

¿Ajeno Siempre Será (Foreigners Forever)? The Spectacle of (Un)Making Dominican/Haitian Identity

¿Ajeno Siempre Será (Foreigners Forever)? El Espectáculo de (Des)Hacer la Identidad Dominicana/Haitiana

Estrangeiro, sempre serás?: O Espetáculo de (Des)Fazer a Identidade Dominicana/Haitiana

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Summary

This article examines political developments leading up to the September 23rd, 2013 constitutional court decision in the Dominican Republic which changed the country's citizenship policy and applied it retroactively to 1929, citing the "in transit" clause in their 1929 constitution. I examine this internationally controversial action of redefining "in transit" clause as a spectacle that remakes

various lived experiences into mere representations of elitist visions of Dominicaness and thus a powerful vehicle for isolating and consolidating power. Through examining these legislative actions as a spectacle, a public display of governmental power to rewrite law in the present and to concretized the image of Haitians as quintessentially non-Dominican, fraudulent and threatening, Dominican citizenship is detached from aspects of lived experiences and previous political/cultural realities so that Dominicaness becomes this generalized trope and object of endless contemplation. The spectacle functions, primarily, in attracting an international stage of human rights defenders to which the government labels interventionist and sovereignty-violators. It is with this neo-colonial discourse that the Dominican government consolidates dissenting national opinions around the amendment.

Keywords

Dominican identity, Racism, Constitutional Amendment, Anti-Haitianism, Human Rights, Spectacle, Japanese immigrants

Resumen

Este artículo examina los desarrollos políticos que llevaron a la decisión de la corte constitucional el 23 de septiembre del 2013, en la República Dominicana, que cambió la política de ciudadanía del país y la aplicó retroactivamente al 1929, citando la cláusula “en tránsito” en su constitución 1929. Examino esta controversial acción internacional de redefinir la cláusula “en tránsito” como un espectáculo que rehace varias experiencias vividas en meras representaciones de una visión elitista de la Dominicanidad, y por lo tanto un poderoso vehículo para aislar y consolidar poder. A través de examinar estas acciones legislativas como un espectáculo, una muestra pública de poder de reescribir la ley en el presente y concretar la imagen de los haitianos como esencialmente como no dominicanos. fraudulentos y amanezadores, la ciudadanía dominicana se separa de las experiencias

vividas y las realidades políticas y culturales previas, por lo que la dominicanidad se convierte en un cliché y objeto de contemplación infinita. Las funciones del espectáculo, principalmente, es atraer el escenario de defensores internacionales de los derechos humanos a los que el gobierno etiqueta de intervencionistas y violadores de la soberanía. Es con este discurso neocolonialista que el gobierno dominicano consolida las disidentes opiniones nacionales alrededor de la reforma.

Palabras clave

Identidad Dominicana, Racismo, Reforma Constitucional, Anti-Haitianismo, Derechos Humanos, Espectáculo, Inmigrantes Japoneses

Resumo

Este artigo examina os desenvolvimentos políticos que conduziram à decisão do Tribunal Constitucional na República Dominicana, a 23 de Setembro de 2013, a qual mudou a política da cidadania do país e a aplicou de forma retroativa a 1929, mencionando a cláusula 'em trânsito' na sua constituição de 1929. Eu examinei esta ação controversa internacional de redefinição da cláusula "em trânsito" como um espetáculo que recria diversas experiências vividas em meras representações de visões elitistas de Dominicanos e, portanto, um poderoso veículo para isolar e consolidar o poder. Através da análise dessas medidas legislativas como um espetáculo, uma demonstração pública de poder governamental para reescrever a lei no presente e concretizar a imagem de Haitianos como essencialmente não-Dominicanos, de forma fraudulenta e ameaçadora, a cidadania Dominicana é desconectada de aspetos das experiências vividas e realidades prévias político-culturais, pelo que os Dominicanos se tornam este tropo generalizado e objeto de contemplação infinita. O espetáculo funciona, principalmente, na atração de um palco internacional de defensores dos direitos humanos, os quais o governo etiquetou como intervencionistas e infratores da soberania. É com esse discurso neo-colonial que o governo Dominicano consolida as

opiniões nacionais divergentes em torno da emenda.

Palavras-chave

Identidade Dominicana, Racismo, Emenda Constitucional, Anti-Haitianismo, Direitos Humanos, Espetáculo, imigrantes Japoneses

Introduction

 n September 23rd, 2013 the Constitutional Court in the Dominican Republic (DR) made controversial changes to Dominican citizenship. Up until this decision, those born in the DR were eligible for citizenship. Citizenship was based on *ius soli*, which provides citizenship to those born in Dominican territories with the following exceptions: children of diplomats and people in transit. Through *ius soli* citizenship (by right of the soil), the children of immigrants are incorporated into the nation at birth or thereafter. *Ius soli* is supposed to prevent persons born and raised in a state from remaining foreign nationals with limited rights to residence and political participation. The Dominican Constitutional Court members voted 11-2 on a decision that retroactively made Dominican citizenship conditional on parent's legal status. The court majority found that the provision on citizenship in the 1929 Dominican constitution, which recognizes as a citizen anyone born in the country, "should" not apply to the children of parents who were not "legal residents" at the time of their birth, on the basis that their parents were "in transit". It further ruled that as a result these children, and subsequent generations born on Dominican soil, are excluded from the citizenship guarantee provided by the constitution. The ruling is to be applied to all persons born in the DR since 1929 with foreign parents.

