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Haitian immigration in Dominican Republic: how the Dominican justice reacts to the prejudice

Supervisor

Ch. Prof. Luis Fernando Beneduzi

Assistant supervisor

Ch. Prof. MariaLuisa Di Martino

Graduand

Arianna Aliberti

Matricolation number

975005

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Our true nationality is mankind

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Abstract

L'argomento trattato in questa tesi è l'analisi dell'immigrazione haitiana in Repubblica Dominicana e l'impatto che il pregiudizio nei confronti della popolazione haitiana ha nella vita degli immigrati che vivono nello stato dominicano.

La tesi è suddivisa in quattro capitoli. Il primo capitolo vuole fornire una panoramica sul contesto storico e socio-economico degli stati di Haiti e Repubblica Dominicana, cercando di analizzare anche le problematiche e fragilità dei due paesi interessati. L'analisi del primo capitolo comincia con una descrizione del contesto storico che ha portato Haiti e la Repubblica Dominicana alla situazione che vivono attualmente; questa parte storica comincia dal periodo coloniale, quando Cristoforo Colombo arriva sull'isola soprannominata poi Hispaniola e i colonizzatori spagnoli iniziano a insediarsi nel territorio. Allo stesso modo, sono spiegati anche la colonizzazione del territorio di Haiti, e le relazioni che nei secoli hanno caratterizzato i due Paesi. Nella ricostruzione dei contesti haitiano e dominicano, è evidente come, anche se storicamente i due paesi condividono per certi aspetti lo stesso passato, culturalmente ed economicamente sono presenti delle importanti differenze. L'analisi della divergenza economica è abbastanza dettagliata; ho ritenuto importante analizzare come e perché due Paesi che condividono la stessa isola negli ultimi due secoli si siano sviluppati in modi e tempi così diversi, che hanno portato ad un'importante divergenza tra i due. Questa analisi è stata importante perché è emerso che, le differenze che ancora oggi dividono Haiti e la Repubblica Dominicana risalgono al periodo coloniale, e alle decisioni prese in merito alla gestione di diversi aspetti dell'economia e della società. Già in questo primo capitolo è presente un accenno al periodo della dittatura di Rafael Trujillo in Repubblica Dominicana; l'era di Trujillo è stata cruciale per il fenomeno da me analizzato, in quanto il massacro degli haitiani voluto dal dittatore nel 1937 è stato un atto che ha profondamente segnato entrambe le popolazioni e soprattutto i loro rapporti nei decenni successivi, ma questo è ampiamente analizzato nel terzo capitolo.

Dopo aver concentrato una prima analisi sull'aspetto storico ed economico, ho voluto dare una visione sugli ultimi anni e sulle vicende che hanno caratterizzato Haiti e Repubblica Dominicana, e soprattutto le loro problematiche e fragilità. In particolare, Haiti, con le catastrofi naturali di cui è stato vittima, ha subito pesanti perdite da molteplici punti di vista, che hanno influito la capacità statale di provvedere a garantire diritti e servizi alla popolazione, costringendola a lasciare il paese e migrare altrove. Inoltre, ma questo non riguarda solo gli ultimi anni, sia Haiti che Repubblica Dominicana registrano da sempre contro un altissimo

livello di corruzione e criminalità, che compromettono la gestione di organi e apparati pubblici. La politica haitiana, come quella dominicana, risultano frammentate e deboli, e questo genera un'incapacità generale di provvedere in maniera equa ai bisogni dell'intera popolazione. Collegandomi alla corruzione che dilaga non solo tra Haiti e Repubblica Dominicana ma che coinvolge gran parte del Latino America e Caraibi, ho voluto menzionare il caso di Petrocaribe, scandalo degli ultimi anni che può essere emblema del fenomeno di corruzione già citato.

Altro aspetto da non sottovalutare riguardante la situazione in cui versano gli haitiani, sono le condizioni lavorative che lasciano molto a desiderare. Sia rimanendo a vivere ad Haiti che cercando condizioni migliori in Repubblica Dominicana, gli haitiani non trovano una via d'uscita allo sfruttamento

Ho deciso di concludere il primo capitolo con alcuni cenni sul pregiudizio dominicano nei confronti degli haitiani, anche se il tema è ampiamente trattato nel terzo e quarto capitolo. Ho accennato al sentimento anti-haitiano come un giro biopolitico, con il significato di "biopolitico" coniato da Michael Foucault, ovvero questa attitudine anti-haitiana dovrebbe applicarsi attraverso la gestione dell'apparato pubblico, con norme e regole che favoriscano l'isolamento e l'esclusione della popolazione haitiana. Il giro biopolitico accennato si riferisce evidenza infatti un aumento nelle capacità statali di organizzare una distribuzione diseguale delle risorse all'interno di una società, per questo il trattamento e l'esclusione della popolazione haitiana hanno cominciato a diventare qualcosa di intrinseco all'interno dell'apparato statale dominicano. Per concludere, è stato fatto un accenno alla sentenza 168 del 2013, che ha denazionalizzato migliaia di haitiani che vivono in Repubblica Dominicana, e che è ampiamente analizzata alla fine di questa tesi.

Il secondo capitolo prende in considerazione il fenomeno del flusso migratorio, esaminando soprattutto le dinamiche che si concentrano tra Haiti e Repubblica Dominicana. Partendo da un quadro generale della migrazione haitiana, ho analizzato la differenziazione che caratterizza questa migrazione. Le destinazioni prescelte dai migranti haitiani si concentrano perlopiù in alcuni stati dell'America Latina e gli Stati Uniti. Le cause di una migrazione così consistente (secondo i dati della banca mondiale, nel 2013 gli haitiani all'estero erano più di un milione) risalgono alle problematiche interne del paese che coinvolgono economia e società, e all'esposizione del territorio haitiano a numerose catastrofi naturali. Infatti, negli ultimi vent'anni, dopo l'uragano del 2004 e il terremoto del 2010 hanno ridotto drasticamente le possibilità del paese di garantire beni e servizi primari alla popolazione e diventò ancora più

vulnerabile. Anche il clima politico frammentato e indebolito e le continue crisi sociali collegate a problematiche geopolitiche e ai rapporti internazionali hanno contribuito ad aumentare l'insicurezza in cui versa il paese. Un altro problema che coinvolge il fenomeno migratorio haitiano riguarda le difficoltà che i migranti incontrano nei paesi in cui vengono ospitati; non sempre riescono a ottenere uno status migratorio ufficiale e legale, e questo li costringe a vivere in clandestinità, senza la garanzia della possibilità di accesso a diritti fondamentali. Inoltre, i migranti hanno difficoltà linguistiche, perché non hanno accesso a traduttori o interpreti; se senza documenti, trovare un lavoro è molto complicato e le loro condizioni rimangono precarie in ogni caso. Ho voluto parlare anche dell'immagine che, con il contributo di questo fenomeno migratorio, Haiti dà di sé al mondo; la storia haitiana comprende schiavitù, interventi stranieri, sfruttamento, colonialismo, migrazioni e isolamenti forzati. L'immagine di Haiti che il mondo ha ricevuto ha completamente cancellato la sua cultura; dopo le catastrofi naturali subite anche l'immagine paesaggistica è cambiata. Alcuni studiosi hanno parlato anche di eccezionalità haitiana, che ha delle accezioni negative (che rimarcano le sue fragilità) e accezioni positive (che si concentrano sulla storia di Haiti e sull'appartenenza a tradizioni africane. L'espressione "eccezionalità" deriva dal risultato della rivoluzione haitiana (1791-1804), che portò il primo paese del Nuovo Mondo all'indipendenza, in una repubblica nera.

