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Citizen or Subordinate: Permutations of Belonging in the United States and the Dominican Republic

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Executive Summary

The Dominican Republic and the United States have both experienced tensions arising from migratory flows from poorer, less stable neighbors. Until recently, both countries had constitutions which conferred citizenship by birth with very limited exceptions. Despite these similarities, their respective discourses around *jus soli* citizenship, particularly for the children of unauthorized migrants from the poorer neighboring countries, have manifested in different ways. The identity of the United States as a nation of immigrants has limited the success of campaigns to revoke *jus soli* citizenship for the children of unauthorized immigrants, but the persistent articulation of this idea as a response to illegal migration has shifted the parameters of the immigration debate. In the Dominican Republic, the historical construction of national identity and anti-Haitian discourse has led to an evolution in Dominican law which codifies already established practices that deny citizenship to children of Haitian migrants. In both cases, movements that support more inclusive understandings of societal belonging, like the DREAMers in the United States and youth movements in the Dominican Republic, may offer the most effective way of protecting universal *jus soli* citizenship regimes.

Introduction

Both the United States and the Dominican Republic have recently grappled with the idea of redefining their citizenship standards in response to tensions arising from large migratory flows from poorer, less stable neighboring countries. Comparisons between these countries often focus on their respective legal frameworks for conferring citizenship, but a close examination of the ensuing debates reveals a broader discourse around membership and gradations of belonging. This article argues that national identity is the principal mode through which citizenship frameworks are interpreted and enacted. Moreover, it posits that

evolving national narratives that define membership in society interact with and at times push the boundaries of legal citizenship regimes.

Globally, there are multiple systems that govern the conferral of citizenship at birth. The two primary systems of birthright citizenship are *jus sanguinis,* or citizenship by blood, and *jus soli,* or citizenship by soil (place of birth). Virtually every country has some version of *jus sanguinis* in which parents can pass on their nationality to their children. In the Americas, 30 of 35 sovereign nations have *jus soli* systems which confer citizenship on nearly every child born within their territory (Culliton-Gonzalez 2012). The ability to attain citizenship is a high stakes question. Within the current global system of sovereign nation states, citizenship is what obliges a state to protect an individual. Said differently, nationality is "the right to have rights" (Arendt 1968, 299) as it opens the door to numerous opportunities and privileges (Mancini and Finlay 2008; Middleton and Wigginton 2012; Shachar 2007; Van Waas 2007).

In many ways, the challenges faced by both the United States and the Dominican Republic with regard to citizenship are infused with global themes and show how citizenship operates as both a formal legal status and as a social identity (Keyes 2013; Plascencia 2012). Around the world, the "increasingly permanent… presence of large numbers of unauthorized immigrants is putting pressure on immigration and citizenship policies as a balance is sought between inclusion and exclusion" (Van Waas 2007). Debates about conferral of *jus soli* citizenship mask a broader debate about membership and belonging, particularly regarding unauthorized migrants from poor sending countries. For this reason, constitutional scholars note that "revocations of *jus soli*… take place within the context of inegalitarian campaigns to discourage permanence, to diminish rights, and to institute 'caste division'" (Mancini and Finlay 2008, 594). The emergence of these debates now is surprising, given that the morality of caste and second-class status systems was widely repudiated by the end of the last century. Nevertheless, the impacts of proposed changes in citizenship regimes call into question whether or not migrants and their children are considered part of society and are afforded their fundamental civil and human rights.

This article seeks to complement the theoretical literature on citizenship by exploring the current and historical debates around *jus soli* citizenship in both the Dominican Republic and the United States. Given the uncommon prevalence of *jus soli* citizenship regimes in the Western Hemisphere, the barriers to inclusion—enacted or proposed—make the comparative study of these two countries compelling. We begin by discussing the historical context for migration from Mexico to the United States and from Haiti to the Dominican Republic with particular attention to the factors that have led to large unauthorized migrant populations. In the US context, we then explore the persistent attacks on *jus soli* citizenship, which often occur in the context of restrictionist immigration proposals. In the Dominican Republic, we detail the current practice of denying and revoking citizenship for Dominicans of Haitian descent, and the evolving legal justifications for these practices. With these two cases in mind, we analyze the ultimate impact of struggles over *jus soli* citizenship.

Within the United States, debate over the legal status of the children of unauthorized immigrants has had the effect of shifting the parameters of political discourse about

immigration policy. This has led to proposals that range from locking undocumented immigrants into a permanent second-tier status to arduous, exclusionary, and lengthy paths to citizenship for the millions of undocumented immigrants. Within the Dominican Republic, the denial and revocation of citizenship of Dominicans of Haitian descent has been broadly accepted, and has demonstrated an entrenchment and constriction of Dominican national identity. For both nations, we suggest that the model offered by youth movements, which engage understandings of national identity and articulate a more inclusive conception of belonging, may offer the best path forward.

Migration Context Between the US and Mexico

Current debates surrounding *jus soli* citizenship in the United States must be contextualized in light of its immigration and citizenship history. Drawn by the country's vast economic resources, and cultural and political hegemony, people migrate to the United States from all over the world, but a plurality of the foreign-born population claim Mexico as their country of origin. Particular attention to the complex bilateral migratory relationship between the United States and Mexico helps to trace the source of recent debates about the legal obligations and societal impacts of a *jus soli* system.

The United States and Mexico share a 2,000-mile border that spans four US and six Mexican states. Historically, Mexican migration was largely temporary, circular and employment-based, and few restrictions were placed on the movement of people or goods across the US-Mexico border[1] until 1924 when the US Border Patrol was established (Southern Poverty Law Center 2013, 3). Contemporary Mexican migration to the United States began through direct-recruitment initiatives by US companies in the period after the Civil War. The Bracero Program, which operated between 1942 and 1964 through a bilateral agreement between the United States and Mexico, attracted more than 400,000 workers a year at its peak (ibid.). Following the conclusion of the Bracero Program, a numerical limit was placed on Mexican migration to the United States in 1965 (CRS 2012a, 8). It was only then that the century-old migration flow from Mexico, mostly into the low-wage labor sector, became largely characterized as "illegal."

1 It is worth noting that the near absence of immigration enforcement infrastructure coincided with a legal regime that rarely deported immigrants who had settled in the United States, even those who entered without inspection. Deportation was not a penalty under the law for most irregular migration, though the Immigration Act of 1891 did establish deportation as a penalty for immigrants who became public charges within one year of initial entry, restricted admission for people with certain illnesses, and generally represented the beginning of a series of steps to create more restrictive and discriminatory immigration policies. A year later, the Chinese Exclusion Act passed in 1892, prohibiting the immigration of all Chinese laborers. Later, the 1917 Immigration Act instituted a literacy test for admission with the aim of minimizing Southern and Eastern European immigration, extended the period in which a person could be subject to deportation to five years and included national security language aimed at deporting anarchists or communists (Ngai 2003, 69-71). The Immigration Act of 1924 enacted national origin quotas, excluded certain "undesirables" like paupers, criminals, anarchists and "the diseased" and extended Chinese exclusion to other Asian groups. However, the Immigration Act of 1924 did not make Mexico or any of the other Western Hemisphere countries subject to the new numerical quotas. Mass deportations occasionally occurred in extra-legal contexts, such as the Palmer Raids of the winter of 1919-1920. During the 1930s, depression-era Mexican immigrants and US-born Mexican-Americans alike were rounded up and expelled from the country without any process of law (Ngai 2004, 3, 17-19).