In this article, I highlight the current political context and historical precedent in which such legal action becomes possible. I begin with providing an outline of the concept of spectacle, its usefulness in understanding the current political environment and role in supporting elitist visions of Dominican citizenship and belonging. I, then, connect these historical actions and understandings of modernity to contemporary legal actions and civic discriminatory practices which led to 2013 Constitutional Amendment showing that this amendment is part and parcel of continual state action and interventions that pretends to protect and build a *criollo* nation—to be born on the land and/or have ancestry linked to the land—instead reinforcing a racial and cultural hierarchy. Next, I discuss the Japanese immigrants in the DR, whom I have conducted over 15 years of ethnographic and archival research, to show how, though they are immigrants who came after 1929, they have been treated and included into the nation-state and national imaginary. The 2013 amendment which supposedly applies to all foreigners, will not create them as stateless.

This article does not intend to compare a monolithic Japanese and Haitian experience in the DR, such a task is outside of the scope of this paper and would require a nuanced historical, sociological, political and cultural categorization of the many different communities and experiences within each of these generalized ethnic/national identity labels. The focus on Haitians in this article is by way of outlining the impact of the constitutional amendment and, even more so, the role of the law in both framing the experience of immigration and delimiting differential categories of rights-bearing citizens and subjects while homogenizing Haitians and Haitian ancestry as violators of and menace to the state. Finally I end with some of the implications of the 2013 amendment and need for more research on the impact of this amendment as a violent intervention to Dominican identity and a strategy of elitist survival within modernity. The governmental choice to rewrite history should be considered as both a process of *sacudando*¹ (dusting off), to temporarily manage issues or to delegate responsibility elsewhere.

¹ This term was used by Bonaparte Gautreaux Piñeyro in an op-ed piece published in Hoy Digital newspaper on January 28th, 2009 entitled “Who are we? What does it mean to be Dominican?” In it, the author calls on the government leaders to take on the protection of national identity from current foreign invasion by Haitian migrants and US economic imperialism.

A Legal Spectacle

On January 28th 2014, four months after the Constitutional Amendment, Danilo Medina, president of the DR, attended the summit for Community of Latin American and Caribbean States (CELAC) held in Havana, Cuba. CELAC is a regional bloc of 33 member states established in 2011 that aims to unite, strengthen, and promote the interests of Latin American and Caribbean states. At the summit, Haitian president, Michael Martelly, delivered a speech requesting both countries to solve the immigration problem of Haitians and critiquing the Dominican government's recent legal retroactive amendment. Medina spoke after and stated "Those who have to disagree with us have the right, but do so respecting our independence and sovereignty" (MultimediaVTV 2014). Medina's comments represent a powerful tactic used by the government and elites to sideline conversations about and actions against the legality of their new immigration/citizenship laws. Such that all critiques about amendment and its policies becomes filtered as an attack on the state's sovereignty creating a flurry of spectacles that allows only a focus on the survival of an idealized Dominican nation and identity. Within these spectacles, not only are Haitians created as "*ajeno* (foreigner)" but so are those who critique the nation regardless of their Dominican citizenship or ancestry. Such was the case when Dominican consul of New York, Eduardo Selman, stated that he would repeal Pulitzer Prize winner Junot Diaz's "Order of Citizen Merit" because he publicly denounced the Dominican government for stripping people of their rights and setting up an apartheid system. Selman argues that "there have been no cases of violation of human rights nor of statelessness among the Haitians or any other foreigners, contrary to what is said by the writer Junot Diaz, who has demonstrated himself to be anti-Dominican" (Planas 2015).

In 1967 when the French scholar Guy Debord theorized the concept of the spectacle in "The Society of the Spectacle" his focus was on outlining conditions of life in the modern and industrialized world. He argues that such a world focus on production is filled with spectacle which create singular representations out of a variety and complexed sensual lived experiences resulting in isolation, false consciousness, deceit and illusion. In this article, I introduce the constitutional courts

act of creating and enforcing law in the past by a vote of 11 to 2 as a spectacle similar to Debord's definition of the concept "as images detached from every aspect of life merge[d] into a common stream, and the former unity of life is lost forever" (1967:2). Debord continues to explain in this second thesis that such a spectacle of images, such as the images created to enact enforcing law in the past, is "apprehended in a partial way [such that] reality unfolds in a new generality as a pseudo-world apart, solely as an object of contemplation....The spectacle in its generality is a concrete inversion of life, and, as such, the autonomous movement of non-life" (1967:2). Moving from the definition of the spectacle, this significant work underscores that the spectacle is not the collection of images, for the images by the self-do not have power.

It is the social relationship between the people that is mediated by the images where power is enlivened. Thus the spectacle of enforcing law in the past creates images of a nonexistent reality, a representation of condemned persons whose birth is generalized as a wrongful actions despite the specificities, laws, possibilities and experiences at the time. The amendment's national and international attention created the space for other spectacles to occur. This includes violent physical and verbal attacks on the streets of the Dominican Republic against persons believed to be Haitian immigrants and various public forums where government representatives, such as President Medina, disregarded concerns from international persons about the legality of the ruling with an argument for respect of DR's sovereignty. With images of the state's sovereignty at stake, the government garners national support for the country's right to make and enforce its own laws while silencing, isolating and marginalizing dissenting perspectives and actions about human rights violations and the amendment

Dominican History becoming Anti-Haitianism

The nation-state of the Dominican Republic has been shaped by colonization, neo-colonialism, global politics and practices that affect its neighbor Haiti and elite-run governments. In the 15th century, the island of Hispaniola was colonized by the Spanish with its main ports and settlements

located on the eastern part of the island. France, by the 17th century, took over the western part of the island declaring it the French colony of Saint Domingue. The French developed the western colony into a productive sugar industry converting most of the fertile land into sugar plantations and heavily importing African slaves. Spanish colonist also began to rely heavily on the importation of slave labor to work on the sugar plantations, agricultural settlements and cattle grazing on pasturelands. In the late 1700s in Saint Domingue, former Haitian slaves led several revolts against French colonist leading to independence of France and establishment of Haiti as first black republic of New World in 1804.