Il resto del capitolo si concentra sulle fasi della migrazione haitiana negli Stati Uniti nel secolo scorso, e la migrazione nella vicina Repubblica Dominicana. L'analisi presente nel capitolo divide la migrazione negli Stati Uniti in quattro diverse fasi, a partire dagli anni '50 per finire negli anni '80, descrivendo i diversi gruppi che si sono mossi e cercando di approfondire le cause che hanno spinto la popolazione haitiana a scegliere di lasciare il proprio paese. Inoltre, sono illustrati anche i problemi di esclusione e marginalizzazione che i migranti haitiani hanno dovuto affrontare una volta raggiunto il loro nuovo posto di residenza. Complice di questa difficile nuova vita, il pregiudizio nei confronti delle persone di colore; pur cercando di rivendicare le loro origini Europee e Francesi, gli haitiani negli Stati Uniti hanno vissuto sulla loro pelle il peso del giudizio della popolazione bianca nei loro confronti.

Per quanto riguarda il flusso migratorio haitiano in Repubblica Dominicana, il fenomeno si è particolarmente intensificato nei primi decenni del secolo scorso, a causa della richiesta di manodopera a basso costo per le piantagioni di canna da zucchero. Lo sviluppo dell'industria dello zucchero ha fatto sì che americani e cubani iniziassero ad avere interessi in Repubblica Dominicana, che per aumentare la produzione, ricercava sempre più manodopera. Da quel momento molti haitiani iniziarono a cercare lavoro e ad arrivare in territori dominicani; anche

dopo il massacro del 1937, gli haitiani continuarono ad arrivare in Repubblica Dominicana nonostante le difficili condizioni di esclusione e isolamento che lo stato dominicano imponeva loro. Infine, negli ultimi anni si è percepito un cambiamento nella migrazione haitiana perché, se prima erano prevalentemente gli uomini a lasciare Haiti per questioni lavorative ed economiche, anche le donne e i bambini hanno cominciato a raggiungere mariti e padri, quindi si è assistito a un incremento del numero di donne (molte delle quali incinte, perché cercavano migliori condizioni igieniche per se stesse e per i loro bambini) e ad una femminilizzazione della migrazione haitiana in Repubblica Dominicana.

Il terzo capitolo di questa tesi si concentra sul tema del pregiudizio in Repubblica Dominicana e sull'impatto che questo ha nella vita di tutti i giorni della popolazione haitiana in territorio dominicano. In questo capitolo, la ricerca accademica (che nei precedenti capitoli si basava esclusivamente su articoli, giornali e report) è accompagnata dal contenuto di alcune interviste che ho fatto a due persone che lavorano in due diverse organizzazioni che si occupano di migranti haitiani e della loro integrazione in Repubblica Dominicana. L'obiettivo di queste interviste è stato quello di trovare conferma a uno studio prettamente teorico, basato sulla ricerca di informazioni e di una letteratura riguardante il fenomeno da me esaminato, riscontrare una risposta concreta attraverso testimoni reali che descrivono la realtà haitiana in Repubblica Dominicana ai giorni nostri. Il capitolo si apre con un'analisi e un confronto tra razzismo e sentimento anti-haitiano; le tensioni tra haitiani e dominicani infatti, sono fomentate da uno stato che ha sempre vissuto la presenza haitiana come una minaccia per la società e il progresso della nazione dominicana e ha cercato di isolare ed emarginare i migranti haitiani. Il sentimento coltivato dalla popolazione dominicana non è semplicemente "contro" l'haitiano, ma deriva da un rifiuto verso tutto quello che rimanda a una cultura nero/africana, considerata inferiore rispetto a quella europea e bianca (come confermato anche da una delle testimonie). Per quanto riguarda l'impatto che il pregiudizio anti-haitiano ha nella vita dei migranti, dipende molto dalla condizione giuridica ed economica in cui si trovano le persone interessate; i migranti che ottengono uno status migratorio legale, e tramite quello riescono ad avere un lavoro più o meno dignitoso, vivono una situazione molto diversa da quelli che invece versano in una condizione di clandestinità, che, oltre a non poter accedere a nessun tipo di servizio pubblico e a non poter godere di nessun diritto, sono completamente isolati dal resto della società dominicana.

La Repubblica Dominicana è stata un ambiente perfetto per la radicalizzazione e la diffusione del pregiudizio, in quanto la dinamica del pregiudizio verso un gruppo di persone che condividono le stesse caratteristiche, che possono essere lingua, cultura, colore della pelle, tratti

fisici (nel caso degli haitiani il capello riccio tipicamente afro è segno distintivo della popolazione, che a volte si trova costretta a lisciarlo per poter andare a scuola o al lavoro), è tipica di regimi e politiche autoritarie come sono state quella di Trujillo negli anni '30 e i presidenti che si sono susseguiti. Caratteristica di queste politiche è l'obiettivo di pensare al bene e agli interessi della classe governante o di una élite, e non al benessere dell'intera nazione; in questo modo, cercando inoltre di incolpare una minoranza del non progresso di una nazione, è più semplice creare tensioni e discriminare e isolare ancora di più il gruppo in questione.

Ho voluto poi dedicare un sotto capitolo alla dittatura di Trujillo e al massacro del 1937; l'analisi del periodo che ha preceduto il massacro è stata importante per capire le dinamiche che hanno portato a un atto così crudele che ha lasciato attoniti sia haitiani che dominicani. La volontà di Trujillo di potere e di controllo dell'intera nazione ha usato il pregiudizio anti-haitiano come capro espiatorio per raggiungere i suoi obiettivi e interessi. Il massacro e la dittatura di Trujillo sono stati un punto di svolta nella gestione della migrazione haitiana; i suoi successori hanno implementato le politiche discriminatorie da lui iniziate e la frattura tra dominicani e haitiani si è mantenuta sempre più intensa.

Per concludere il capitolo, ho voluto collegare il tema del pregiudizio a quello dei diritti umani in Repubblica Dominicana, e in particolare a come l'accesso a questi ultimi è compromesso proprio a causa del pregiudizio. Proprio perché il sentimento anti-haitiano è così radicato nella politica e nella società dominicana, le autorità hanno cercato di legittimare e normalizzare un approccio razzista, che danneggia l'accesso all'educazione, al sistema sanitario, alla giustizia e ad altri diritti da parte della popolazione haitiana presente nel paese. Le testimonianze raccolte hanno confermato i miei studi accademici e questo lavoro sul campo ha permesso di entrare in contatto con persone che si compromettono e vivono quotidianamente la realtà del pregiudizio che continua a minacciare la vita degli haitiani in Repubblica Dominicana.

