance. Following the victory of Pierre’s organisation, the government, as mentioned earlier, changed its constitution to prevent access to citizenship among children of Haitian descent who are born in its territories, and it launched its campaign to deport and otherwise discredit Pierre. It also declared that the children of undocumented Haitians are not undocumented themselves, but rather citizens of Haiti who must, by all practical means, secure their birth certificates from their parents’ country of origin. The constitutional change, furthermore, gave the Dominican government the right to declare as illegitimate previously issued (Dominican) birth certificates to Dominican-born children of Haitian origin.

On the occasion of another documentary debut, defenders of the Dominican policy affecting Haitians denounced what they called an international campaign of propaganda aimed at improving the lot of the Haitian migrants while degrading the international image of the Dominican Republic. In May 2007, Dominican columnist Orlando Gil referred to the release of the film The Price of Sugar, pointing out that the film focuses on the plight of Haitians in the Dominican Republic, but not on the plight of Haitians in Haiti, and thus repudiating the demand that the Dominican Republic be held accountable for Haiti’s failings. In a Listin Diario interview, Gil launched his counteraccusations of a plot against his country, one that would discourage both tourism and foreign investment in the name of human rights. Gil asked, “How come Haiti itself does not garner the solidarity as a nation that the Haitian migrants to the DR have secured?” He continued, “There are still people who have not awakened and noticed that this is a well-orchestrated conspiracy, and while occasional hysteria does not resolve matters, when protests take place here, meanwhile the lies are spread abroad.”

Other defences of the Dominican government’s policy toward Haitian immigrants included an editorial appearing in March 2007 in the daily newspaper Hoy which denounced what it called an alliance between Amnesty International and the mayor of Paris, Bertrand Delance, for their joint criticism of Dominican treatment of Haitians. “France,” stated the editorial, “if perhaps Delance has forgotten, enslaved Haiti in the most cruel manner.” It continued:

For a change, the Dominican Republic has been since then where Haitians come to reduce the penuries that the French left in that country. They come to work in farm-
ing, construction and street sales and send their savings home . . . The French
community knows that France has much responsibility for the calamity in Haiti,
but refuses to accept that past and looks the other way, as do other economic powers
. . . And [Amnesty] International is not concerned with the situation of Haitian jails
nor whether human rights are respected in Haiti, and is even less capable of request-
ing that France honour its historic responsibility in the luck of Haiti. 29

In a May 2007 interview with Listin Diario, Dominican ambassador to
Colombia Julio Ortega Tous stated that his country does not “have the
resources to carry Haiti’s social burden”. All must acknowledge, he asserted,
the basic fact that 80 percent of Haitians live in dire poverty. He furthermore
suggested the need for something greater than a “Marshall Plan” for Haiti,
emphasising that such a programme of national rehabilitation could include
projects of large-scale reforestation and the distribution of propane gas to the
Haitian people. This effort would be aided by the establishment of a devel-
opment fund for Haiti, to be managed by the United Nations Development
Programme and the International Development Bank, along with Haiti’s
government. 30

Ortega Tous’ comment echoed the publicised statement of Chief of Immi-
gration Carlos Amarante Baret, criticising an Amnesty International report
on the status of Haitians in the Dominican Republic as a part of an interna-
tional campaign against Dominican sovereignty. Amarante Baret observed
that the report did not take into account the Dominican Republic’s role in
receiving Haitian migrants when no one else has welcomed them, and how
his country had helped to stave off a total collapse of Haitian society by absor-
bing large numbers of Haitian migrants. 31