Within two decades, the Haitian leader, Jean Pierre Boyer, took control of the eastern land from Spain, abolished slavery and unified the entire island under the Haitian flag from 1822 to 1844. Spanish colonists, who identified as creoles and strongly identified with the eastern lands, successfully retaliated in 1844 and declared the east an independent nation. This, however, did not create democratic governments and for the next several decades the Dominican Republic would be ruled by a few dictators who made decisions for the nation that consolidated and prolonged their power and presidency. For example, in 1861 president Santana, seeking personal wealth and political power, annexed the country to Spain for four years. Though a short period, the annexation cemented not only a legacy of self-involved politics and accumulated personal wealth into the political framework in the DR that still resonates today, but also has provided elites with evidence of DR's "closeness" to Hispanic culture and ancestry (Whitney 2013, 364-365).

During the colonial period, the loosely defined and weakly guarded border between Saint-Domingue and Santo Domingo became a siphon for escaped slaves (Derby 1994: 490). By the late 18th century, some 3,000 slaves from the French colony had become residents of the Spanish colony (Lundahl 1983:112). Escaped slaves formed maroon communities, such as San Lorenzo in 1678, along most of the Dominican borderlands (Levitt 2001:231). The runaway slaves joined the semi-autonomous business of cattle herding, which was less restricted and considered less backbreaking

than cutting-cane on sugar plantations. Many of these runaway slaves established their own *hatos*, plots of land, on the unused land of the western region of the Dominican Republic (Derby 1994). A low demographic density coupled with extensive ranching along the Haitian/Dominican borderlands, as Derby (1994) argues, contributed to a high degree of manumission. The politico-economic and social conditions, as well as the higher rate of intermarriage between African ex-slaves and Spaniards facilitated the development of a Creole society. Out of this fusion emerged the Dominicans of the present generation, largely people of Spanish and African descent, strongly influenced by the Roman Catholic Church (Howard 2001). Communities of people went for centuries living their day-to-day life with little to no state support or intervention up until Trujillo's government. However, the tropes about how the western region was filled with indiscriminate, rural and uncivilized ways of living were popular discourses since the 16th century and continue to be utilized by contemporary Dominican governments.

In 1956, The *Revista de Agricultura's* (a Dominican national journal) editorial announced the international cattle fair (including Cuba, DR, USA and Canada) and stated that all thanks had to go to Trujillo because without him developing the DR, we would not have the "profile of modernity and civilization" and such an event could not be possible (Revista Agricultura XLV 1956: 3). Trujillo's government attempted to acquire a western profile through such events spotlighting how hosting, competing and spectacle are markers of modernity. Agriculture and cattle husbandry becomes a specialized, isolated and highly commodified enterprise of modern Dominican Republic such that the reality of agriculture and cattle ranching as a human experience of labor, function and cultural experience are divorced, denied and continuously intervened by the state.

Within Dominican nation-building projects a different type of modernity emerged—one that found a place for mixedness as part of the national image but essentially structures a modernity that privileges euro-American ideals of capitalism and whiteness (Hazel 2014, Simmons 2011, Mayes 2014). Many Dominican governments in the 19th and 20th century professed that the nation's creolized or mixed interior gave them leverage in an international platform because they were more

like the western powers than their neighbor Haiti. The Dominican governments, especially Trujillo, gave credence to their push to identify Dominicans with a Hispanic ancestry, albeit mixes, by claiming that the number of alliances with western countries is due to modern and Hispanic character. By marrying the association of a whiter mixed Dominican identity with the country's progress, stability and modernity, Trujillo's government, as well as other governments after him, could carry out self-serving interest and discriminatory practices that created and continued the unequal distribution of resources and increased poverty rates and wealth differential among Dominicans of Haitian ancestry.² Thus, a non-black Dominican identification was equated with the nation's political and economic success and a blackened Dominican identity with death of the nation (Paulino 2016).

Dominican nationalist thinkers around the 1900s ranted about the backwardness and barbarism of the rural countrymen's communal land-tenure, slash-and-burn farming and open-range grazing. Hoffnung-Garskoff (2008) argues that the urban elite and intellectuals pushed the notion of "*progreso*" and "*cultura*" as an attempt to carve out a Dominican identity and national image that was non-black, non-Haitian, less-rural and pro-whiteness. The goal was to create a Dominican nation and identity that was as powerful and globally recognized and respected as the United States except without America's materialistic and imperialistic culture (Hoffnung-Garskoff 2008:19-23). Thus before the rise of dictator Rafael Trujillo who institutionalized notions of anti-haitianism under state-building projects of Dominicanization, Dominican governments and elites had already established a modern and distinctive Dominican nation and identity, by pushing European cultural superiority, civility as an urban phenomenon and Catholicism as foundation to morality. These notions of racial privilege, class hierarchy and access to power—all which are principle tenets of whiteness—become consolidated, albeit unevenly and in complicated ways, as notions of "Dominicanness." Drawing from Victor Turner's seminal work on liminality and ritual, I argue that whiteness and blackness operate as processes of symbolic accumulation rather than a stable and

² See Michael Hall 2000 for discussion of how Trujillo achieved such association of progress and stability with a mixed Dominican identity, like his own.

recurring condition that is socially recognized (Turner 1969:25). Whiteness and blackness are not stable culturally recognized identities, they are processes. Thus, Dominican identity, defined within the boundaries of whiteness and blackness, is not fixed and is a process of continual becoming. Simmons asserts that the Dominican's historical construction of blackness utilized Haiti and Haitians as a point of reference for not only what it meant to be black but also of African descent (2009:4).