Il quarto ed ultimo capitolo si concentra soprattutto sulla possibilità di accedere al sistema giudiziario dominicano da parte della popolazione haitiana e l'effetto discriminatorio che la sentenza 168 del 2013 ha avuto sugli Haitiani nel territorio dominicano.

Ho iniziato questa analisi concentrandomi sul sistema giudiziario dominicano; come già menzionato, dopo il regime di Trujillo la Repubblica Dominicana ha sperimentato decenni di instabilità politica e sociale che ha minato anche il funzionamento del sistema giudiziario e la possibilità di accedervi. Per molti dominicani non appartenenti alle élite è molto difficile riuscire ad ottenere l'accesso alla giustizia, anche perché il sistema (giudiziario ma non solo) è

estremamente corrotto. Le disuguaglianze sociali sono un fenomeno molto diffuso in Repubblica Dominicana (come del resto in molte zone del Latino America), e collaborano a rendere difficile, se non in alcuni casi impossibile, l'accesso al sistema giuridico nazionale.

L'accesso alla giustizia, come quello a qualsiasi altro diritto fondamentale o bene primario all'interno di una società, è precluso innanzitutto dalla mancanza di documenti di identità che sono necessari per provare lo status legale di qualsiasi persona. Per questo, ho voluto concentrarmi sul negato diritto alla nazionalità e alla cittadinanza, e come questa negazione renda impossibile la vita di un haitiano in Repubblica Dominicana. Nel 2013, la Corte Costituzionale Dominicana ha emanato una sentenza, la numero 168, che doveva prevedere la regolarizzazione di molti haitiani già residenti nel paese. Dopo questo lavoro di ricerca e dopo aver ascoltato le testimonianze riportate, è emerso che con questa sentenza lo stato dominicano è riuscito a denazionalizzare più di 200.000 haitiani presenti nel territorio; inoltre, con le nuove regole disposte nella sentenza, acquisire la cittadinanza dominicana è sempre più difficile. La sentenza prevede infatti che, per essere considerati dominicani, si deve nascere in territorio dominicano da genitori dominicani o residenti legali dominicani; questa legge inoltre è stata applicata in maniera retroattiva a tutti i cittadini haitiani nati dal 1929 al 2010. Tutti gli haitiani che non erano legalmente registrati e i loro figli hanno perso ogni diritto alla nazionalità dominicana e la possibilità di costruirsi un futuro in Repubblica Dominicana. Hanno perso diritto alla nazionalità dominicana anche tutte quelle persone che erano state registrate da autorità dominicane tramite il principio dello *ius soli*, in vigore nella costituzione dominicana dal 1865. Per apportare concretezza a quanto studiato, ho deciso di analizzare un caso studio, quello di Juliana Deguis Pierre, a cui nel 2008 è stato rifiutato il certificato di nascita depositato al centro di documentazione, (portato dalla stessa per ottenere la carta d'identità e la tessera elettorale), poiché figlia di immigrati irregolari haitiani. Secondo lo stato dominicano, Juliana Deguis Pierre non risultava apolide, ma poteva risultare come cittadina haitiana.

Per concludere l'ultimo capitolo, ho voluto menzionare ancora l'impossibilità di accedere a diritti fondamentali da parte degli haitiani; la negazione del diritto alla cittadinanza preclude l'accesso a tutti gli altri; infatti, senza la possibilità di avere diritto alla nazionalità, accedere a tutti gli altri diritti fondamentali diventa impossibile.

L'obiettivo di questa tesi era quello di analizzare i fenomeni migratori che caratterizzano il territorio e il flusso haitiano, e in particolare la tratta che porta dall'altra parte dell'isola, oltre il confine, e di verificare l'effetto del pregiudizio dominicano nella vita di tutti i giorni della

popolazione haitiana. La domanda a cui voleva rispondere la mia ricerca è proprio quanto questo pregiudizio influisce e se ci sono delle possibilità per i migranti haitiani di accedere al sistema giudiziario haitiano, che di conseguenza preclude l'accesso a tutti gli altri ambiti. La conclusione a cui sono arrivata è che la sentenza che doveva servire per regolarizzare lo status di migliaia di persone è stato un modo per controllare ancora di più il flusso migratorio e per emarginare la minoranza haitiana, considerata da sempre una minaccia per la crescita e il benessere dello stato dominicano e quindi controllata in ogni suo movimento; il pregiudizio, che è stato intrinseco nella società dominicana praticamente da dopo il 1844 (anno della fine dell'occupazione haitiana della Repubblica Dominicana), è ancora radicato e presente all'interno della comunità, ed è la causa per cui, soprattutto gli organi statali non riescono e non vogliono far integrare le due popolazioni.

Credo fermamente che ci sia bisogno di trovare un sistema che possa garantire l'accesso a diritti fondamentali e beni primari a tutte le persone, a prescindere dal loro status migratorio, a prescindere dalla loro origine e dal colore della loro pelle; alcuni stati (come Messico e Argentina) stanno implementando delle misure come visti o permessi temporanei che consentono di rimanere in un paese straniero anche senza una documentazione regolare. Potrebbe essere questa la soluzione adottabile dai governi per consentire una migrazione e una permanenza più sicure e per cercare di combattere barriere e pregiudizi tra popolazioni.

Introduction

My dissertation will analyse the migratory phenomena that characterise the island of Haiti, and most importantly, the migration towards the territory of Dominican Republic. Haiti is a territory exposed to several natural disasters and is victim of decades of economic and political instability; these two factors render the Haitian country a territory from where many people decide to leave their homes and to migrate to other countries; this dissertation is focused on Haitian migration and the condition that Haitian migrants find in their new place of staying.

The idea of this dissertation starts from my personal experience in Dominican Republic. In 2015 I left from Italy to Dominican Republic and worked there in a children's reeducation centre. I was a volunteer and lived with others volunteers just like me. In the centre where I worked there were children of all ages (the youngest was 3 months old, while the oldest was 19), and I had to work in the office in the morning, while the children were at school, and take care of them in the afternoon. In the weekends, we as volunteers had free time, but actually we planned to take some groups of children somewhere (to the sea, to the pool, going for a walk), to make them feel we were a whole family. While I was there, the association which dealt with the centre, started to cooperate with the juvenile hall of the town, and that was incredibly interesting and shocking because of the unutterable conditions in which the prisoners lived. There I started to notice the presence of many non-Dominican people, both in the juvie and generally in the country. The difference is evident, as Dominicans have a mulatto skin, while Haitians are dark-skinned. What particularly caught my attention was the distance and grudge between Dominicans and people of Haitian origin. I felt as if there was a prejudice with regard to the Haitians, obviously considered as foreigners, as different. This characteristic impressed me, and from this awareness, my curiosity regarding that peculiar region of the world became consistent. That is why I chose to develop this topic in my thesis, to try to give an explanation on how and why Haitians move to Dominican Republic, and how they are treated there.