Despite the newly-minted restrictions on Mexican immigrants seeking permanent residence in the United States or traveling across the border, migration picked up speed, set into motion by a combination of economic and political factors. Illegal immigration became a topic of public concern as apprehensions of unauthorized immigrants, 80 percent of whom were Mexican nationals, tripled between 1965 and 1970 (CRS 2012a, 2, 6). Around this time, the United States began to experience swifter growth in its share of foreign-born persons of Mexican origin, though it was not until 1980 that the share of the foreign-born from Mexico exceeded that of Italy, Germany, or Canada (Grieco et al. 2012, 7).

The shift in migration patterns from Mexico coincided with a dramatic shift in US immigration policy toward an increasingly restrictionist model (Carnegie Endowment for International Peace and Instituto Tecnológico Autónomo de México 2001, 1, 6-7). Despite this, Mexican migration continued to grow rapidly throughout the eighties, nineties, and early 2000s. Mexican immigrants have accounted for the largest share of foreign-born residents over the last 30 years (Gibson and Jung 2006). They represent the "largest group of aliens subject to US immigration control and border security policies, the largest group of lawful immigrants within permanent and temporary visa categories, and the majority of unauthorized migrants within the United States" (CRS 2012a, 2). As of 2011, Mexicans constituted 58 percent of US unauthorized immigrants. Likewise, the majority of children born to undocumented immigrants in the United States are of Mexican origin (Passel and Cohn 2011, 2).

In the last two decades, the United States and Mexico have also experienced intentional and unprecedented economic integration, arising in large part from the trade infrastructure put in place by the North American Free Trade Agreement (NAFTA) in 1994 (Carnegie Endowment for International Peace and Instituto Tecnológico Autónomo de México 2001, 1). The United States is Mexico's principal trading partner, and Mexico is currently the third largest trading partner for the United States, a trade relationship that was only deepened by NAFTA (CRS 2012b, 1). Yet, even as the countries' interdependence has increased, a vastly disparate economic relationship persists. In the United States the per capita gross domestic product (GDP) is $49,800 while in Mexico it is only $15,300 (US Central Intelligence Agency 2013). This disparity has acted as a continued pull factor for Mexican migrants looking to improve their lives.

While scholarly discussions centered on changing the laws or policies governing *jus soli* citizenship usually frame arguments in nationality and racially neutral terms, the debate among political and media actors, perhaps predictably, has drawn heavily upon the popular imagery of Mexican migrants.

Migration Context Between the Dominican Republic and Haiti

The Dominican Republic and Haiti have a similarly long and complicated history that deeply impacts understandings of identity and belonging in the Dominican Republic. Like the United States and Mexico, the relationship between the Dominican Republic and Haiti

is characterized by a significant flow of unauthorized migrants, economic interdependence, and reliance on cheap migrant labor.

After an ultimately unsuccessful effort to unify the island and abolish slavery in what is now the Dominican Republic by Haitian revolutionaries in 1801, the newly independent Haiti struggled with perceived and real threats of recolonization launched by the French from the other side of the island. In an attempt to solidify Haitian sovereignty, unite the island of Hispaniola, and abolish slavery from the Dominican side of the island, Haiti led a successful military invasion of the Dominican Republic in 1821. The invasion resulted in the abolition of slavery, but the subsequent 22-year period of Haitian occupation of the Dominican side of the island is viewed in the Dominican popular imagination as a time of oppression, brutality and suffering, when the Spanish language was banned, land was expropriated from white plantation owners, and Spanish colonial customs were outlawed. This historical narrative anchors present day feelings toward Haitian migrants.

While there is a long history of migration between the Dominican Republic and Haiti, the beginnings of the current situation can be traced back to the Dominican sugar industry (Vergne 2005, 84). Beginning in the early 1900s, the Dominican Republic facilitated the recruitment of Haitians to work the sugar harvest. It is estimated that about 5,000 Haitian laborers were contracted each year until 1986 (Wooding and Moseley-Williams 2004, 24). Similar to the Bracero Program in the United States, sugar cane workers came through regulated channels established by both governments, as well as through a parallel, informal one. In each case, the receiving country expected to fully control their imported labor source. Patterns of settlement and networks among diaspora groups were established through the circular migration of seasonal labor, which led to more migration. As migrants began to lay down permanent roots, receiving countries were confronted with the migration of thousands of people over decades.

Rather than come to terms with the effects of migration, the Dominican government tried to brutally undo them by force. In 1937, General Rafael Trujillo, in an attempt to "Dominicanize the border," exploited a latent sense of fear about the scarcity of resources, made Haitians a convenient scapegoat, and ordered the massacre of thousands of Haitians and people of Haitian descent in the border provinces. Workers on Dominican sugar estates, most of which were owned by US companies, were protected, highlighting the tension between the economic need for a low-wage labor force and the exclusion of Haitians and their descendants from membership in the Dominican community. The Trujillo dictatorship also fostered a national identity and institutional racism that favored whites over blacks (Middleton and Wigginton 2012; Duany 1998; Howard 2001).

While this history laid the foundation for today's situation, changes following the decline of the sugar industry in the 1980s are also important. With long-term political and economic turmoil in Haiti and a more diversified Dominican economy, many of the Haitians who migrated in the last three decades work in non-sugar agricultural sectors, tourism, construction, and domestic service (Wooding and Moseley-Williams 2004, 14). On one hand, these changes have proven incompatible with the Dominican desire for a purely seasonal, temporary Haitian presence. On the other, the Dominican economy was built on a supply of inexpensive and compliant labor, and still depends on it for continued growth.

However, the supply of Haitian labor is based on more than just Dominican demand; it is also driven by Haiti's poverty and political instability. In 2011, Haiti had a per capita GDP of $700 and a poverty rate of 77 percent (World Bank 2011b). The Dominican Republic, on the other hand, had a per capita GDP of $5,240, or 7.5 times that of Haiti, and 40.4 percent of the population lived at or below the poverty line (World Bank 2011a). A similar disparity exists regarding health. Child and maternal mortality rates are more than twice as high in Haiti as they are in the Dominican Republic, and the life expectancy at birth in the Dominican Republic is 15 years higher than in Haiti (US Central Intelligence Agency 2013).

Lack of recognition of the diversity among the Haitian and Haitian-descendant population in the Dominican Republic has also presented difficulties. Ferguson describes this dynamic well, writing that this population is characterized by "voluntary and involuntary migration, long and short-term residence in the Dominican Republic, legal and illegal entry, smuggling, expulsions and a long history of human rights abuses" (Ferguson 2003, 9). When policies motivated by anti-Haitianism are implemented, the negative impacts are felt by all people who are somehow marked as Haitian, regardless of whether they are recent migrants, third generation Dominicans or even black Dominicans with no Haitian ancestry. Anti-Hatianism destabilizes the citizenship system, as well as broader senses of membership and belonging.