When Trujillo comes into office, he pushes western notions of modernity³ yet the methods used and racial projects that emerged are unique to the DR resulting in a localized product of a global racial order. Trujillo came into power and declared that the central obstacle to modernity were "*los negros que viven en la frontera* (the blacks that live in the frontier)" (Turits 2002:632). Purging the nation of blackness translated on the ground to three interrelated racial projects implemented by Trujillo's government: the massacre of *los negros de la tierra* (blacks of the land), (re)colonization of land through immigration and the institutionalization of an indio identity despite the indigenous Taino population having been recorded extinct by late 16th century by Spanish settlers. Part of gaining such wide support was gaining peasant support in the countryside with discourses that placed the farmers, the peasants and the countrymen at the center of Dominican nation-building. Turits highlights how Trujillo offered an alternative modernity to the peasants with an appealing political discourse and state policies that gave land and supported independent production while, in the process, transforming the way they worked and related to the land. What emerged was an ambivalence to Trujillo's regime which ultimately worked in the regime's favor. For some, Trujillo's focus on the rural poor was embraced positively as long-awaited intervention to substandard living conditions or evidence of government's support of its people and commitment to modernism, while others understood it as disapproval of, even violent attack on, their lifestyle and person. This created several factions amongst the poor and rural communities resulting in decades of little consensus and prolonged rule by Trujillo (Turits 2002:12).

³ For the purposes of this article, I am looking at this modernity in its institutional form and how the transmutations of modern institutions interlace with individual life.

In October of 1937, Trujillo ordered his troops to dress in lay clothes and to kill all the Haitians found in the western provinces. For several days, soldiers slaughtered thousands of Haitian-looking and sounding persons with machetes--it is certain that Dominicans, Dominico-Haitian and Haitians died because of their indistinguishability. The bodies were dumped into the Massacre River turning areas of the river blood red and sending a horrifying message that the blacks were not wanted in the state, whether Haitian or Dominican. This massacre is commonly referred to as “*el corte*(the cut)”, referring to the machetes used by the soldiers, as well as, to the work synonymously associated with Haitians, the cutting of cane. The 1937 massacre marks Trujillo’s war on blackness. By the end of the massacre, over 20,000 to 30,000 black bodies were killed (Roorda 1998). The massacre literally cleared the land for subsequent whitening projects such as the settlement of whiter Dominicans and foreigners such as the Japanese, along the Dominico-Haitian border.

Then, in 1939, Rafael Trujillo sent a memo to his cabinet stating that the population located in or close to the border needed injection of new blood, especially of the white race (Roorda 1998:127-133)). He then recommended sending to the borderlands and creating settlements of people of Jewish race or foreigners of non-African races that would cultivate or work in the agricultural industry or held professional occupations. This, Trujillo, believed was essential and beneficial to the Dominican nation and thus the government should provide physical and financial resources to support such settlement. Immigration of light-skinned or non-African bodies has been part of national plan to modernize the nation and fortify the border with physical bodies of non-Haitian ancestry. Such a settlement agreement was struck with the Japanese government in the 1950s. The Dominican government offered up to 300 *tareas*⁴ of land to Japanese families who settled in *colonias* strategically located along the Dominico-Haitian border. Over three hundred Japanese families left Japan attracted to the offer of free arable land, monthly stipend and agricultural infrastructure in return for their agricultural and fishery expertise (Augelli 1962; Peguero 2005; Horst and Asagiri 2000). Trujillo was very intrigued by the Japanese—referring to the Japanese as agricultural miracle farmers. After WWII, having been on the winning Allied side,

⁴ Equivalent to about 46.614 acres.

Trujillo entered negotiations with Japan, resulting in the Japanese colonies which was praised by both countries for "lightening" Japan's Post-WWII overpopulation problem and Dominican's burden with blacks/Haitian along the border (Perez Hazel 2014).

By the end of the 1950s over three hundred families accepted the invitation to settle in paradise. After a 30 day voyage across oceans, the Japanese disembarked to lots of pomp and circumstance (Gómez 1956:1). The Japanese were brought to the border to transform it; to recolonize the land and create a whiter physical human border, to make the soil produce importable crops which the nation defined as productive and progressive and to root in the soil the work of hands that were not Haitian (Perez Hazel 2015, Horst and Asagiri 2000). The Japanese colonies were to seed an embodied power that was non-black, non-local and an aesthetic that would hopefully sprout an "externally" recognizable modernity for the DR. However, the immigrants encountered lots of issues—the land was not ready for cultivation, former residents of the land, sometimes, violently demanded the plots back, there were cultural and linguistic challenges as well. The Japanese immigrants quickly learned that the border lands that they were "given" were not "free," the Dominican government had hundreds of Haitian and darker-skinned Dominicans murdered and displaced in preparation for the settlement. Though the Japanese were invited and promised large sums of fertile land, when they arrived the borderlands were not ready for cultivation. In 1961, Trujillo was assassinated which lead to decades of political instability and which made the fulfillment of the agreement nearly impossible. After several pleas for assistance to the Dominican and Japanese governments, a group of about 170 first generation Japanese immigrants, sought the assistance of Japanese lawyers in Japan and filed a civil suit against the Japanese government for breach of special agreement (Mainichi Daily News 2006).

The Japanese immigrant's court case gained international spotlight. They were categorized as one of the first "Japanese immigrants" to sue Japan and go against Japanese cultural tradition and expectations of conduct. The lawsuit gave weight to the political and scholarly claims of Japan

practicing "*kimin seisaku*(dumping people policy)" during the 1920s to 1960s and cast a dark shadow on Dominican and Japanese foreign relations (Endoh 2009: 155). For over 60 years since the initial settlement, Japan has steadily invested in technological and agricultural projects in the DR which the former Dominican President Leonel Fernandez did not want to lose (The Daily Yomiuri 2006: 3).