The aim of this work is to study and understand the impact of the prejudice, which in the decades has been forming regarding Haitian migration, and how it works within the outcomes of the justice system in Dominican Republic; in fact, the prejudice rooted in the Dominican society significantly affects the condition of life of Haitian people and, as it is embedded in the Dominican authorities and institutions, it impedes Haitian migrants to obtain the access to fundamental rights and public services.

The migratory phenomena will be generally considered, but also I will focus my research on the different treatment they usually receive, depending on their economic and social status. I recognise that the concept of justice is very broad and challenging, and in fact I will try to analyze it with regard to migrants. What I mean is that the object of my research will be that of the violated rights of migrants in Dominican Republic, in relation to the prejudice towards them.

The method I used in order to write my thesis and develop my topic is searching the information through books, academic journals, academic articles and documents; I consulted also some online journals and the contents of some reports of the Interamerican Commission of Human Rights. Furthermore, I will provide the content of some interviews and evidences, directly from people who work or have worked in those territories, and have dealt with migrants. The identities of the interviewed are anonymous, just as the names of the organizations where they work; the annex at the end of the dissertation is the informed consent they have signed before they released information that became part of the content of this dissertation (as the people interviewed are Dominicans, the consent is in Spanish and I translated the content into English). I had the contacts of these people through my assistant supervisor, Marialuisa Di Martino.

I reported also part of my experience in Dominican Republic, namely the collaboration between the education center where I worked and the local juvenile jail. In the final part of the dissertation, I have taken into consideration some case-studies, in order to provide some more examples of the real difficulties people there may encounter, and get more in deep into the justice system and how it works.

The outcomes of this research, that will obviously be explained in the conclusions of this dissertation, will concern the considerations taken after the multidimensional analysis conducted with regard to all the patterns and politics above-mentioned, bearing in mind both the literature aspect and the more practical one. The question I would like to answer is how the impact of prejudice of Dominicans influences the conditions of Haitian people in Dominican Republic, and how the Dominican justice works with regard to migrants, if the controversial judgement 168/13 has improved the Haitian condition and which might be the solutions to address the migration issues.

In order to analyze the processes of migration of Haitian people towards Dominican Republic, my thesis is divided into four chapters. In particular, the first chapter of the dissertation considers and develops the historical and socio-economic background of the island of Haiti, and why people decide to migrate right in the nearby Dominican Republic. The chapter gives a

overview of what have been the colonial history and the divergences (economic, cultural and political) that have brought the two examined countries to the current situation. Studying the background, trying to understand why the current situation is how it is, is important to try to define the problem and to provide a solution.

The second chapter analyses more deeply the issue of migration of Haitian people; why do they migrate? Where they go? Why do they decide to change so dramatically their lifestyle, with the possibility to have more troubles than what they have in their own country? The issue of Haitian migration is very broad and in this chapter it is considered the migration within the American context, and namely the migration toward Dominican Republic and the condition of Haitian migrants in the country, with some hints with the history of prejudice that affects them.

Studying migration and its flows within the American is pivotal also to comprehend the inner dynamics of the countries (in this case obviously, of Haiti and Dominican Republic), as the way in which a state deals with the issue of migration may influence a lot its politics.

In the third chapter the topic of the prejudice and how it impacts the everyday life of Haitian migrants is deeply investigated. With an analysis of racism and the so-called anti-Haitianism and an investigation of the regime of the dictator Trujillo, the matter of the Dominican prejudice and the impacts it have on every aspect of Haitian migrants is taken into consideration. The aim of this part of my dissertation is that to provide a detailed description of the discriminatory processes that have rooted in the Dominican society and community, especially at the institutional level. In order to do so, this chapter is blended, that is to say that a comparison between the academic work and research and the report of the content of the interviews develops along the chapter. The method I used is important in order to have some concrete answers to the problem taken in consideration, as the witnesses confirm what is evident from the academic research. The fieldwork I have integrated provides some responses to the question put at the beginning of this dissertation. The contacts of the people interviewed were given to me by my assistant supervisor, Prof. Marialuisa Di Martino.

In the fourth and last part of my dissertation the focus is on the topic of the judicial system of Dominican Republic, and namely how the justice system works with regard to those migrants who reach Dominican Republic and settle there, but due to the non-recognition of their citizenship have troubles in their daily life, as they may have problems of access to health care, university, and wherever you need an identity document. Some case-studies are taken into consideration, in order to give real example of people who had to face these difficulties.

Especially, a quite large focus is on the right to nationality and on the judgement 168/13 (previously mentioned along the dissertation), trying to explain how it worked and what kind of changes it brought about the Dominican judicial system and the possibilities of Haitian migrants to get access to fundamental rights, and how these are interrelated.

CHAPTER 1. The historical and sociological context of Haiti and Dominican Republic

The aim of this chapter is that to introduce the topic of the analysis of my dissertation, and particularly, the focus of this first part is on the history and the social context of Haiti and the Dominican Republic. In order to deeper examine the migratory phenomenon better dealt in the next chapters, it is pivotal to know how the two states taken into consideration have reached the nowadays situation. Talking about their history and their different cultures paves the way to my analysis of their cohabitation, main topic of this dissertation.

1.1 Hispaniola: a divided island

In order to understand the migratory flows that characterise Haiti, Dominican Republic, and their relations, it must be considered the historical and sociological context that brought the two countries to the point they find nowadays.

When Christopher Columbus arrived on Hispaniola in 1492, the Carib people were built on the Taino, an Arawak people, who had settled there in the centuries before¹. The populations that had previously inhabited those territories had village-centred societies built on farming, fishing, hunting, but they were not developed like populations in Central America, Mexico and Peru. Columbus established a colony in the island and in 1496 Spanish founded Santo Domingo. The island of Hispaniola was the first territory which received a Spanish colonial policy; society was divided into classes, and the Spanish began to establish their culture, language, religion. Furthermore, a cruel slave-based society was taking hold. During the first period of Spanish colonization, Hispaniola became rich and prosperous, but in the last three centuries before independence, Hispaniola remained backward and underdeveloped. Moreover, with the Dutch, French and British people devastating the island through their marauders and buccaneers, the consequences were serious and destructive. In the end, Spanish crown recognized French claims on the western third of Hispaniola², a territory that was renamed Saint-Domingue (later Haiti): it was a flourishing sugar colony based in Black-slavery. In 1795 the Spanish crown ceded part of the island to France, as the consequence of its defeat in the wars happening in Europe at that time. Under France, the economy of the island worsened even more. In the meantime, a slave revolt was spreading in the country, due to the inhuman conditions in which Black people were forced to live. Haitians managed to throw away the French, and they also

¹ González, N.L., Wiarda, H.J., *"History of Dominican Republic"*, EncyclopediaBritannica.

² Ibidem.

invaded the right part of the island, spreading terror among the white ruling class. In 1809 the colony was reunited under the Spanish crown; in 1821 a group of Dominicans dismissed the Spanish power and proclaimed independence³. Haitian troops started to occupy the whole country in 1822 and their presence remained until 1844; they monopolized government power, forced out the ruling class and annihilated the traditional European and Spanish traditions. Dominican historians state that the Haitian regime was cruel and barbarous, but actually it freed people from slavery and Jean-Pierre Boyer⁴'s administration is considered efficient.