Dominican questioning of what have been called foreign interventions in
the matter was also expressed in response to the case of the Dominican
government’s Presidential Council on AIDS (COPRESIDA), composed of
twenty-five international delegations, including one sent by the United States
Congress. Charged with “combating the spread of the disease in the sugar
cane settlements called bateyes”, the council registered the concerns expressed
by the US delegates on the living conditions of the batey residents in general.
Dominican labour minister José Ramón Fadul denounced this intervention
as what he called an attempt on the part of the US government to discredit
the Dominican Republic and interfere in its handling of the Haitian problem.
Vice president Rafael Alburquerque referred to the mistaken assumption on the part of the USA that all those born on Dominican territory have automatically gained the right to Dominican citizenship, insisting that, first, no other country has the right to tell the Dominican government how to administer its national affairs; second, no other country has the right to decide who is to be granted Dominican nationality, a right belonging solely to the Dominican government; third, the Dominican Supreme Court in December 2005 had determined on constitutional grounds that Dominican citizenship could be given only to those born in the Dominican Republic to legal residents.32

In October 2007, PRSC president Federico Antún Batlle denied the existence of anti-Haitian discrimination in the country after the visit to the Dominican Ministry of Foreign Affairs of UN observers who had come with a mission to investigate charges of discrimination and racism. Antún Batlle stated that the Hospital Cabral y Báez of Santiago accommodates the Haitian mothers who come to give birth, at a rate of eight or more per day; and that public education up to the fourth grade is available to all without regard for nationality.33

Meanwhile, as recently as April 2011, Sonia Pierre told PBS’s Need to Know programme that lack of documentation did not matter to the Dominican authorities in deciding who was being sent back to Haiti – only the appearance of being Haitian: “They’re deporting people who’ve lived all their lives here and sending them back to Haiti. There were born here – children without their families, mothers with their newborns – sending them to a country they’ve never lived in . . . They don’t ask for a document. If they think you look like you could be Haitian, you’re getting on the bus. It’s that simple.”34

Sovereignty as a claim of the nation-state

At stake in these polemics, as evident in the preceding samplings, is a question of sovereignty as a national government’s claim to the right of “independent rule” over the nation, a claim that deserves examination in the light of political and humanitarian principles. As Benedict Anderson argues in his book Imagined Communities, the phenomena of nation and “nation-ness” emerged from
the confluence of “historical forces” by the end of the eighteenth century, but they, as “artefacts”, took on thereafter a “modular” manner of being, susceptible of being transplanted and reworked within a “wide variety of political and ideological constellations”. What, we should ask, becomes of the national “module”, which originated in the Western European context, when it is transposed to a particular postcolonial situation of transnational interdependency? Under what conditions should this model be reconsidered? Furthermore, is it already being reframed by countries, such as, for example, those in the European Union, which see an interest in international political, social, and economic cooperation?

In Anderson’s influential theory, the nation is conceived more fundamentally as “an imagined political community” – one that is “imagined as both inherently limited and sovereign”. “It is imagined”, continues Anderson, “because the members of even the smallest nation will never know most of their fellow-members, meet them, or even hear of them, yet in the minds of each lives the image of their communion.” In a related reflection, Rafael emphasises that one’s identification with the nation, or one’s belonging to or membership in a nation, “draws on the vocabulary of filiation”, which connects the self with both ancestors and posterity. As such, imagined communities are not merely given: they are produced through social interaction, and culture and genealogy participate in producing and reproducing them, in creating their style and in legitimating or critiquing their relations of power.

Anderson sees in exemplars of “nations” one central paradox: that of their assumed naturalness or “timelessness”, paired with the historical fact of their recent invention. These notions, concerning both the mystique and historicity of “nation-ness”, suggest that the constitution of the “nation” may be studied critically; that the ties of national filiation may be rediscovered under a different “genealogy”; and that the national community can reinvent itself – and the articulation of its sovereignty – possibly under the humanitarian principles of social justice.
Toward resolving the contradiction between sovereignty and social justice

In the multi-ethnic nation conceived as imagined community, claims of legitimacy based on constitutional design and jurisprudence with regard to a community of citizens come into conflict with the expectation that social justice be dispensed to all members of the community inclusive of non-citizens. The division structures a system of virtual apartheid. Social justice in abstract terms entails equity and fairness in distribution; it is a foundational matter of “economic organisation” and the sort of justice that obtains interpersonally, in the “benefits and burdens of common existence”.38 With its concern for distributive fairness, social justice constitutes a framework inclusive of the requirements of justice legally defined, but also accounts for the manners in which economic inequality may be linked with structural inequities in treatment sanctioned under judicial systems. It is this concern for inequities in treatment that undergirds the Universal Declaration of Human Rights and the work of international human rights organisations that advocate for the dignity of all persons, regardless of their territorial affiliations.