The question of how many Haitians live in the Dominican Republic is highly politicized and further complicated by the lack of recognition of differences between recent migrants, long term residents, and Dominican-born descendants (Baluarte 2006; Wooding and Moseley-Williams 2004). Official records of the Dominican government show fewer than 5,000 lawful Haitian residents of the Dominican Republic. The first ever national-level survey of immigrants in the Dominican Republic found 458,233 people who were Haitian-born (Oficina Nacional de Estadística 2013), while Dominican nationalist groups contend that there are closer to one million Haitians (Baluarte 2006, 25).

Threats to *Jus Soli* Citizenship in the US

In both the Dominican Republic and the United States, the historical migration context between neighbors has shaped the discourse around *jus soli* citizenship as well as broader narratives about belonging. The national identity of the United States is built on American exceptionalism and a shared historical narrative about a nation of immigrants in which opportunity is open to all. Still, worries about the swift demographic changes that became evident in the 1980 census, driven in large-part by irregular immigration of Mexicans and other Latin Americans, led to discussions in political and academic circles about the best ways to discourage irregular migration, stem the tide of demographic change, and integrate millions of unauthorized immigrants into American society. Concern over how to deal with the country's large and growing unauthorized population led to a range of proposals that were debated for nearly a decade before the Immigration Reform and Control Act (IRCA) finally passed in 1986. While IRCA is remembered today for creating the infrastructure to grant legal status and eventual citizenship to millions of unauthorized immigrants, the debate that brought IRCA about and the language of the bill itself also set in motion a number of measures aimed at discouraging and combating irregular migration (Cooper and

O'Neill 2005) including employer sanctions, interior enforcement, and a rapid increase in border enforcement.

A relative latecomer to the mainstream policy debate which preceded the passage of IRCA, the examination of *jus soli* citizenship in the United States as a contested area of constitutional law is attributed (Bloemraad 2013) to a controversial book published in 1985, *Citizenship Without Consent: Illegal Aliens in the American Polity*. The book, penned by two professors at Yale University, Peter Schuck and Rogers Smith, questioned whether the children of unauthorized immigrants merited citizenship under the Fourteenth Amendment to the US Constitution (Smith 2009, 1331). This argument was swiftly taken up by both politicians and advocacy organizations with restrictionist agendas like the Federation for American Immigration Reform (FAIR), which disseminated the publication as a solution to the "Latin onslaught" problem (Culliton-Gonzalez 2012, 157).

The Fourteenth Amendment to the US Constitution was enacted in 1868, three years after the end of the Civil War. Its citizenship clause reads, "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside."[2] Schuck and Smith's argument is that the "subject to the jurisdiction thereof" clause is not a nod to *jus soli*, but rather should be read within the context of "consent" as the foundational principle for political membership in the American republic (Schuck and Smith 1996, 20). The two argued that the Fourteenth Amendment did not require automatic citizenship for the children of unauthorized persons. Rather, this was a matter left for the legislature to determine. The book contended that *United States v. Wong Kim Ark*,[3] the foundational case that applied the Fourteenth Amendment to confer citizenship to the children of immigrants born within US territory with very narrow exceptions, applied only to citizenship of the children of legally admitted immigrants, not those of unauthorized immigrants (Smith 2009, 1331).

The arguments put forth in *Citizenship Without Consent* have been repudiated by a veritable surfeit of legal scholars and practitioners (Carens 1987; Eisgruber 1997; Martin 1985; Neuman 1987; Pear 1996; Rodríguez 2009; Schwartz 1986) who questioned the validity of legal and historical arguments posited by Schuck and Smith and identified the perverse policy implications of reinterpreting the Constitution in a manner which would solidify a two-tiered caste system in a country that defines itself as a land of exceptional opportunity where the socio-economic status of one's parents need not dictate one's future possibilities (Ho 2006; Dellinger 1996; Stock 2007). The critics of universal *jus soli* have had little political success in enacting a change in the US citizenship regime, despite the persistence of champions in Congress over the past thirty years.

Schuck and Smith's argument ultimately was published a bit too late to play a prominent role in the pre-IRCA immigration debate of the mid-eighties, but when the controversies surrounding immigration arose again, this time characterized by an exclusively restrictionist flavor, the validity of *jus soli* citizenship for the US-born children of unauthorized immigrants emerged prominently. In 1996, the Republican Party adopted the repeal of universal *jus soli* citizenship as part of its party platform writing, "We support a constitutional amendment

2 U.S. Const. amend. XIV, § 1.
3 *United States v. Wong Kim Ark, 169 U.S. 649 (1898).*

or constitutionally-valid legislation declaring that children born in the United States of parents who are not legally present in the United States or who are not long-term residents are not automatically citizens" (The American Presidency Project 1996).

In the 1990s, irregular migration from Mexico, which had declined in the years immediately following the passage of IRCA, again began to rise (Zavodny 2012). At the same time, the War on Crime, discontent with the welfare system, public anxiety about drugs, gang violence and other public safety concerns reached their zenith as an economic downturn hit the United States. Mexican immigrants and Mexican-Americans were explicitly associated with societal ills in both political discourse and popular culture, and anti-immigrant lobbies grew in strength (Durand, Massey and Parrado 1999, 519, 530). Seizing the political moment, and armed with Schuck and Smith's conclusions on the Congressional authority to limit *jus soli* citizenship and a report from the restrictionist Center for Immigration Studies (CIS), Representative Elton Gallegly (R-CA) took to the floor of the US House of Representatives on October 22, 1991, and proposed that Congress act to deny citizenship to the US-born children of undocumented persons.

> Some constitutional scholars, including Peter Schuck and Roger Smith of Yale University, have suggested that birthright citizenship is an anomaly in a nation that is based on the will of the people and government by consent and propose a reinterpretation of the 14th amendment's citizenship clause… Clearly, the present guarantee under our laws of automatic birthright citizenship to the children of illegal aliens is one more causal factor contributing to the crisis of illegal immigration. When this enticement is combined with the attraction of expanded entitlements conferred upon citizen children and their families by the welfare state, the total effect of birthright citizenship laws is significant and clearly harmful. It is time for Congress to act to remove such powerful incentives.[4]

Gallegly's proposal gained attention in the press and support from members of his party (Fox News 2013; The American Presidency Project 1996; Malkin 2003). In response, he introduced a House Joint Resolution at the beginning of the 103rd Congressional session to amend the Constitution to eliminate *jus soli* citizenship for all children of unauthorized immigrants born after the bill's enactment. The bill earned 42 co-sponsors that session but never made it out of committee. Subsequently, Gallegly introduced or co-sponsored similar bills in every Congressional session thereafter until his retirement in 2012.