In the 1830s Juan Pablo Duarte⁵, considered the father of the Dominican Independence, organized a secret group against Haitians and in 1844 independence was reached. Political instability is peculiar of Dominican Republic since the first presidency after the independence; US and Europe were witness of the deterioration of the country and, as both had interests in the island, decided to intervene to prevent significant damages. In 1905 United States began to administer Dominican Republic's customs agency, and officially occupied the country from 1916 to 1924. Haiti was occupied by the United States too, from 1915 to 1934. After the occupation, Dominican Republic experienced a series of corrupted and cruel dictators, that threatened the already precarious relationship between Haitians and Dominicans and instigated the prejudice against people of African and Haitian descent. The unstable environment in which lived the Dominican (and Haitian) population did not find a solution in the decades; still today the coexistence of the two cultures is a complex phenomenon.

The differences between Haiti and Dominican Republic were not only historical or cultural, but the two countries had also significant economic discrepancies.

The two states represent a case of economic divergence, and their income related positions have reversed. Namely, in the colonial age the left part of the island, that corresponds to Haiti, was richer than Dominican Republic, while nowadays Haiti is among the poorest countries in the north hemisphere, and Dominican Republic is a developing country with a good GDP per capita level.

Haiti and Dominican Republic share the same island, Hispaniola, and for centuries they have shared the same political, economic and social context⁶. According to some index, both states

³ Ibidem.

⁴ President of Haiti from 1818 to 1843.

⁵ Dominican politician and one of the founder of the Dominican Republic.

⁶ Ricciuti R., Zardo E., *Hispaniola e la divergenza economica*, Department of Economics, University of Verona, 2011, pag. 3

are underdeveloped, even if Haiti is in a worse condition than Dominican Republic; it has a real growth rate of 1% and a GDP per capita of €1.700, due to government corruption and its incapability not to guarantee the necessary services to population (obliged to live without electricity, medical assistance and potable water). One more problem is the high population density concentrated in the territory occupied by Haiti. Furthermore, its economy is considered irrelevant at the international level; except for sugar cane and coffee exportation and drug smuggling (coming from Latin America and directed toward the United States)⁷.

As far as Dominican Republic is concerned, in the last decades it has made great strides forward, in order to enhance the quality of its political and economic positions; namely it has increased investments in the tourism industry and it has enlarged its agricultural and manufacturing sectors. This allowed the country to reach a per capita income of €8.600 and a real growth higher than 5% per year. It sounds weird how two such close states can be extremely diverse; besides, it has to be considered that when it became independent in 1804, Haiti was more developed compared to the close Spanish colony, but its waste of gains that France bequeathed to the Haitian Republic has been crucial for its current situations.

A curious aspect regarding the differences between the two states is that for many years both have shared their political institutions; in fact, according to Acemoglu⁸, both colonizations of Hispaniola (by Spanish first, later by French, respectively in Dominican Republic and Haiti) were quite similar. This makes more interesting the reason why the two states started to distance from one another.

The economic divergence between Haiti and Dominican Republic started to be consistent at the end of the sixties of last centuries. The first sign to be considered is the GDP per capita of Dominican Republic, which doubled, while the Haitian one remained more or less stable. It must be noticed that both states and populations have grown in a very similar way, and the economic gap is the outcome of some changes occurred in Dominican Republic during the last century⁹.

One more important difference is the investments that the two governments decided to make; Dominican Republic started to impose high taxes in order to invest and improve the public goods and services, while Haiti did not intervene in that sense to enhance its situation. As writes

⁷ Ivi.

⁸ Daron Acemoglu is a Turkish-naturalized US economist, Insitute Professor of Economics at Massachusetts Institute of Technology.

⁹ Ricciuti R., Zardo E., *Hispaniola e la divergenza economica*, op. cit., pag. 6

Acemoglu, a strong state imposes high taxes and encourages investments and entrepreneurial activities for its own citizens, while weak states are not able to invest on public goods, and the reason is that elites do not consider it as an investment to improve their own condition. Haiti is part of these weak states, and the choice to impose low taxes will inevitably cause few investments on public services¹⁰.

Furthermore, Haiti has a very weak fiscal capacity and its government difficulty is precisely the impact of this weakness in the economic growth; this weakness has consequences on fundamental services that a government should guarantee to its citizens (Haiti suffers for lack of medical assistance, inadequacy for what facilities are concerned, a difficult working environment, and so on and so forth).

An important question to answer is when did the divergence between the two states begin, and how it turned out to be so deep and the cause of such difficult relations between the two. I try to deeper explain how the two countries arrived to the point of our times. Haiti and Dominican Republic shared a quite similar historical past until the end of the XX century; the Spanish conquest, the slave trade, the sugar cane plantations, the American occupations between several wars, the years of dictatorship and the different *golpe* that have occurred¹¹. When Columbus reached the island, it was inhabited by a population called *Ciguayos Arawakas*, who had a very high population growth rate, due to the refined agricultural techniques. Society in Hispaniola was structured in a pyramidal way; at the top there were *caciques*¹², and at the bottom there were slaves; in addition, the island was divided into five areas (*cigazgos*), each of which had its own cacique. Slave trade was spread and legalized due to the Bolla Alessandrina of 1505, as the Africans could be considered unloyal (they had known Christian values but had rejected them). Slave importation became consistent and contributed to the economic growth of the island; in particular, this growth started with the launch of *encomienda*, that was a sort of agricultural firm. Encomienda differed from slavery as it was a judicial and socio-economic institution through which a group of people had to pay some individuals (through work, payment in kind, or other means) for the exploitation of an asset or for a received service. The system of encomienda had to replace the traditional slavery system.

¹⁰ Ibidem, pag. 8.

¹¹ Ibidem, pag. 9.

¹² Kind of local governor.

With this form of hand work secularising, Indios condition worsened until the introduction of Laws of Burgos (1512), in order to regularize the treatment of local population working in the *encomienda*.

In the XVII century the island was victim of repeated attacks by French buccaneers, and in addition, the Caribbean sea was invaded by pirates who interfered and damaged commercial changes of the island. In that century Haiti experienced a period of prosperity and economic wellness, while Dominican Republic, under the Spanish guide, reduced its profits. The fragile economy of Dominican Republic was based on farming and leather exportation, but corruption was diffused and also a growing smuggling of precious metals, due to the economic crisis and the Spain indifference towards its colonies. Such changes caused Dominican commerce to move to foreign powers.

On the west side of the island the French developed a good-working agricultural sector, which improved the international commerce with the colony. Haiti and French colonialism was based also on mercantilism, according to which colonies contributed to increase the profits of the motherland¹³. Haiti population was mainly composed by African slaves or their descendents, while the Dominican one was more eterogeneous. This situation is still found, in fact data of 2009 show that 95% of Haiti population is of African origin (in Dominican Republic 73% of population is mulatto, while 13% is Indoeuropean and 11% is African). This difference among the two states is due to the fact that Spain started forcibly to send hundreds of Spanish families to Dominican Republic¹⁴.