Thus, in 2004, the Dominican government responded to the lawsuit against Japan by offering the Japanese immigrants (claimants) plots of land a few miles from the capital of Santo Domingo in Luisa. The immigrants read this offer as the DR trying to take the blame for the failed settlement and incomplete distribution of land. The prosecuting Japanese immigrants believed that this land offer would undermine their case against Japan. The new offer of land brought about divisions within the Japanese claimants between those who wanted to take the land because it met their immediate needs and others who rejected the offer as to not weaken their overall legal case. In 2006, at a 50th anniversary celebration of Japanese settlement in DR, Dominican officials thanked the Japanese for their commitment to the nation through their working of the land and welcomed them as "*Dominicanos de esta tierra* (Dominicans of this land) (Perez Hazel 2015)." The Japanese case outlines different treatment and discourse that "foreign" groups entering the Dominican Republic prior to 1929 received.

Anti-immigration discourse at the national level is largely about Haitians. It is justified with nativist sentiments that proclaim that the Dominican culture and way of life needs to be protected against foreign influence. Foreign Haiti is the menacing, no-need-to mention-by-name cultural threat. The constitutional court supports its September 2013 decision within such a pro-nation argument. It claims to have handed down a decision that protects the laws and interest of the nation and places persons under "their" nation's responsibility; thus denying racial/ethnic discrimination. For centuries, ultra-nationalist, such as the Dictator Rafael Trujillo and his successor President Joaquin Balaguer, have attempted to veil some, if not most of, their Anti-Haitian policies and practices with

legitimate motives like concerns about the effect of immigration on the economy, national security, welfare spending, etc. while opening doors and publically encouraging particular bodies to immigrate at the same time. In 1930s, Sephardic Jews were invited and settled in the plantain fields of Sosua, later European Caribbeans were encouraged to come and Hungarian and Spaniard communities were invited and settled as part of bi-governmental agreements (Gardiner 1979).

Since the mid-20th century, the *cedulas* have been used as nation-building tool by the state to construct an idealized Dominican image as mixed and something other than *negro* (black). Rafael Trujillo's government—the infamous dictator of the Dominican Republic from 1930-1961--implemented the *cedula* in the 1940s and imposed limited racial categorizations on the state identification. Anthropologist Kimberley Simmons (2009) argues that the implementation of the *cedula* was yet another institutional practice where the Dominican government pushed for a national identity of mixedness with Dominicans as something other than “negro/black” and isolating the use of negro/blacks to Haitians. Simmons (2009) shows how color, race and nationality are conflated both on the ground in local discourse and within politics on the national state. Thus prior to 1998 when the new digitized IDs were instituted and *mulato* as a color category was introduced, *cedulas* would categorize darker-skinned Dominicans as largely “*indio*.” In the end of the 20th century, Dominican government officials introduced *mulato*, a term historically associated with African ancestry, to provide color options that better categorized Dominican's African ancestry. Scholars and activists thought this to be a progressive move by the government. However, such practices can and are being used by government officials to fish out the Dominicans with Haitian descent.

The Dominican national identity narrative is grounded in a discourse of native mixedness a discourse of indigeneity and one that roots itself in and with the land and is presupposed to give rise to a certain types of persons with particular ways of being that represent the boundaries of a Dominican identity (Simmons 2009). However the Japanese case and the recent Dominican constitutional case highlights how the government creates Dominicaness by rewriting history in the

present. The ideal of Dominicaness is ever changing; however there are groups that the government has continuously used to garner and reinforce their power and influence, the poor and Haitians. Government is pretending that “Dominicaness” is built on a foundation of people from this land and for this land—*criollo*. However, that in itself changes. Japanese were accepted, settled and have a sense of belonging that hasn’t been challenged by the constitutional amendment, while this same amendment has uprooted hundreds of thousand community and remakes Dominican identity.

Leading up to the Constitutional Court Decision

In 2008 Juliana Dequis Pierre, a 29 year old woman sued the state because the Dominican Central Electoral Board refused to issue her a *cedula*, a state identification card. Ms. Dequis is a mother of four children and a child of Haitian migrants who moved to the Dominican Republic decades ago. She was officially registered as a Dominican citizen at birth and applied for the *cedula* using her state-certified copy of birth certificate. However, she was told that her *cedula* application could not be approved without proof of her parents’ legal status in the Dominican Republic—a condition just instituted in January 26, 2010 and not required when she was born. Up until 2010, the Dominican birth certificate was the primary identification for nationals under the age of eighteen and the only state-sponsored document needed for the *cedula* application. By law, once a national has turned 18 years old they must acquire a *cedula*. Without a *cedula*, it is difficult if not impossible, to “acquire and exercise [the] rights and obligations inherent in membership in a political community (Dilcia 2005)⁵.” An adult will not be able to register for university, receive medical care or other state

benefits, open a bank account, pay into social security fund, vote or run for office, make a sworn statement in a judicial procedure, acquire insurance, passports and/or other travel documents, get married or divorced, register a childbirth/adoption, receive or transfer property. The non-*cedula*

⁵ Dilcia Yean and Violeta Bosico v. Dominican Republic, Judgment of September 8, 2005, Inter-American Commission Court. H.R. (Ser. C), No. 130 (2005), para. 137.

holding individual risks fines, imprisonment and deportation on top of being stripped of all civil, political, social and economic rights. They become prisoners within the boundaries of the state.

The Inter-American Commission on Human Rights reports that the Dominican Electoral Board, charged with issuing birth certificates, *cedulas* and passports, began turning away requests by suspecting Dominican Haitians for *cédulas* as early as in the 1980s demanding individuals to prove Dominican parental identity (2015). The electoral board claimed that Haitian parentage made Dominican-born children ineligible for citizenship because Haitian parents were “in transit.” In alignment with the board, the Tribunal concluded that Ms. Dequis Pierre, whose parents were not born in the Dominican Republic nor sought legal residency, did not in fact meet the criteria for the acquisition of the Dominican nationality. When the Constitutional Tribunal passed down its ruling on September 23, it also stated that the ruling applied to Dequis was to be equally applied, retroactively, to all Dominicans of foreign descent in a similar legal situation, going back to 1929. This decision violated a number of Dominican and international laws including going against their own constitutional law of *ius soli* and international sovereignty laws that vow that the country would not discriminate nor create stateless persons.