In the context of the Dominican Republic, the call for a more humanitarian orientation toward social justice would claim as legitimate the acknowledgment of the “common existence” of those belonging to the insular system of Hispaniola. In other words, such an orientation would call for the Dominican government and people to recognise their nation’s ties of common interest with Haiti and to reshape their sense of “nation-ness” and sovereignty-based claims in more inclusive terms. For in the absence of such a union, what we will likely see is a continuation of the type of “international anarchy”39 that has characterised Dominican-Haitian relations from the eighteenth century until the present. Indeed, under increasing pressures by international human rights organisations, stoked by criticisms in such documentaries as The Price of Sugar and Slaves in Paradise, and in response to denunciations proceeding from other sovereign nations, the Dominican government may feel driven to seek an alternative to its insularity for the sake of maintaining international respect and with regard for its sovereign autonomy.

A key piece in the solution to the Haitian immigration dilemma would involve an immigration policy that acknowledges the economic contributions of Haitian workers and their offspring to Dominican society and legitimates
their human rights. Such a policy would invariably recognise the economic interdependence of the two countries and facilitate a more inclusive approach to sovereignty.

Should it enter into a more collaborative economic union with Haiti, as the current global economic might encourage, the Dominican Republic could relinquish a portion of its independent rule, as seen in the case of Western European states which accepted a partial loss of autonomy in order to meet the requirements of membership in the European Union (EU). In the case of the EU, the sovereignty of national governments was diminished in effect by states’ concessions to other states within an integrated system, and particular nations’ claim to independent rule became dependent on the recognition of and respect for their sovereignty by other sovereign nations. The enlightenment principle of dominion which had replaced the one based on divine right and dynastic rule prepared the way for this transition, for it recognised the pluralism of possible claims to legitimacy among the nations of the world. Although Anderson theorises that the limits of the nation mark its boundaries and differences with other nations under the rationalist concept of sovereignty, what we see in the case of Western Europe is a reconstruction of the concept of sovereignty to include notions of similarity and interdependence. It should be recognised, of course, that the vast imbalance in wealth and development between the Dominican Republic and Haiti will not soon permit the degree of cooperation that we have witnessed in Western Europe. Indeed, the Dominican Republic alone does not have the necessary resources to address the human deprivation experienced in Haiti. The opportunities do exist, nonetheless, to foster more humanitarian and civil relations between the countries, should the Dominican government openly acknowledge the benefits of its country’s economic interdependency with Haiti. There is also a tremendous need for more economically stable nations across the world to partner with the Dominican Republic in investing in Haiti, particularly in the aftermath of the 2010 earthquake.

Cross-cultural signs prefiguring future economic collaborations have already appeared, and their implications for human rights and political concessions need to be developed. Among the symbols of trans-border cooperation are the frontier communities and markets situated in the Haitian-Dominican borderlands, in which the Haitian gourde is commonly exchanged for the peso. Foremost among these indicators, of course, remains the mutual
interdependence of the Haitian and Dominican economies on the seasonal or occasional employment that Haitian migrant workers obtain in the Dominican construction sites, cane fields, tourist hotspots, and other service sectors. In both societies, significant advances in human rights and civic inclusiveness could be fostered, and this could begin with the Dominican government building the case to its citizenry that the humane treatment of Haitian workers is beneficial to the country’s social and economic wellbeing. The government could argue that the civil and humane treatment of Haitian workers, for example, would lessen crime, improve public health, enhance cultural exchange, and promote international interest and investment in Hispaniola as a unified region.