The causes of the discrepancy could be several. According to Acemoglu, there are differet types of colonialism that could have caused a growing divergence between colonies; predatory institutions, established in those areas in which European colonizers suffered a high mortality tax and, consequently, they did not settle. And then we find institution of property right, established where colonizers managed to permanently settle, where mortality taxes were low¹⁵. Colonies where Europeans found high mortality taxes, are now poorer countries than those with a low mortality taxes; high mortality taxes in the colonization era meant that the European power did not manage to invest or settle as it foresaw; high mortality taxes involved both Europeans that indigenus population, colonizers did not manage to create a proper colony and

¹³ Ricciuti R., Zardo E., *Hipaniola e la divergenza economica*, op. cit., pag. 10,11,12.

¹⁴ *Ivi*.

¹⁵ *Ibidem*, pag. 14.

the result is that those countries did not develop like the others, where the settlement has been easier.

The island of Hispaniola is part of those colonized territories where institutions correspond to the expropriating model¹⁶; namely, both Spanish and French did not manage to settle in a stable and constant way, due to the communicable disease and the wet weather. Furthermore, this enabled colonizers to concentrate power on the elite.

The case of Haiti

Between XVII and XVIII century, French imported a remarkable number of African slaves, that changed the structure of the local society and population. The different populations who reached America, did not allowed to create a homogeneous social fabric. The so-created syncretism did not permit to African tribal institutions to continue to exist, and French governors dominated the fragile social structure, so Haiti did not manage to set up a government, which was different from the European one.

As mentioned before, Haiti colonialism was an expropriating one: European countries exercised a predatory politic, devastating the resources of the area. Both Spanish and French did not care or protect the rights of citizens and workers.

In 1697, with the Treaty of Rijswijk the western third of Hispaniola was ceded to France from Spain, and was renamed Saint Domingue; in the 18th century it became France's most prosperous New World possession¹⁷. Plantation agriculture in the country significantly affected the ecology of Haiti (the impacts of the economic and agricultural development of that time still affects the country, and the natural disasters of the last decades are the proof). Colonized people lived in very hard conditions: malnutrition and starvation were common and slaves were exposed to many diseases due to the scarce hygienic conditions.

One more factor to mention is the strategic position of the area; Haiti has always had an important role within the international and intercontinental commerce; this efficiency brought to the establishment of some dictatorships, as Papa Doc¹⁸ and Baby Doc¹⁹ ones, who took advantage of these benefits. With power in the hands of elites, the politic of Haiti never considered to invest long term, that is the reason why Haiti did not manage to enhance its

¹⁶ Ivi.

¹⁷ Macleod, M.J., Lawless, R., "*Haiti-Early period*", Encyclopedia Britannica.

¹⁸ François Duvalier, president of Haiti and subsequently dictator since 1964 until his death in 1971.

¹⁹ Jean-Claude Duvalier, son of François Duvalier, dictator of Haiti since the death of his father until 1986.

conditions and nowadays it is the poorest country of Latin America. This lack of attention towards the implementation of infrastructures and necessary public services led Haitian population to such a poor condition that turned out to become a condition of deprivation. In addition, the corruption that spread through the governments that have sequenced caused the dependence of the country on the foreign help²⁰.

As far the Haitian economic situation is concerned, its economic stagnation is the result of several factors, among which political instability, wrong economic investments, lack of productive lands, lack of public investments on human resources, a continuous use of traditional technologies, the migration of a large part of the population. The main economic problems of Haiti are: the lack of skilled labor and the abundance of unskilled work (this is the outcome of decades of migration of capable population, while untrained workers did not move). In addition, there has been an increase of illegal employment due to the fact that many workers do not have an acknowledged professional job²¹. One more problem is the lack of foreign investments; because of the spread corruption, the incoherent government and the lack of financial guarantees, foreign shareholders chose not to invest in Haitian economy. The third main problem of Haitian economy is the lack of a trustworthy banking system²².

The case of Dominican Republic

As in the case of Haiti, even in Dominican Republic population managed to survive to disease brought by Europeans.

Moreover, the indigenous institutional system was replaced by the Spanish one. In the last decades of colonization anyway, Spanish acted differently compared to the French: they have been able to settle in the east side of the island, although the high mortality index; this kind of stable establishment of Spanish people is considered to be one fundamental aspect if the divergence between Haiti and Dominican Republic is taken into consideration. The Spanish Crown did manage to provide a more solid and homogeneous identity to population (compared to the Haitian one), based on the model of motherland.

The Spanish colonialism is expropriating as much as the French one. The colonial history of Dominican Republic began in 1493, when the city of Puerto Plata was founded. In 1496 the Spanish founded the city of Santo Domingo, that is the oldest permanent settlement of

²⁰ Ricciuti R., Zardo E., *Hispaniola e la divergenza economica*, op. cit., pag. 16-17.

²¹ Ibidem, pag. 23.

²² Ivi.

Europeans in the Americas²³. When Spanish arrived in the island, the territory was populated by the *Taino*, who were forced to hard work and were exposed to several diseases (brought by Europeans and to which they had no immunity): they were obliged to live in very bad conditions and many of them were condemned to death. Furthermore, in 1501 African slaves started to be imported in the island. New generations of people born by marriages between Taino population and Spanish are considered the first Dominicans. Between the 16th and 17th century many Spanish people left the island, and in 1665 French colonizers began to settle in the east part of Hispaniola. With the above-mentioned Treaty of Ryswick of 1697, Spain officially ceded most of its territory to France. The colonial era of the island end with the independence of 1844. After independence, the administration has inherited the expropriating system, which does not include warranties for private property²⁴.

As far as the insitutional context is concerned, Dominican Republic has suffered a series of dictatorships until the 90s of last century. In this way corruption and authoritarianism spread through the country. Impossible not to mention the dictatorship of Rafael Trujillo, known for his brutality, that ruled for 31 years. During this period he gained the majority of the Dominican lands, and when he died he owned half a million hectares of agricultural land and a sum of 500 million dollars²⁵. The Dominican political class was not able to strenghten its wealth, but it wasted it.

For what concerns political decisions, even if Dominicans decision were more forward-looking than the Haitian ones, they were in any way not adequate. The governement chose primarily to develop the free zones, leaving aside the rest of the economy and leaving the country in conditions of poverty and deprivation, without the necessary public services. Diffrently from Haiti, Dominican Republic had a more industrial approach with regard its economic sectors, focusing on mass tourism, without taking into account the agricultural field, and without invest on human capital.

According to Brian Arthur²⁶ and the theory of path dependance, the choices taken in the past have consequences in the present, that is there is a relation between the current situation and the past choices, as the latter influences the roads to follow in the future²⁷. That is to say that Haiti

²³ Newworldencyclopedia.

²⁴ Ricciuti R., Zardo E., *Hispaniola e la divergenza economica*, op. cit., pag. 18

²⁵ Ivi.

²⁶ William Brian Arthur, economist credited with developing the modern theory of increasing returns.

²⁷ Liebowitz, S.J., Margolis, S.E., "*Path Dependence, Lock-in, and History*", Oxford University Press, Journal of Law, Economics and Organization, 1995, pp. 205-226.

and Dominican Republic shared similar colonial past, but at the same time they were diverse, making visible those differences over time²⁸.