Pro-Immigration, Anti-Haitian and making of Dominican identity

The Dominican government has routinely deported Haitians and those who “look” Haitians, i.e., dark-skinned Dominicans in round-ups in the border zones, arguing that they need to be repatriated to Haiti as foreign nationals. Both the court decision and the deportations are based on active misreading of Article 7 of a constitutional decree of 1984, which appears to be upheld (by silence) in the 1987 Haitian constitution, in effect in 2007, which states that a “child born in a foreign territory of a foreign father and Haitian mother will retain foreign nationality.” However, the Haitian state only recognizes foreign-born children of Haitian nationals (of either sex) if the parents are registered citizens and declare their child, papers in hand, at a Haitian consulate in the foreign country in question, at birth. The Dominican government, and now the Constitutional court as well,

use the Haitian constitution as a justification for their actions. The critical issue is not that the Constitutional Court of the Dominican Republic officially changed citizenship policy. As a sovereign nation-state, it has the right to change citizenship policies as long as the policies do not create stateless persons. In Europe, for example, the current trend is towards the wider availability of *ius soli* citizenship, but in more conditional forms requiring limited forms of prior parental residence and other conditions identified with integration. By restricting citizenship by birth to the children of citizens and residents, the new provisions to *ius soli* aims to ensure that citizenship and its benefits are limited to people who have a genuine and ongoing link to the country. As individuals continue to reconfigure and create livelihoods within and across multiple borders, sovereign nation-states will continue to change citizenship and immigrant policies in an attempt to refashion the demographic reality into a desired national image.

The problem is with the “retroactive” aspect of the decision. The Constitutional Court overturned the Dominican Republic’s immigration policy from 1929, stripping “Dominicans” of foreign descent from their nationality from this date on. In essence, the court is going back in history to establish “certifiable Dominicaness.” Human Rights organizations estimate that a quarter of a million people of “foreign ancestry” will become stateless. Though the decision is to be applied equally to all foreigners, the vast majority, over 80%, of the foreigners are Dominicans of Haitian ancestry. It was the first time that the Dominican courts legally defined Haitians and Dominicans of Haitian-descent as foreigners of the state by retroactively applying the “in transit” clause to the year 1929, rendering up to four generations of Dominicans of Haitian descent stateless.

Haitians as Transient *Ajenos* (Foreigners)/ Japanese as *Criollo* *Japoneses*

Recently, I had an interesting conversation over social media with a befriended Japanese-Dominican woman. I sent her a message, weeks after the decision, asking if and how the repeal of birthright citizenship affected her or her family in the Dominican Republic. She responded that “as



Figure 1: A man—unidentified in name, nationality and ethnicity—working a fruit stand near Yaque Del Norte River, Santiago, Dominican Republic. March 2013 by Yadira Perez Hazel.

of now they had not heard anything from the Japanese embassy but that they were all at ease because they had not done anything wrong.” Her use of the word “wrong” struck me as out of line

with her usual integrationist perspective. The word “wrong” makes the act of giving birth and/ or being born in the DR and legally claiming citizenship immoral—an act that most of the Japanese community, who came after 1929, would be “guilty” of. However, she removes the Japanese-Dominicans and Japanese from under the umbrella of foreigners that should be concerned or affected. Framing the issue in this way suggest that if they, the Japanese, were not wrong, then someone else is. Her use of the word wrong reflects the current discourses—morality and behavior of wrong doers—that frames the discussion about the illegal court decision. In short it is not about enforcing the law but about reestablishing who will never have the right to be Dominican even when born there. In addition, it diverts the blames and responsibility on the individuals rather than the ineffective government institutions.

Anti-haitianism in the DR has been implemented and justified in varying ways and degrees throughout the 20th and 21st century (Torres-Saillant 1988;127-128). Through nation-building projects and discourse, Dominican officials and urban elites have linked blackness to Haiti and have fought to distance blackness from Dominicaness. As was the case with Jose Fernandez Peña Gomez, a politician who gained popularity through his position as mayor of Santo Domingo. The son of a Dominican mother and a Haitian immigrant father, Peña Gomez ran for presidency three times and lost mainly, most people believe, it was because his opponent successfully used his Haitian “outsider” ancestry against him. Though Dominicans have a black ancestry rooted in Africa; within Dominican national discourse Haitians are not only black but they are forever foreigners. Dominicans claim to a mixed identity—a *criollo* identity comprised of degrees of African, Spanish and Taino—gets narrowed under the new constitutional amendment and attempts to distance further African ancestry and Haitian descendancy. Anti-Haitian discourse today resembles former articulations. The current government, elites and select intellectuals implement discriminatory practices against Haitians, Haitian-Dominicans and poor rural Dominicans in the name of the country’s cultural protection, fiscal conservatism and principled political ideals of sovereignty.

Are you a certified Dominican: Identity Implications? (Figure 1)

Recently several laws were implemented which legalized most parts of the constitutional ruling despite international outcry. This law kept in play the change from *ius soli* to parent's civic status. It however states that the state will honor any "legal" state documentation already provided to individuals. If one does not have documentation for self, or if one does not have documentation of parent's legal status, then one has to declare themselves foreign before being allowed to start the legal citizenship process. This law continues to create the possibility of a significant number of stateless individuals because it forces a Dominican Haitian population that has been systematically denied access to state documents (especially birth certificates and *cedulas*) to provide documentations. It also inserts a caveat, stating that the documents will have to be official, without outlining how such review will be handled. This law further concretized the eternal foreignness of Haitians ancestry by forcing individuals to "claim" their non-belonging before being able to start the process of citizenship. The Dominican state has essentially asked for its constituents to reveal the "black behind their ears," as argued by sociologist Ginetta Candelario, forcing families to certify that their blackness is located deep in history and, hopefully, somewhere other than turn-of-the-century Haiti.