Similarly, the demand for national sovereignty and the need for transnational labour could be harmonised in the Dominican manufacturing free zones, some of which are situated in the Haitian-Dominican borderlands. Free zones account for some 70 percent of Dominican exports and currently provide 115,000–130,000 jobs. The country’s largest apparel manufacturer, Grupo M, which is also the largest in the Caribbean and Central American region, has employed 2,600 Haitians and planned to complete construction on its Codevi Industrial Park in the bordertown of Ouanaminthe. According to Grupo M president Fernando Capellán, who is also president of the Dominican Free Zone Association, the park facility, whose thirteen buildings were to be constructed in phases, will generate ten thousand more jobs in five years. Capellán is cited as pointing out that a significant portion of the wages earned by the Grupo M employees returns to purchases in the Dominican bordertown of Dajabón, which is one kilometre away from Ouanaminthe (Haiti), and that such employment helps to stem the influx of Haitian labour into the Dominican Republic.41

In the free trade zones, transnational labour is contained within, not integrated into, the Dominican economy, and the serious questions regarding human rights that have been raised there are somewhat distinct from those of citizenship or civil status in the wealthier country. Although themselves sites in which exploitation and abuse take place, the zones could provide a model of transnational labour for Dominican citizens to consider without feeling as threatened by that labour’s claims to Dominican resources. Since many Dominican citizens themselves work abroad, the government could engage the country in a dialogue that encourages Dominicans to consider the plight
of these workers-in-transit from the more global perspective in which they themselves are implicated. The zones could also provide opportunities for Haitian labour to develop mutually respectful relationships with Dominican citizens, through their small-scale economic interactions in the communities surrounding the free trade zones. Such relationships could also help to ameliorate anti-Haitian sentiment, especially if the government seeks to positively alter the public’s consciousness regarding Haitian workers’ contributions to their economic resources.

Importantly, efforts to harmonise the demands of national sovereignty with the need for transnational labour have been demonstrated through the Dominican congress’s approval of the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008 (HOPE II). The act includes the provision that permits increased importation of Haitian apparel into the Dominican Republic and the development of programmes for outsourcing Dominican apparel manufacturing to Haitian industries, to take advantage of the cheaper labour of the apparel manufacturing sector for later value added processing in the Dominican Republic. This act could be amended to recognise the human rights of Haitian labour, as these rights are delineated by the various international entities (United Nations, International Labour Organisation, Amnesty International, etc.) mentioned throughout this article.

**Beyond economic conciliation**

The two countries of Hispaniola can and should explore the possibilities offered by joint citizenship, an arrangement enjoyed by numerous Dominicans residing in the USA. Under a joint citizenship agreement, Haitians would be protected according to Dominican labour laws, and thus more likely to experience the type of social and economic justice that such bodies as the International Labour Organisation advocate for all workers. A minimal step toward conciliation would be to immediately recognise the human rights of Haitian workers through the ratification of the International Convention on the Rights of Migrant Workers or through a purposeful acknowledgement of the UN Declaration on Minorities. Let us consider the relationship of the USA to workers from less economically advantaged countries, such as Mexico, as a case in point. An external precedent of reconciling the labour needs of the
economy with the imperative of preserving sovereignty, for example, earlier presented itself in the USA through the George W. Bush administration’s attempts to design a “path toward citizenship” and a quota system that would limit the entry of foreign workers into the country. Were this or a similar plan to be successful, the legislative compromise between legalisation and exclusionism could appease multiple sides of the controversy.

Eventually, the challenges of economic interdependence facing Hispaniola’s two countries could call for the creation a new paradigm of national sovereignty. Author Lucía Suárez makes reference to the “spirit twins” of vodou mythology as she poses the question: “Could we not interpret the two nations of Hispaniola as a marassa?”

The solution, in other words, would have to lie in a policy that both recognises the interdependence of Haiti and the Dominican Republic and promotes humanitarian treatment for the migrant workers on whom the Dominican economy relies. Such a compromise would acknowledge the validity of Saskia Sassen’s insight, that “[e]conomic globalisation entails a set of practices which destabilise another set of practices, i.e., some of the practices that came to constitute national state sovereignty”.