A few more differences between Haiti and Dominican Republic

Haiti has an extension of 27.750 square kilometers and is one out of three of the island of Hispaniola; the other portion is occupied by Dominican Republic. The territory of Haiti is often victim of hurricanes, earthquakes, flooding, periods of drought. Haiti conquered its independence in 1804, and since then, the properties of French colonizers have been nationalized and the government introduced a commercial, industrial and agricultural monopoly²⁹.

In 1822, after twenty years of splitting, Haiti reunited the two reigns under the political guidance of President Boyer³⁰. In that same year, Haitian invaded the east area of the island, which had just gained independence from the crown of Spain. In that period Haitian government started to make some questionable choices, as that of defending exported goods, focusing all economic resources on the sugar cane, coffee, cotton production, and keeping European manufacturer importation unchanged³¹. According to scholars, this has been one of the first mistakes by Haitian government, as it voluntarily chose to stay at a suboptimale usefulness level³².

Furthermore, Haitian politic was paralised and did not allow to invest in economic activities, or to create banks or credit banks, necessary to encourage savings and loans. This way, this lack of financial institutions, forced Haiti to be dependent on international support, particularly from United States.

The above-mentioned Haitian situation remained unchanged until the earthquake of 2009, two centuries after independence³³.

Dominican Republic has an extension of 48.442 square kilometres and corresponds to two out of three of the island of Hispaniola. As Haiti of course, this territory is victim of hurricanes and natural phenomena. In 1795, with the Peace of Basel, the Reign of Spain proposed to cede the area of Santo Domingo to France (in consequence of a part of a lost European territory), but Dominican people fought in order to remain under the Spanish crown, while the rest of the

²⁸ Ricciuti R., Zardo E., *Hispaniola e la divergenza economica*, op. cit., pag. 19.

²⁹ Ibidem, pag. 21.

³⁰ Jean-Pierre Boyer, President of Haiti until 1843.

³¹ Ricciuti R., Zardo E., *Hispaniola e la divergenza economica*, op. cit., pag. 22.

³² Ivi.

³³ Ivi.

Spanish colonies struggled to obtain independence. The Spanish domination came to an end in 1822, when Haitians invaded Santo Domingo.

Under Haitian domination, the ideas of French Revolution spread through the country. The colonial system of *ancien régime* was replaced by a central government that controlled the entire island. The new government was anti-monarchist, anti-slavery, and was based on the liberal ideas of the time. The abolition of slavery was decided and also the concession of lands to all freed men³⁴.

The system between Haiti and Dominican Republic was quite different in the sense that in Haiti, the private property of the land was guaranteed by the individual title, held by the state, while in Dominican Republic it was in force the system of *terrenos comuneros*³⁵.

President Boyer had to face for the first time the issue of the payment of compensation to French, and incurred the first foreign debt, borrowing thirty million French francs. As the island population did not accept to pay taxes, the government was forced to print paper money, giving rise an inflation process that undermined the reputation of the state abroad³⁶.

In the forties of XIX century, Dominicans tried to organise an underground movement in order to gain independence; namely, they felt themselves extremely different from Haitian for many reasons (language, race, religion, culture). In 1844 the Independence War ended with the creation of Dominican Republic. The new state had to face a very serious situation; the political context was very fragmented and the economic condition was critical after the costs of the war.

Between 1865 and 1887 there have been more than thirty governments, several coup d'état and popular revolts. Finally, in 1887 Ulises Heureaux came to power and was President for twelve years, until his assassination.

Under the dictatorship of Heureaux the economic structure of the country changed: plantations of extensive crops had been re-established. This change helped to create a new social class, the middle class, and doubled the sugar exportations too, increasing also the coffee, cotton and cocoa ones³⁷. Every sector of the economy started to develop; infrastructures as bridges, ports, roads have been built. The educational system and the armed forces have been reformed. This

³⁴ Ibidem, pag. 26.

³⁵ This system came to existence due to the scarcity of population, the lack of officers who could grant a legal system of the land, and to the fact that the possibility to cultivate was not economically sustainable.

³⁶ Ricciuti R., Zardo E., *Hispaniola e la divergenza economica*, op. cit., pag. 27.

³⁷ Ivi.

economic growth caught the attention of many European migrants (from Italy, Spain, Turkey), but also of United States. The government of Heureauux witnessed the transformation of Dominican Republic from producer of tobacco and timber for Europe to exporter of sugar cane for United States³⁸.

In order to better comprehend why Dominican Republic grew more than Haiti, it is impossible not to mention the relationship between Santo Domingo and the United States. In 1905 United States took control of the administration of customs of Dominican Republic. After two years, the foreign debt was reduced by 40 million dollars to 17. The United States invaded Dominican Republic in 1916 and imposed a military government which realized several reforms; the fiscal system was reorganized, a unitary police force was created, the primary education increased and a system of roads was built. In addition, terrenos comuneros became privatised, to the benefit of American enterprises that cultivated sugar. American left Dominican Republic in 1922.

Anyway, it is under the dictatorship of Trujillo³⁹ in the thirties of last century that Dominican Republic has started a relevant industrial development, with an expansion of trade and an improvement of public infrastructures. President Trujillo tried to modernize every economic sector, although his personal monopoly on the economy of the state. In fact, his family was able to control the monopoly of cement, cocoa, tobacco, coffee, cereal, as well as management of banks, airline companies.

After the assassination of Trujillo of 1961, in 1962 Juan Bosch became President and fostered a constitutional reform, that facilitated civil and individual rights and imposed the control of the civil on the military. In 1963 a military coup d'etat made depose President Bosch. Given that situation, United States feared that the Dominican situation could lead to the Cuban one, that is why in 1965 they occupied Dominican Republic, leaving it in 1966, when Joachim Balaguer took the power⁴⁰.

One of the main differences with Haiti is that in the 90s, Santo Domingo adopted macroeconomic international politics, opening to the foreign investments, especially those regarding the pivotal sectors for the Dominican economic: tourism and manufacturer factories in the freed zones. The Free Trade Zone has become something very important for the country.

³⁸ Ivi.

³⁹ Rafael Leónidas Trujillo Molina, President of Dominican Republic for 30 years, from 1930 until 1961.

⁴⁰ Ricciuti R., Zardo E., *Hispaniola e la divergenza economica*, op. cit., pag. 28.

Its aim is that of break down the barriers and customs tariffs, and to attract foreign investments. Anyway, although the relationship with the United States helped the country to reach a certain stability, in Dominican Republic there are still many issues to solve: high tax evasion, corruption, wrong management of infrastructure, unequal income redistribution, progressive increase of public debt⁴¹.

1.2 The scenario of the last decade

As for Haiti, also for Dominican Republic last years corresponds to a period characterized by primarily social and political mobilisations and claims. According to this point of view, the two states do not differ from the countries of Latin America. What actually changes, are the dynamics and the questions they want to answer, where protests differ from one another and, above all, from the rest of Latin America.