The threat of these ideas is often inaccurately assessed. At its peak, proposed legislation to repeal *jus soli* citizenship for the children of the unauthorized had 104 cosponsors. Despite this show of support, these threats have been largely marginal to the immigration debate, as none of these bills ever made it out of committee, even with Gallegly's seniority and leadership position on the House Judiciary Committee's Subcommittee on Immigration Policy and Enforcement in the 112th Congress (Smith 2009, 1333). So while the threat of repeal has been a disproportionately influential anchor to the immigration debate, it has never "come anywhere close to winning congressional approval or broader popular support" (ibid.). However, the fact that the citizenship of children of undocumented immigrants is coming under political scrutiny makes the idea of naturalizing the unauthorized appear less attainable,

4 137 *Cong. Rec. H8180 (daily ed. October 22, 1991).*

ultimately compressing the breadth of policy proposals put forth in favor of recognizing their rights and contributions.

Threats to *Jus Soli* Citizenship in the Dominican Republic

The evolving legislation of the Dominican Republic, however, does constitute a serious threat to *jus soli* citizenship. Current implementation practices go beyond the letter of the law to create an additional *de facto* threat to *jus soli* citizenship. Throughout the country's history, exclusionary practices have predated the actual legislative or administrative changes needed to justify them.

Through the 1990s, the Dominican state formally recognized a significant number of Dominicans of Haitian descent as citizens. Many Haitian parents were successful in using Haitian identity documents to register their children's births, and were able to access official birth certificates, which ultimately led to adult national identity cards for these children. The civil registry also habitually accepted workplace identity cards issued by Dominican companies that hired Haitian laborers as parental identification for the purposes of registering a birth (Open Society Foundations 2010).

However, there also developed a multi-generational class of undocumented Dominicans of Haitian descent due to *ad hoc* and sometimes regional decisions of civil registry designees. Without any legal basis, some civil registry offices determined that the children of undocumented Haitian parents did not have a right to Dominican nationality. Since the early 2000s, the law has changed to make these *ad hoc* practices official and universal.

Prior to 2010, the Dominican Constitution provided for a relatively straightforward *jus soli* citizenship regime, with the exception of children born to foreign diplomats and people in transit. Denial of citizenship to Dominican-born children of Haitian descent began in an *ad hoc* and arbitrary way but was first justified by exploiting the "in transit" exception in the Constitution. Despite this, the matter was relatively settled in Dominican law. Until 2004, the governing legislation around migration was enunciated in the Rules of Procedure of Migration No. 279 of 1939. This code clearly stated that "the purpose of the person in transit is merely to pass through the territory and, to this end, it establishe[d] a temporal limit of no more than ten days."[5] In addition, the Immigration Act No. 95 of 1939, as well as statements by the Dominican Republic before the UN Human Rights Committee, affirmed that "in transit" ordinarily applied to persons who were in the country for ten or fewer days (cited in Open Society Foundations 2010, 3).

In 2004, the practice of some civil registry offices of denying nationality to the Dominican-born children of unauthorized Haitian migrants became law under Migration Law 285-04. A year later, it was upheld by the Dominican Supreme Court. Among other provisions, this law applied the "in transit" provision within the Constitution to all "non-residents" including temporary foreign workers, migrants with expired visas and undocumented migrants, constituting a significant change in the citizenship structure of the Dominican Republic. In order to prevent this new law from becoming retroactive in its impact,

5 *Dilcia Yean and Violeta Bosico v. Dominican Republic, Judgment of September 8, 2005, Inter-Am Ct. H.R. (Ser. C), No. 130 (2005), para. 156.*

Articles 151 and 152 within the Migration Law also direct the government to conduct a regularization process for long-term unauthorized migrants who meet specific eligibility requirements (Wooding 2009; Open Society Justice Initiative and Center for Justice in International Law 2013). However, such a regularization plan has never been implemented and retroactive application became the norm.

Specifically, Migration Law 285-04 directs hospitals to give non-resident mothers different "certificates of live birth" than those given to resident mothers. The regular certificates of live birth given to Dominican citizens and legal residents can be presented at the office of the civil registry to receive an official birth certificate. This official birth certificate, in turn, allows children to take school examinations. A certified copy of the official birth certificate is also used to get an adult identification card upon the child's 18th birthday.

The certificates of live birth given to non-resident mothers cannot be used to get an official birth certificate. These special certificates grant no rights to the child and place no obligations upon the Dominican state. Instead, they are sent to the Ministry of Foreign Relations, the Directorate for Migration, and the Central Electoral Board (JCE, by its Spanish acronym), which is the government agency responsible for administering the civil registry. Eventually, information from the certificates is entered into the Foreign Register. Under the law, non-resident parents should register their children with the embassy or consulate of their country of origin in order to access an official birth certificate.

Without the regular certificate of live birth, non-resident parents cannot access an official birth certificate for their children, preventing them from obtaining identification cards upon reaching adulthood. This break in the chain of official documentation was anticipated by scholars who pointed to birth registration as an important point of vulnerability, claiming that "without proof of these ties, the child [of unauthorized immigrants] will have difficulty claiming the nationality to which he [or she] is entitled" (Van Waas 2007). Similarly, UNICEF describes an official birth certificate as a "membership card for society that… open[s] the door to the enjoyment of a whole range of other rights including education and health care, participation, and protection" (UNICEF 2002, 1).

The identification card and a notarized single-use copy of the birth certificate are the documents required to access most rights and opportunities in the Dominican Republic, including secondary education, jobs in the formal sector, state-recognized marriage, a bank account, and the right to vote. In fact, Dominican law requires that all adults carry an identification card, and being caught without one can result in fines, imprisonment or, in rare cases, deportation (Open Society Foundations 2010, 4). Although the right to nationality is regulated by law, it is manifested in the issuance of these documents.

Since 2004, these documents and the enjoyment of rights linked to their possession have become even more difficult to access for Dominicans of Haitian descent. In 2007, contemporaneously with the implementation of the Migration Law, the JCE issued Circular 017, directing civil registry officers not to give anyone with suspect documents a certified copy of their birth certificate. However, the determination that documents are "suspect" is entirely up to the discretion of each civil servant. Civil registry officials have admitted to using darker skin color, facial features associated with Haitians, a person's accent, and

"Haitian-sounding names" to make determinations (Open Society Foundations 2010; Open Society Justice Initiative and Center for Justice in International Law 2013).

The following year, Resolution 12-2008 was released. This internal administrative memo authorized civil registry officials to suspend state identification documents if the documents were deemed "irregular." The effects of suspension have been severe. While their documents are under investigation, a process that can sometimes take years, affected individuals cannot do anything that requires proof of citizenship or lawful residence. Ostensibly intended to "clean up" the civil registry from years of fraud, corruption, and incompetence, the implementation of the Resolution has inconsistently and disproportionately affected Dominicans of Haitian descent.

In 2011, the Supreme Court upheld Circular 017 and the actions of the JCE in refusing to give Emildo Bueno, a Dominican of Haitian descent, a certified copy of his birth certificate. The Court held that the JCE has the authority to implement any administrative measure needed to manage the Civil Registry and implement the relevant laws, including the 2004 General Law on Migration (Open Society Justice Initiative and Center for Justice in International Law 2013, 10-11).

The implementation of Circular 017 and Resolution 12 has thus clearly extended beyond the letter of the actual legislation. In addition to instances in which civil registry officials used problematic evidence such as skin color and "Haitian-sounding names" to label documents as suspect and suspend them, there have also been instances in which officially-issued documents were retroactively invalidated through administrative "de-nationalization" declarations which are made verbally by officials of the JCE rather than in judicial proceedings as mandated by Dominican law (Open Society Justice Initiative and Center for Justice in International Law 2013).