Indeed, the cases of activist Sonia Pierre and of Haitian-Dominicans Matilde and Eduardo – and those of others among hundreds of thousands of Haitian-Dominicans – call for a more liberal, multicultural representation of the relations between Haitians and Dominicans in their long shared history. The development of a truly ‘insular’ civil society on Hispaniola, in which authentic dialogue among transnationals and nationals could be sustained and nurtured, could lay the groundwork for a more rational policy of immigration and citizenship, with social justice for all involved.

National sovereignty, as we hope the foregoing discussion has indicated, is not an absolute quality: it can be redefined, it can be negotiated. In the cross-currents of global trends, the government leaders who wield the powers of sovereignty must inevitably own up to the facts of interdependency and interconnectedness: immigration policies can be made more in the service to all members of a society, even those to whom the current administration denies documentation and brands as illegal. For reasons of humanitarian principle, for enlightened self-interest, and in concessions to international pressures, the rights of national dominion can be reformed to incorporate the principles of social justice. The relations between Haiti and the Dominican Republic are offered here as a case in point to which the concept of actively incorporating...
the principles of social justice into all international relations may be applied.

For such reform to occur, as we have suggested, the leaders of sovereign nation states must communicate to their constituencies the very real contributions of transnational labour to their societies. In recognising such contributions, sovereign governments could build public support for the humane treatment of persons “in transit”. And this is important, for in this global world, citizens of any country can be obliged to work in foreign lands. The Dominican government could foster a system of international cooperation with Haiti that replaces discrimination with mutual goodwill and a more globally informed understanding of mutual self-interest. The injustices committed against Haitian workers and other individual Haitians, whether in the Dominican Republic, in the free trade zones of the borderlands, or in Haiti itself, reflect a tremendous need for ‘sovereign’ governments to hold one another accountable for respecting, defending and even promoting human rights.

NOTES

5. Restaveks are the Haitian children whose parents are sometimes forced to subject them to domestic servitude in others’ households in order to pay off debts or ensure the family’s survival. This type of servitude has been incorporated into Dominican society as well.
7. Ibid., 2.


19. Ibid., 11.

20. Ibid., 2.


24. The French ambassador to the Dominican Republic was quick to explain that the
film debuted in the French capital, whose socialist mayor did not share the ideology
of the French national government; and that, moreover, the two priests whose test-
imony is featured in the film were not French, Christopher Hartley being from
Spain and Pedro Ruquoy from Belgium. Amnesty International, which sponsored
the viewing of the documentary, issued the statement that it had never referred in
its own reports to the treatment of Haitians as “slavery”. See “France Distances Itself
drt.com.

25. Sonia Pierre, interview by Robert Bénodin. Bénodin’s introduction informs us that
Pierre has received recognition for her activism in the form of the “Amnesty Inter-
national Award” (2003), the “Robert Kennedy Award” (2006), and the “Claire
Heureuse Award” (given by the Haitian Women of Miami); and that she founded
the Movement for Dominican Women of Haitian Descent. The interview notes
that she lived in Cuba for a period of four years, during which she studied social
work at the University of Havana.


27. The film, in which Spanish priest Christopher Hartley again appears, is narrated by
Paul Newman.

drt.com.

drt.com.

drt.com.


32. “Response to the Congressional Mission”, *DRI Daily News*, 12 December 2006,


34. Center for Economic and Policy Research, “Dominican Republic Intensifies T ar-
geting of Haitians”, http://www.cepr.net/index.php/blogs/relief-and-reconstruction-

35. Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of


37. Vicente Rafael, “Nationalism, Imagery, and the Filipino Intelligentsia in the Nine-
teenth Century”, in *Discrepant Histories: Translocal Essays on Filipino Cultures*, ed.

40. Anderson, Imagined Communities, 7.
42. Ibid.
43. Matibag, Haitian-Dominican Counterpoint, 211.
44. Ibid., 12.
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