While discussing the court decision with Irma, a close Dominican friend of mine, she shared with me some of her families' "bizarre conversations" about the decision and her family lineage. Her mother has been watching Univision for news on repercussions stemming from the DR court decision. Early in November, the news broke speculating that a beloved music artist Johnny Ventura, born in 1940, could be stripped of his Dominican citizenship. Irma's mother was outraged and highly concerned and worried that this decision could affect them too.

Irma, who was born in the Dominican Republic and migrated as child with her parents to Williamsburg Brooklyn, taunted her mother accusing her of being overly dramatic. Her mother in turn "revealed," in distress, to Irma and her brothers that one of their great grandmothers was

“Haitian.” Irma said that she and her brothers laughed at their mothers “supposed secret.” “Just one look at us, especially Luis [the brother] and you know we have Haitian in our family,” Irma explained to me. Irma, though Dominican-born, has a strong connection with her NYC identity and watches the decision’s unfolding with distance, physically and emotionally. Irma is vocally frustrated and outraged by the decision but doesn’t feel the same caution or alarm that her mother does at possibly being stripped of her Dominican identity. The decision contradicts numerous court decisions and treaties to which the Dominican Republic is party, and contravenes basic principles of human rights,” UNICEF said in a statement.

Along with the ongoing racism against Haitians, individuals believe that the constitutional court’s decision is a devious response to trade issues between the Dominican Republic and the Haitian government. David, a Haitian man in his late twenties educated in the DR and living in Santo Domingo with his wife and son, understands the recent court decision to be a reaction to ongoing trade issues between the two countries. “I think that part of the reason for this decision was to fire back at Haiti for the bans imposed on chicken and eggs that we [Haitian poultry companies] import from the DR, apart from the phobia of Haitians that still reigns here.” A few months before the constitutional court’s decision, the Haitian government placed a ban on importation of Dominican poultry to avoid the propagation of H5N2, or bird flu. The border between the two countries closed down at two of the four border points stopping the flow of people and products. The Dominican government claims that the Haitian government has been ill-advised because there has been no bird flu found in the country, only a handful of H1N1, or A flu cases. The import ban has meant high losses for the Dominican Republic, which every month sells to Haiti 30 million eggs and 1.5 million chickens, according to official records. Two weeks of halted commerce have meant losses of \$3.5 million (Mallen 2013).

Alex, a Haitian engineer in his early thirties, educated in the U.S. and Dominican Republic also believes that the decision was motivated by anti-Haitian and capitalist sentiments.

“It’s obvious that DR is trying to cut spending and maybe even send an indirect response to the Haitian government for the recent bans imposed on some products that we mostly buy from the DR. Most if not all of the people affected by this decision do not speak Creole nor French, have no friends or family in Haiti and/or have never been to Haiti. They consider themselves Dominicans and would be like strangers in Haiti. At the end of the day I think this decision is tainted with ungratefulness for those who work on sugar plantations, in construction and all other low wage hard working jobs that most Dominicans are not willing to do. Dominican companies know that without this cheap labor they would lose one of their main competitive advantages in terms of being able to manufacture cheaper products.” Alex, like many other Haitians and others, see the current situation has a matter of political economy and power play.

The Dominican ambassador to Haiti, Ruben Silie Valdez, told Haitian reporters that the court ruling had nothing to do with the Haiti imposed ban on Dominican Republic poultry exports and explained that his government played no role in the issuing of the ruling by a court that is independent (Colas 2013). Though the court may not have reacted directly to the “chicken wars,” it is locally believed that the decision was the Dominican courts way of reasserting its power and dominion on the island. The Dominican state is in constant struggle to reflect the western ideal of a “modern” national image while attempting to maintain economic sovereignty within a growing unequal and dependent global economy. The long-standing adjunct poverty of Haiti (due to long history of politically and economically being punished by world powers and numerous corrupt governments) just to the west of them, has historically created both economic anxieties and economic advantages. The Haitian economy has meant a continuous flow of exploitable bodies for labor that can be used by the Dominican government and business to keep material cost low and stay competitive in the global market. The court decision can be viewed then as a counter reaction to the persistent reign of white privilege and debilitating neo-liberal practices that maintain Haiti in adjunct poverty and the Dominican Republic on the brink.

Witch-hunt 2013

The decision violates a number of international and human rights laws. The implementation of the law is reminiscent of Salem Massachusetts witch trials and NSA terrorist lists. The court has asked for all foreign-born Dominicans to be identified from the Dominican Civil Registry and placed on a new list for review of their citizenship. If found to be a “foreigner,” the foreign ministry will then inform the supposed correspondent embassy and ask them to deal with each person. Such a procedure is in breach of international prohibitions against racial and ethnic discrimination. The judgment employs a definition of citizenship that is impermissibly discriminatory, referencing racial and linguistics features in demarcating citizenship.

Jon Anderson, a blogger of World Politics writes that “generations of cane cutters were hired by the sugar companies, given temporary work permits, and allowed to stay, season after season. Many were peremptorily rounded up and sent back across the border, only to be rehired the following year. But many never left, and their permanent existence in the *bateys* was documented in song and literature. The catch, however, is that their existence was probably not documented in the Civil Registry. Herein lies the hypocrisy of the court’s ruling. Its entire thrust depends on the content of the Civil Registry. The court has ordered the creation of a new set of registries that will normalize the status of resident foreigners. The Central Electoral Board (JCE) is to carry out a detailed audit of births recorded in the Civil Registry from June 21, 1929 forward, in order to draw up a list of all the foreigners found therein. Those foreigners whose existence in the Civil Registry is somehow “improper” will be added to a “List of Foreigners Improperly Listed in the Civil Registry of the Dominican Republic.”