The impacts of these legislative and administrative changes have also been noted by international bodies. In 2005, the Inter-American Court of Human Rights issued its decision in the *Dilcia Yean and Violeta Bosico v. Dominican Republic* case. The Court found that the Dominican Republic had applied its nationality and birth registration laws in a discriminatory manner which had the effect of rendering Dominican children of Haitian descent effectively stateless and barred them from accessing basic human rights in violation of the Inter-American Convention on Human Rights (Baluarte 2006, 27). As a result, the Court ordered the government to comply with its own Constitution and, more specifically, to create an effective process for granting birth certificates to all children born in the country, regardless of their parents' migratory status.[6]

The ruling was the first judgment against the Dominican Republic since it ratified the jurisdiction of the Inter-American Court in 1999, and the backlash against it was severe. In addition to extremely negative coverage in the media and several outbreaks of violence against Haitians and Dominicans of Haitian descent, the Vice President spoke out against the validity of the Court's decision and the Dominican Senate issued a resolution officially rejecting the Court's ruling (Baluarte 2006).

6 *Dilcia Yean and Violeta Bosico v. Dominican Republic, Judgment of September 8, 2005, Inter-Am Ct. H.R. (Ser. C), No. 130 (2005).*

In 2010, the Dominican government revised its Constitution. In the newest version of the Constitution, the children of unauthorized immigrants were explicitly added to the list of those excluded from *jus soli* citizenship. However, the drafters of the 2010 Constitution were careful to include language explicitly forbidding the retroactive application of new citizenship provisions. Article 110 states, "the law only mandates and applies to the future. It does not have a retroactive effect… In no case will political leaders or the law have the ability to affect or change the juridical security derived from situations established in adherence to prior legislation."[7]

Nevertheless, cases of retroactive application of the new constitutional provisions have been well-documented (Open Society Justice Initiative and Center for Justice in International Law 2013). Several Dominicans of Haitian descent have challenged the denial of their identity documents in court, and many have won in the first instance. However, to date, the JCE has not complied with these rulings and has appealed all decisions (ibid., 10-11). The Open Society Foundations, like most other human rights organizations, paints a grim picture of the current reality for Dominicans of Haitian descent.

> In the Dominican Republic, enjoyment of the right to nationality has become all but impossible for persons of Haitian descent. Following decades of ad hoc discrimination in access to the identity documents that recognized them as lawful citizens, Dominicans of Haitian descent have since 2004 faced an avalanche of hostile legislative changes and administrative policies that have restricted their ability to enjoy [Dominican] nationality . . .Singled out because of their national origin and their skin color, thousands of Dominicans of Haitian descent have been left effectively stateless and permanently excluded from the political, economic, social and cultural life of their country of birth and residence. (Open Society Foundations 2010, 2)

The Effect of the Struggle Around *Jus Soli* Citizenship in the United States

While critics of *jus soli* citizenship in the United States have not been as effective as their counterparts in the Dominican Republic, their campaign has still affected immigration policy in significant ways. In the post-Civil Rights era, apartheid-like legal regimes have been thoroughly rejected. Nevertheless, the legislative reinterpretation of the Fourteenth Amendment's *jus soli* citizenship clause would create a permanent second-tier of US residents. While the frontal attack on *jus soli* citizenship in the US has been unsuccessful, the threat of revoking *jus soli* citizenship has been used to carve out the far-right flank of the immigration debate in the United States. In early 2013, as all signals pointed towards a concerted effort to move immigration legislation through Congress, it was no accident that one of the first pieces of immigration-related legislation introduced in the 113th Congress was Representative Steve King's Birthright Citizenship Act of 2013[8] which would bar *jus soli* citizenship for children of undocumented migrants in the future.

The effect of pulling out the right flank can be seen concretely within the current immigration debate. Representative Bob Goodlate, the Chairman of the House Judiciary Committee

7 Dominican Republic Const. art. CX, § 4.
8 H.R. 140, 113th Cong (2013).

for the 113th Congress, has suggested a pathway to legalization, but not citizenship, for those unauthorized people who meet certain eligibility criteria. This proposed creation of a permanent second-class of residents has the effect of making the alternative proposal in the Senate, an approximately thirteen-year provisional status that could eventually lead to citizenship for some percentage of the unauthorized, seem exceedingly generous.

Alternately, the fact that unauthorized youth known as DREAMers have garnered broad and bipartisan support has pulled out the left flank as well. In 2001, the DREAM Act (Development, Relief and Education for Alien Minors Act) was introduced for the first time. Although it has appeared in numerous permutations since 2001, all versions have been premised on the idea that persons who were brought to the US as children should not be punished with permanent unauthorized status because of the choices of their parents. This idea has its foundation in some of the same anti-caste principles and equal protection jurisprudence that support jus soli citizenship acquisition in the United States (Rodríguez 2009, 1337).[9] [10] Since the initial introduction of the Act, DREAMers have been caught in an intermediary limbo status. While increasingly embraced as recognized members of US society, they remain in a tenuous legal position created by an administrative waiver (Napolitano 2012; Saavedra 2012).

The nearly-universal recognition of DREAMers' membership rights was forecasted 20 years earlier by Supreme Court Justice Brennan when he found that laws that "im[pose] a lifetime of hardship on a discrete class of children not accountable for their disabling status" to be incompatible "with fundamental conceptions of justice."[11] DREAMers still do not have permanent legal status, but due to the prosecutorial discretion of the Department of Homeland Security, they have a measure of protection against detention and deportation. This intermediary status has been expanded even further under the Obama Administration's Deferred Action for Childhood Arrivals (DACA) Program. Under DACA, DREAM-eligible young people can apply for a two-year reprieve from the risk of deportation as well as work authorization if they can demonstrate economic necessity.

The political effect of mobilized DREAMers and their allies, and the ability of this group to capture the imagination of the American public and redefine what it means to "be American" has been particularly visible during the 2013 immigration debate. Even staunch restrictionist agencies like the Center for Immigration Studies which vociferously opposed the DREAM Act when it came to vote in 2010, have repeatedly conceded the need to find a solution for young immigrants who entered the United States as children. In testimony before the Senate Judiciary Committee, CIS's Jessica Vaughan stated, "Lawmakers should start with areas of reform around which there is already significant consensus and popular support. These include… amnesty for illegal aliens brought by their parents at a young age and who grew up here" (Vaughan February 13, 2013).

