

## The Compromised Right to Nationality in the Dominican Republic

---

In the Dominican Republic, enjoyment of the right to nationality has become all but impossible for Dominicans of Haitian descent. Since 2004, this vulnerable population has faced an avalanche of hostile legislative changes and administrative policies which have effectively stripped them of their Dominican nationality and permanently excluded them from the economic, social and cultural life of the only country they have ever known.

Until recently, everyone born on Dominican territory, except for the children of diplomats and parents who were “in transit,” had the right to Dominican nationality. Parents were considered to be “in transit” if they remained in the country for a period of 10 days or less. Under this citizenship policy many—though not all—of the Dominican Republic-born children of Haitian migrants were officially recognized as Dominican nationals. As children, they were issued official Dominican birth certificates, and as adults, they received national identity cards (*cédulas de identidad y electoral*). These documents enabled them to live full and productive lives as Dominican citizens.

This all changed in August 2004, when a new *General Law on Migration* was enacted. According to this law, persons classified as “non-residents” would now be considered to be “in transit” and therefore excluded from the constitution’s nationality guarantee.

The category of “non-residents” was defined to include temporary foreign workers, migrants with expired residency visas, undocumented migrant workers, and people who are unable to prove their lawful residence in the Dominican Republic—all categories that are overwhelmingly dominated by people of Haitian origin. As of 2004, children of “non-residents” no longer have an automatic right

to Dominican nationality, even when they are born and are habitually resident in the Dominican Republic. Instead, they must endeavor to become citizens of Haiti—a country to which few of them have any effective link, and whose laws bar most of them from automatically acquiring its nationality.

To make matters worse, the Dominican government has been retroactively applying the 2004 migration law to take away the nationality of thousands of Dominicans of Haitian descent. Government officials have argued that the thousands of Dominicans of Haitian descent who up until now have enjoyed Dominican nationality never should have been recognized as Dominican citizens in the first place, as their parents were all “non-residents” at the time of their birth—never mind that the “non resident” exception to the nationality law was introduced only seven years ago. Such retroactive application of a law runs counter to both international law and the Dominican Republic’s own legal norms.

The Dominican civil registry has sought to rectify this “mistake” by making it almost impossible for Dominicans citizens of Haitian descent to apply for or obtain copies of state-issued identity documents that would prove their Dominican nationality. For thousands of Dominicans of Haitian descent,

including those whose families have lived in the Dominican Republic for multiple generations, the inability to obtain these documents has translated into a chronic inability to enjoy numerous rights which are attendant on Dominican nationality.

A series of internal memoranda has forbidden civil registry officers from issuing birth certificate copies to “children of foreign parents who had not proven their residency or legal status in the Dominican Republic”—in other words, children of Haitian descent. Without these copies, thousands of Dominicans of Haitian descent have had to forgo completing their secondary school education, matriculating at university, applying for a passport, and obtaining a national identity card. Without a national identity card, they have been unable to participate in elections, run for office, open bank accounts, acquire and transfer property, obtain social benefits, or register the birth of their own children and have them be recognized as Dominican citizens.

The cumulative effect of this document denial has been to leave thousands of Dominicans of Haitian descent stateless. The Dominican government defends its actions by claiming that Dominicans of Haitian descent have a right to Haitian nationality, and so their human right to nationality has not been violated. In order to obtain Haitian nationality, however, second- and third-generation descendants of Haitian migrants could apply to become naturalized citizens of Haiti only residing in Haiti for a continuous five-year period. They would also need to abandon the only country they have ever known.

A January 2010 change to the national constitution solidified the “non-resident” nationality exception first introduced in the 2004 migration law. Although this same article guarantees nationality to those who “enjoyed it” prior to the entry into force of the new constitution, it is doubtful that this non-retroactivity clause will apply to those Dominicans of Haitian descent whose right to nationality was already compromised by the retroactive application of the 2004 migration law.

The Dominican Republic’s current nationality policies discriminate against Dominicans of Haitian descent, and therefore run afoul of its human rights obligations to ensure equal protection before the law in the granting of nationality and to prevent, avoid, and reduce statelessness.

The Justice Initiative’s *Equal Access to Citizenship in the Dominican Republic* project systematically challenges the violations carried out by the Dominican government against Dominicans of Haitian descent. The Justice Initiative works to accomplish the following goals:

- Document ongoing denial and deprivation of nationality raise domestic and international awareness of discrimination in access to nationality in the Dominican Republic
- Engage in successful legal challenges to discrimination in access to nationality before domestic, regional and international tribunals.
- Increase political cost to the Dominican government of continuing its discriminatory nationality policies and force to them to effect change from the top (executive branch) to the top (civil registry) down.
- Build sustainable legal capacity at the national level in order to increase the capacity to mount challenges to citizenship-related discrimination.

### Contact:

- Indira Goris (New York):  
Email: [igoris@justiceinitiative.org](mailto:igoris@justiceinitiative.org)
- Liliana Gamboa (Santo Domingo):  
[lgamboa@osieurope.org](mailto:lgamboa@osieurope.org)

For more information, see the Open Society Justice Initiative website: <http://www.justiceinitiative.org/>