The constitutional court also ordered the establishment of special annual registration books that recorded foreign births from 1929 to 2007. All births of improperly registered foreigners will be transferred to the new registration books. Those deemed “improper” would be notified, as would

their consulates, and compelled to comply with Article 151 of the Migration Law (285-04), which deals with the renewal of permanent residence status and the documentation required to procure it.

All this bureaucratic paper shuffling conveniently obscures the fact that these people are unlikely to have any valid documentation or even to have had their existence registered officially. It begs the question: What constitutes “improper” registration? The reform of the Civil Registry is a deliberate bit of casuistry. The justices know that it is in chaos, and those whose fates are ruled by this decision have been clamoring for recognition precisely because the Registry has rendered them invisible legally. Moreover, the further back you go, fewer are the Dominicans of Haitian descent who can find any certification of their existence at all. Something like thirty percent of the Dominican population has no legal documentation of their status. (One of the ironies of deportations in the past is that Dominicans of Dominican descent – if we can call them such – have been swept up in the raids.) In response, Dominicans of Haitian descent are taking preventative measures where possible. One Dominican woman widow who was married to a Haitian has decided to start using her maiden name again and changed her son's last name, in fear that he could be sent back to Haiti. He is now 20 years old, and has lived in the DR all his life. The court decision is not “removing” the existence of Haitian ancestry, it is driving deeper underground.

Conclusions: Implications of Modernity and Dominican Identity

Modernity emerged on the backs of slaves and was maintained by the low wage of colonized or once colonized people. Isolating this connection between the concept of modernity and immigration brings to view how free/cheapened labor of particular racialized bodies allows for the opening up of vast opportunity for “other” racialized bodies. Modernity is created and sustained within a vacuum of capitalism and structural inequality fed by the myth of civilization (that certain people are better in some way than others). Thus, modernity, in its conception and practice, is the antithesis of humanity for non-European communities. The formation of modernity inhibits the freedom of

blackness and the people continuously pushed or maintained in lowest structures of power.

The situation in the DR highlights the way a state can create a new identity—that of *defacto* statelessness where communities of people become “disappeared”—where people are erased by law yet not necessarily invisible to the state. The Dominican government argues that nationality is a personal relationship between the individual and the state, then it should be impossible to say that the acquisition of citizenship via *ius soli* is the result of fraud. Yet, the government manages to implement such spectacle with an outcry of sovereignty and self-determination. Families and individuals are legally required to register themselves as foreign to the Dominican state—an act that is entered as a guilty plea of illegally claiming Dominican citizenship (from birth). Those who do not register themselves or those who are awaiting registration have no rights. Haitians are the backbone of the DR, providing the low-wage work that makes the DR competitive. This ruling creates an even more vulnerable mass of people that cannot travel nor “live” within the modern state. This situation truly puts Human Rights and other global institutions to the test.

This decision is also causing a crisis of identity for many. Many have described the decision as an act of exorcism—where blackness/Haitians are being pulled out. But on the local level the demarcations of difference are drawn differently from those on the national level. Understandings of “blackness” and Haitianness” are fluid and ever changing. Though Haitian stands for foreign, blackness and inferiority, the intimate happenings of day to day life have drawn, on local and regional levels, the borders between Dominicanness and Haitianness differently. In classrooms at PUCMM, a private and leading Dominican university, “Dominican” students are interacting with a “different” kind of Haitian, Haitians of different socio-economic status. Many of these “new class of Haitians” have trained in the best schools in Haiti and would have likely attended university in the USA or Europe prior to increasing post-911 visa restrictions and downturn of the global financial market. Thus there is a local understanding on PUCMM’s campus of newly-arrived Haitian students as smarter and academically well-prepared. So much so, that back in 2005 while I doing my

fieldwork, a Dominican friend of mine described an engineering exam as so hard that even the Haitians found it difficult. The socio-economic demography of the Haitian population is continuously changing contributing to different local understandings of Haitianness and its relation to blackness. Add this to the increased "black consciousness and solidarity" from Dominicans and Dominican Americans traveling and settling in countries like the US, where they are racialized as black or non-white and experience unequal access to resources and continuous discrimination, and blackness and Haitianness no longer can be defined as a bounded thing. Dominicanness may have been defined on the national level as not-Haitian, but, on local and regional levels, individuals have not always created the same distinctions. The aforementioned scenario with Irma's mother who could not believe that a national symbol of Dominican music could be stripped of Dominican citizenship not only incited fear—what about "us" dark-skinned Dominicans—but fundamentally forced her, and others to question, who are "we."

As the impact of this decision continues to unravel, social scientists are particularly well poised to investigate how this decision will affect the people on the local, national and international level and how this will affect the black diaspora and the relation of nation-state and human rights. This decision forces us to reexamine how we understand today's nation-states, national responsibility, freedom and humanity and how we will reconcile the contradictions that lie in its relation.

Anthropology can help us gain purchase on the process through which these differences are produced, not only in the sense of the rationalities that animate them but in the sensual worlds which make them meaningful and real in people's lives. It is also important to distinguish the power that anti-interventionist discourses have in former colonial territories and how governments use this discourse to consolidate their power. The Dominican government's "this is my house" anti-interventionist claims create a fury of spectacle by fashioning the state as vulnerable to foreign intervention. This garners support nationally (and internationally) from individuals, who though they may oppose and/or question the amendment, detest and or fear political or financial occupation

from western nations or global entities. Thus, it is of utmost importance to stop fueling the spectacle around the amendment by spotlighting and supporting local organizations, groups and individuals, who do not align with the state's discriminatory policies and practices and continue to work for change within the country.

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