During the decade since Senator Durbin first introduced the DREAM Act, these immigrant youth have managed to frame themselves as the modern-day versions of the tenacious and enterprising immigrants of decades past who will inject American society with a renewed youthful passion and vigor. In the stories of the DREAMers, many native-born citizens

9 *United States v. Wong Kim Ark, 169 U.S. 649 (1898).*
10 *Plyler v. Doe, 457 U.S. 202 (1982).*
11 Ibid.

have recognized echoes of their own immigrant ancestors' stories (Keyes 2013, 5,10). The DREAMer narrative reinforces and builds upon the dual American meta-narratives of a nation of immigrants and a land of opportunity. At the same time, the DREAMers have consciously and consistently established themselves and their movement as the heirs to the struggle for equality of Civil Rights era activists, staging provocative sit-ins and non-violent protests, marches and acts of civil disobedience. Channeling Langston Hughes' "Let America be America Again," Pulitzer Prize winning DREAMer and activist Jose Antonio Vargas "came out" as an unauthorized immigrant in the *New York Times* in 2011, saying, "even though I think of myself as an American and consider America my country, my country doesn't think of me as one of its own" (Vargas 2011). The DREAMers' appeal for inclusion is also grounded in ideas of American exceptionalism as a national mythology that typifies achievement "against all odds" as only possible in America (Keyes 2013, 10). This sense of American exceptionalism, pervasive across the US political spectrum, supports *jus soli* citizenship for the children of unauthorized immigrants because many European nations do not grant citizenship rights to similarly situated children (Ho 2006).

The initial wins of the DREAMers have gone a long way toward undermining the argument against *jus soli* citizenship for the children of unauthorized immigrants. Some have expressed concern (Keyes 2013) that the way in which DREAMers appeal to their "worthiness" may undermine the citizenship claims of other "less worthy" individuals—shifting the collective conception of belonging in ways that create winners and losers. However, it seems that the efforts of the DREAMers have broadened the American understanding of who is really American based on what Ayelet Shachar calls *jus nexi*, or citizenship based in rootedness. In Shachar's assessment, such an understanding of citizenship would align one's legal status with the "social fact of [one's] attachment" (Shachar 2007, 116). This same concept was echoed by President Obama who said of the DREAMers, "They are Americans in their heart, in their minds, in every single way but one: on paper" (Obama 2012). While DREAMers are still not Americans on paper, the President's recognition of their identity gives critics of *jus soli* citizenship an increasingly heavy persuasive burden.

The Effect of the Struggle Around *Jus Soli* Citizenship in the Dominican Republic

While the DREAMers' successes show the dynamic nature of public willingness to redefine societal membership, the case of Dominicans of Haitian descent is instead a tale of entrenchment. Recent legislative and administrative changes show a trend away from inclusive rights recognition and toward denial of citizenship to Dominicans of Haitian descent. Pressure from the international community and an organized movement within the Dominican Republic have tended to focus on the gap between existing legal protections and their implementation. Even though *jus soli* citizenship was enshrined in the Constitution, civil registry offices denied nationality to Dominicans of Haitian descent before this practice became legal in 2004. The 2010 constitutional revision excluding the children of unauthorized immigrants from *jus soli* citizenship prohibits the retroactive application of new citizenship laws, yet cases of retroactive application for persons suspected of Haitian ancestry persist.

When confronting implementation anomalies such as this, scholars have often argued that the growing divide between citizens and non-citizens is "primarily a problem of lapsed enforcement of existing norms" (Goldston 2006). Yet, implementation does not invariably shift over time into increasingly faithful compliance with that law. The trend in the Dominican Republic has been one of shifting over time to come closer and closer to a discriminatory practice that was already well established, spreading and further cementing it throughout the country.

The concept of denying *jus soli* citizenship to children of Haitian descent ripened in a political and cultural climate in which "Dominicanness" was defined as the direct opposite of "Haitianness." Historical tensions and fears have fueled both ad hoc and codified denial and revocation of Dominican citizenship. Exploited by mainstream political figures seeking to capture populist and nationalistic zeal, the morality and consequences of citizenship denials and revocation have received little scrutiny by the two dominant political parties. Within this political climate, the Dominican government has responded to critiques of the gap between existing law and current practice by amending the law to reflect these discriminatory practices.

Because many nations respond to criticism of failed enforcement by moving in the opposite direction—by improving implementation of the law, not changing laws—the tendency of civil society within and outside of the Dominican Republic, as well as international bodies like the Organizations of American States, has been to frame their critique of the Dominican Republic's current citizenship regime in terms of a broader need for rule of law. Within this perspective, they have urged the Dominican government to better align the actual practices of civil servants with the protections in the Constitution. The increasingly exclusionary shifts within the Dominican Republic over the last decade show that it is an expanded understanding of Dominican identity, not an increased respect for rule of law, which will be the primary driver of rights recognition and provision of citizenship over time.

The movement of young Dominicans of Haitian descent, many of whom had official documentation before 2007, pursues this strategy by carrying out public actions and protests (Reconoci.do 2011b) in pursuit of a more inclusive conception of national membership. Just like the DREAMers, the youth movement in the Dominican Republic has used individual testimonies (Reconoci.do 2011a) of particularly exceptional young people to show the worthiness and essential "Dominicanness" of the group. The DREAMers have appealed to the unfairness of being punished for an act in which they had no part. Many Dominican youth of Haitian descent also draw on values of fairness when they denounce the retroactive application of laws and practices that suspended or revoked documents administered by and previously recognized by the Dominican state.

While the Dominican Republic remains alarmingly hostile to these young people, a recent split within the Civil Registry shows willingness by some officials to find a legal remedy to the permanent limbo in which Dominicans of Haitian descent live (Tejeda 2013). Similarly, the young people recently began demanding that the President "break his silence" on the issue of their denationalization, indicating a belief that if forced to speak, President Danilo Medina would speak in their favor (Batista 2013; Reynoso 2013).

Conclusion

Jus soli citizenship regimes are an important defining characteristic of the Americas. Until recently, both the Dominican Republic and the United States had language in their Constitutions which conferred *jus soli* citizenship with very limited exceptions. Both struggle to respond to migratory flows of large numbers of unauthorized migrants. Despite these similarities, the discourses around *jus soli* citizenship, particularly for the children of unauthorized migrants from poorer neighboring countries, have manifested in radically different ways.

In the United States, in response to rapid demographic change and an increase in unauthorized immigration, restrictionist organizations and politicians have revived a largely settled legal question by contesting the century-old interpretation of the Fourteenth Amendment as embodying an "anti-caste or anti-subordination principle" (Rodríguez 2009, 1365). Critics of universal *jus soli* citizenship have failed in their attempt to "reinterpret" the Constitution, and the citizenship of children of undocumented immigrants has never really been under imminent threat in the United States. However, the presence of this question on the political agenda may make a multi-tiered system of intermediary statuses for unauthorized immigrants more palatable. In the Dominican Republic, on the other hand, ethnocentric discriminatory practices for conferring citizenship at birth have been increasingly codified into law. The debate over *jus soli* citizenship for Dominicans of Haitian descent, also centering on a previously settled legal question, has conversely served as a justification for this evolution.

In both cases, the debates have at times been framed in nationality and racially neutral language. However, the everyday consequences have disproportionately been felt by Mexicans in the United States (Van Hook and Fix 2010, 5) and Haitians in the Dominican Republic (Wooding and Moseley-Williams 2004). This is the result of geography, history and identity politics. The resilience of these dynamics means that "the constitutional constructs of citizenship in the United States [and the] Dominican Republic… will continue to function under the tremendous weight of each society's racial, ethnic, and socio-economic biases" (Middleton and Wigginton 2012, 541). Within this reality, the challenge for governments is to operationalize citizenship regimes independent of "nationalistic, ethnocentric, and racial biases" (Middleton and Wigginton 2012, 541).

In the United States, *jus soli* citizenship debates often distract from the serious conversation about reforming the ways in which immigrants are integrated into our society. Understood in the context of the Civil Rights movement and reasoning behind the promulgation of the Fourteenth Amendment, the *jus soli* debate is marginal and should remain so. This proposal would only increase the already high number of 11 million unauthorized US residents.

In the Dominican Republic, the implementation of the new citizenship regime, particularly its retroactive application, exacerbates income inequality, illiteracy, family instability, and public health threats, in addition to violating internationally recognized rights. To prevent these negative outcomes, the Dominican Republic should amend the 2010 constitutional provisions regarding nationality to include children of unauthorized migrants, ensure that the Constitution and the General Law on Migration of 2004 are not applied retroactively, repeal Circular 017 and Resolution 12, stop disseminating administrative guidelines that

contradict existing law, develop effective implementation guidance to ensure that all persons born in the Dominican Republic receive non-discriminatory access to identity documents, and respect the jurisdiction of international bodies to which it belongs.

However, recognizing that these changes are unlikely in the short term, civil society strategies should focus on confronting notions of national identity. Looking to the success of DREAMers and their allies in the United States over the last decade in redefining concepts of belonging and membership to include unauthorized minors, it is clear that identity politics can and do shift, at times rapidly. Organized movements of youth in the Dominican Republic already exist and may present the best chance for confronting a culture of segregation and exclusion. Despite significant differences between the contexts of the two countries, the progress of the DREAM movement in the United States may offer some of the best lessons for advocates and affected persons within the Dominican Republic seeking to challenge the status quo.

REFERENCES

The American Presidency Project. 1996. *Political Party Platforms*. August 12. http://www.presidency.ucsb.edu/ws/index.php?pid=25848.

Arendt, Hannah. 1968. *The Origins of Totalitarianism, new edition.* New York: Harcourt Inc.

Baluarte, David C. 2006. "Inter-American Justice Comes to the Dominican Republic: An Island Shakes as Human Rights and Sovereignty Clash." *Human Rights Brief* 13 (2): 25-28.

Batista, Sorange. 2013. "Dominicanos de ascendencia haitiana piden al Presidente responder a reclamos contra la violación de sus derechos." *Hoy*, July 12. http://hoy.com.do/el-pais/2013/7/12/489527/Dominicanos-de-ascendencia-haitiana-piden-al-Presidente-responder-a.

Bloemraad, Irene. 2013. "Being American/Becoming American: Birthright Citizenship and Immigrants' Membership in the United States." Edited by Austin Sarat. *Studies in Law, Politics, and Society - Special Issue Who Belongs? Immigration, Citizenship, and the Constitution of Legality* 60: 55-84.

Carens, Joseph H. 1987. "Who Belongs? Theoretical and Legal Questions About Birthright Citizenship in the United States." *University of Toronto Law Journal* 37(4): 413-43.

Carnegie Endowment for International Peace and Instituto Tecnológico Autonómo de México. 2001. "Mexico-U.S. Migration: A Shared Responsibility." Washington, DC: Carnegie Endowment for International Peace. http://carnegieendowment.org/pdf/files/M%20exicoReport2001.pdf.

Cooper, Betsy, and Kevin O'Neill. 2005. "Lessons From the Immigration Reform and Control Act of 1986." Washington, DC: Migration Policy Institute. http://www. migrationpolicy.org/pubs/PolicyBrief_No3_Aug05.pdf.

CRS (Congressional Research Service). 2012a. *Mexican Migration to the United States: Policy and Trends*, R42560. Washington, DC: CRS.

———. 2012b. *U.S.-Mexico Economic Relations: Trends, Issues, and Implications*, RL3294. 2012. Washington, DC: CRS.

Culliton-Gonzalez, Katherine. 2012. "Born in the Americas: Birthright Citizenship and Human Rights." *Harvard Human Rights Journal* 25(1): 128-87.

Dellinger, Walter. "Legislation Denying Citizenship at Birth to Certain Children Born in the United States." Statement, December 13, 1995 before the Subcommmittees on Immigration and Claims and on the Constitution of the House Commmittee on the Judiciary. http://www.justice.gov/olc/deny.tes.31.htm.

Duany, Jorge. 1998. "Reconstructing Racial Identity: Ethnicity, Color, and Class Aming Dominicans in the United States and Puerto Rico." *Latin American Perspectives* 25(3): 147-172.

Durand, Jorge, Douglas S. Massey, and Emilio A. Parrado. 1999. "The New Era of Mexican Migration to the United States." *The Journal of American History* (The Organization of American Historians) 86(2): 518-36.

Eisgruber, Christopher. 1997. "Birthright Citizenship and the Constitution." *New York University Law Review* 72(1): 54-96.

Ferguson, James. 2003. *Migration in the Caribbean: Haiti, the Dominican Republic and Beyond.* London: Minority Rights Group International. http://www.oas.org/atip/Regional%20Reports/MigrationintheCaribbean.pdf.

Fox News. *14th Amendment.* Accessed April 15, 2013. http://www.foxnews.com/topics/issues/14th-amendment.htm.

Gibson, Campbell and Kay Jung . 2006. "Historical Census Statistics on the Foreign-Born Population of the United States: 1850-2000." Working Paper No. 81. Washington, DC: U.S. Census Bureau. http://www.census.gov/population/www/documentation/twps0081/twps0081.pdf.

Goldston, James A. 2006. "Holes in the Rights Framework: Racial Discrimination, Citizenship, and the Rights of Noncitizens." *Ethics & International Affairs* 20(3): 321-347. doi: 10.1111/j.1747-7093.2006.00029.x.

Grieco, Elizabeth M., Edward Trevelyan, Luke Larsen, Yesenia D. Acosta, Christine Gambino, Patricia de la Cruz, Tom Gryn, and Nathan Walters. 2012. *The Size, Place of Birth, and Geographic Distribution of the Foreign-Born Population in the United States: 1960 to 2010.* Population Division Working Paper No. 96.Washington, DC: U.S. Census Bureau.

Ho, James C. 2006. "Defining 'American': Birthright Citizenship & the Original Understanding of the 14th Amendment." *The Green Bag* 9(4).

Howard, David. 2001. *Coloring the Nation: Race and Ethnicity in the Dominican Republic.* Boulder, CO: Signal Books.

Keyes, Elizabeth. 2013."Defining American: The DREAM Act, Immigration Reform and Citizenship." *Nevada Law Journal*, Forthcoming; University of Baltimore School of Law Legal Studies Research Paper. http://ssrn.com/abstract=2253546.

Malkin, Michelle. 2003. "What makes an American?" *Free Republic.* July 4. http://www.freerepublic.com/focus/f-news/940339/posts.

Mancini, J. M., and Graham Finlay. 2008. "Citizenship Matters: Lessons from the Irish Citizenship Referendum." *American Quarterly* 60(3): 575-99.

Martin, David A. 1985. " Membership and Consent: Abstract or Organic? " *Yale Journal of International Law* 11: 278-96.

Middleton, Richard, and Sheridan Wigginton. 2012. "A Comparative Analysis of How the Framing of the *Jus Soli* Doctrine Affects Immigrant Inclusion into a National Identity." *Temple Political and Civil Rights Law Review* 21(2): 521-99.

Napolitano, Janet to David V. Aguilar, Alejandro Mayorkas and John Morton. June 15, 2012. "Deferred Action for Childhood Arrivals." *"Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children."* Department of Homeland Security. http://www.dhs.gov/xlibrary/assets/s1-exercising-prosecutorialdiscretion-individuals-who-came-to-us-as-children.pdf.

Neuman, Gerald. 1987. "Book Review: Back to Dred Scott?" *San Diego Law Review* 24 (1): 485.

Ngai, Mae. 2004. *Impossible Subjects: Illegal Aliens and the Making of Modern America.* Princeton: Princeton University Press.

———. 2003. "The Strange Career of the Illegal Alien: Immigration Restriction and Deportation Policy in the United States, 1921-1965." *Law and History Review* 21(1): 69-108.

Obama, Barak. 2012. *The White House Office of the Press Secretary: Remarks by the President on Immigration.*Washington, DC, June 15. http://www.whitehouse.gov/the-press-office/2012/06/15/remarks-president-immigration.

Oficina Nacional de Estadística. 2013. "Primera Encuesta Nacional de Inmigrantes en la República Dominicana." Santo Domingo, Dominican Republic. http://media.onu.org.do/ONU_DO_web/596/sala_prensa_publicaciones/docs/0565341001372885891. pdf.

Open Society Foundations. 2010. *Dominicans of Haitian Descent and the Compromised Right to Nationality: Report presented to the Inter-American Commission on Human*

Rights on the Occasion of its 140th Session. New York: Open Society Institute. http://www.opensocietyfoundations.org/sites/default/files/Dominican-Republic-Nationality-Report-ENG-20110805.pdf.

Open Society Justice Initiative and Center for Justice in International Law. 2013. *Submission to the Committee on the Elimination of Racial Discrimination: Review of the Dominican Republic.* http://www2.ohchr.org/english/bodies/cerd/docs/ngos/OSJI_ CEJIL_DominicanRepublic82.pdf.

Passel, Jeffrey S., and D'Vera Cohn. 2011. *Unauthorized Immigrant Population: National and State.* Washington, DC: Pew Hispanic Center.

Pear, Robert. 1996. "Citizenship Proposal Faces Obstacle in the Constitution." *New York Times*, August 7, A13.

Plascencia, Luis F. B. 2012. *Disenchanting Citizenship: Mexican Migrants and the Boundaries of Belonging.* New Brunswick, NJ: Rutgers University Press.

Reconoci.do. 2011a. *Entrevistas.* http://reconoci.do/multimedia/videos/category/entrevista.

———. 2011b. *YouTube.com.* September 20. Accessed July 22, 2013. http://www.youtube.com/watch?v=_SgWfiaAa-s.

Reynoso, Suanny. 2013. "Dominicanos desnacionalizados piden a Medina romper el silencio." *7dias.com.do*, July 12. http://www.7dias.com.do/index.php/noticias/144147/Dominicanos_desnacionalizados_piden_a_Medina_romper_el_silencio#.UhZEMJLVDh4.

Rodríguez, Cristina M. 2009. "The Citizenship Clause, Original Meaning and the Egalitarian Unity of the Fourteenth Amendment." *Journal of Constitutional Law* 11 (5): 1363-71.

Saavedra, Mariella. 2012. "My Dreamer Identity and its Complexities." *America's Voice online.* August 21. http://americasvoiceonline.org/blog/my-dreamer-identity-and-its-complexities/.

Schuck, Peter, and Rogers Smith. 1996. "Two Yale Professors Argue Against the Concept of Citizenship Without Consent." *The Social Contract [Reprinting excerpts from Citizenship Without Consent: Illegal Aliens Within the American Polity]*, Fall: 19-25.

Schwartz, David S. 1986. "The Amorality of Consent." *California Law Review* 74: 2143-71.

Shachar, Ayelet. 2007. "The worth of Citizenship in an Unequal World." *Theoretical Inquiries in Law* 8(2): 367-88.

Smith, Rogers M. 2009. "Birthright Citizenship and the Fourteenth Amendment in 1868 and 2008." *Journal of Constitutional Law* 11(5): 1329-35.

Southern Poverty Law Center. 2013. *Close to Slavery: Guest Worker Programs in the United States.* Montgomery: Southern Poverty Law Center. http://www.splcenter.

org/get-informed/publications/close-to-slavery-guestworker-programs-in-the-united-states.

Stock, Margaret. 2007. "Birthright Citizenship—The Policy Arguments." *Administrative and Regulatory Law News* 33(1): 7-9.

Tejeda, De la Rosa Descorides. 2013. "Rosario preparado para irse; Olivares favorece mediación." *MunicipiosAlDia.Com*, May 14, http://do.municipiosaldia.com/nordeste/duarte_san_francisco_de_macoris/villa_riva/item/8299-rosario-preparado-para-irse-olivares-favorece-mediacion.

U.S. Central Intelligence Agency. 2013. *The World Factbook.* April 29. https://www.cia.gov/library/publications/the-world-factbook/index.html.

UNICEF. 2002. *Birth Registration: Right from the Start.* Innocenti Digest 9. Florence, Italy: UNICEF Innocenti Research Centre.

Van Hook, Jennifer, and Michael Fix. 2010. *The Demographic Impacts of Repealing Birthright Citizenship.*Washington DC: Migration Policy Institute.

Van Waas, Laura. 2008. *Nationality Matters: Statelessness under International Law.* Cambridge: Intersentia.

Van Waas, Laura. 2007. "The Children of Irregular Migrants: A Stateless Generation." *Netherlands Quarterly of Human Rights* 25(3): 437-58.

Vargas, Jose Antonio. 2011. "My Life as an Undocumented Immigrant." *New York Times*, June 22.

Vaughan, Jessica M. Statement to the U.S. Senate Committee on the Judiciary. Comprehensive Immigration Reform, Hearing, February 13, 2013. http://www. judiciary.senate.gov/pdf/2-13-13VaughanTestimony.pdfU.

Vergne, Teresita Martinez. 2005. *Nation and Citizen in the Dominican Republic: 1880 - 1916.* Chapel Hill, NC: University of North Carolina Press.

Wooding, Bridget. 2009. "Contesting Discrimination and Statelessness in the Dominican Republic." *Forced Migration Review* 32: 23-25. http://www.fmreview.org/FMRpdfs/FMR32/23-25.pdf.

Wooding, Bridget, and Richard Moseley-Williams. 2004. *Needed but Unwanted: Hatian Immigrants and their Descendants in the Dominican Republic.* London: Catholic Institute for International Relations.

World Bank. 2011a. *Data: Dominican Republic: World Development Indicators.*http://data.worldbank.org/country/dominican-republic.

———. 2011b. *Data: Haiti: World Development Indicators.* http://data.worldbank.org/country/haiti.