Dominicans want to protest mainly for corruption, refusal of clientelism, dislike towards the current power (the party rules uninterruptedly for 16 years). What gave birth to the protest was the Odenbrecht dossier, that is the corruptive deposits, paid by the Brazilian enterprise to politicians and officers of several countries, among which Dominican Republic⁴². This led to a non-violent protest called *Marcha Verde*; this movement aims at putting together different associations and organizations; it is a pacific and non-violent movement, and during time it has kept these characteristics.

Since 2000s Dominican Republic is a urban country, with an open and liberalised economy. It witnesses also consistent migratory flows, many of them directed outwards, (mainly United States), and inwards, from Haiti. Even if the economic growth has been important, it does not erase the issue of poverty and, above all, the issue of inequalities. This last one is maybe the biggest problem of the country; in fact, in the last decade, individual interest, corruptive networks with several criminal members: this led to a progressive lack of trust towards political parties and democracy⁴³.

In addition, to the above-mentioned problems, we must add the welfare, as strategy adopted by the government in order to gain consensus of the weak classes, and the relevant contribution of

⁴¹ Ibidem, pag. 29.

⁴² Ianni V., *Repubblica Dominicana-Haiti. Due paesi, una isola, nello scenario dell'ultimo decennio*, Centro Studi di Politica Internazionale.

⁴³ Ivi.

remittances to the budgets of the poorest families. This fragile social and political structure explains the weaknesses of the Dominican movements in making some important changes.

The fragmentation that makes weak the social actors is rooted in the structure of relationships of production that continue to register a workforce marked by insecurity and instability, without political and civil rights. The workforce taken in consideration is mainly Haitian.

An unequal relationship connects the part of the island during the years of American occupation of Haiti (1915-1934), and Dominican Republic (1916-1924). The United States fostered modernizing measures, which gave birth to an asymmetrical circulation of men and resources that neoliberal politics of last years do not satisfy. This imbalance that involves Haiti impoverishes it, and it intensifies in the 90s, when Haiti becomes a pivotal market for Dominican companies, unless the flow of goods go in the opposite direction, that is towards Haiti. The above-mentioned unequal relationship is reinforced by an antihaitianism feeling, that is part of the Dominican culture for a very long time (the analysis of the anti-haitian feeling that is part of the Dominican culture and society is the main topic of the third and fourth chapter of this dissertation).

For what Haiti is concerned, as I have already written, it is the poorest state of Latin American, with the lowest social, economic and political indicators. It is a country which is incapable of guarantee to its citizens their needs, and this incapability corresponds to the characteristics of a failed state⁴⁴.

Haiti is a country which is continuously depending on international aid; even it has been the first country of Latin America to obtain independence in 1804, and it has been the first black republic of the world, does not stop to be devastated by instability, deprivation, and deep divisions. Of course movements of protest and mobilisations of Haitian populations during the years of a difficult democratisation have been heard, but the repression was violent and caused many victims. Nowadays violence is terribly present, and the strong social mobilization is accompanied by the scarce capability of organisation and structuralization. The parties have the same fragility in organisation and capacity of aggregation. In fact, in the last years groups of young people have tried to intervene and get open, but the situation did not change. The last of these parties was the Petrochallengers; in 2018 they started the last round of mobilization, after having discovered the scandal of the corrupted management of the funding of PetroCaribe.

⁴⁴ Ivi.

The country seems as if it was paralysed in a present without future, due to the troubling years of protests, to the ineffective government and parliament, to the continuous food crises and catastrophic phenomena, which did not permit to Haiti to live a period of peace. Some suggested how it would be helpful if European Union supported the aggregations of the country.

In the same period anyway, both in Dominican Republic and Haiti, first cases of Covid-19 started to spread. Some considerations have to be taken, after having mentioned all these aspects; first of all, international aid and assistance measures have to be studied again and reformed, especially in their ways and time. The current conditions of Haiti show how the international community did not correctly intervene in order to help and save such a country; they prove how the international community failed, although it has been exercising its protection for twenty years (actually it is also a confirmation of some limits, well known in other contexts and geographical areas⁴⁵).

In order to better penetrate in the social and political context that involves Haiti, I think that it is remarkable to mention the scandal of Petrocaribe. As it is generally known, and it has been already mentioned in these pages, Haiti is a country where corruption is one of the main protagonist. Corruption in Haiti has been reported by the World Bank and several NGOs and social movements, and it has been confirmed by the Haitian Court. The Haitian situation, already precarious and very fragile, has worsened in the last few years due to the missing of some funds involved in the project PetroCaribe. Petrocaribe is the name of the alliance based on the purchase of petroleum products, that started in 2005 in Venezuela, on behalf of Hugo Chavez. The production of oil of Venezuela was among the highest of the world, but it had few purchasers. That was the reason why President Chavez decided to lend oil (instead to sell it) to seventeen countries of Latin America, among which Haiti. This way Caribbean states could benefit from these oil loans at low interests and could have taken advantage of economic aid to recover from their stagnant situation⁴⁶.

The programme of PetroCaribe involved the Caribbean countries and planned to have access to oil at preferential prices; among the others, Dominican Republic managed to exploit the new resources in order to invest them in new infrastructures. but for Haiti things did not go as foresaw. In fact in Haiti the outcomes of the PetroCaribe project were invisible. Haiti became part of the project in 2006, after the President of Venezuela Chavez and the Haitian one René

⁴⁵ Ivi.

⁴⁶ Zito, G., *Haiti, lo scandalo Petrocaribe: fondi scomparsi in un sistema corrotto*, Lo Spiegone, 2020.

Préval made an agreement. Four years later, the government claimed that it had raised money enough to support the recovery of the country (that moreover, it had been devastated by an earthquake that caused 200.000 victims in 2010). Although the dramatic conditions in which Haiti was, a weak optimism led to think that Haiti could grow⁴⁷. Unluckily, things went differently and in 2016, an exhausted population started to ask where the promised funds of PetroCaribe were, and the government responded that it has been able to collect four billion dollars, but the results speak for themselves. In 2017 a senate committee investigated and it was discovered a corruption in using the funds from the government of those years. A Pandora's box was opened: while investigations continued, Haitian citizens' reaction was not particularly alarming. At least not until the government wanted to raise the fuel tax in order to reduce the rampant inflation. That was the drop that broke the camel's back: the political scandal was then public, and the streets of Port-au-Prince overflowed with Haitian citizens, who expected the resignation of the entire political class, including the resignation of the President Jovenel Moïse⁴⁸. After the scandal became public knowledge, started a long march; about one million Haitian people took to the streets and threatened the corrupted governors to death. In order to save the presidency, President Moïse started to scour the names reported by the senate. Unfortunately the Court still has not been able to find all those responsible for the scandal; the Action against Corruption and impunity asked for the mobilization of every progressive force of the country in order to launch the process against the responsible of the fraud that caused several troubles to Haitian population.

It is remarkable to notice how different can be two countries that have had a very similar past and history, and in the next chapter we will see how this diversification may influence the relationship between the two countries.

Another pivotal aspect concerning Haitian immigrants is the hard work conditions in which they find themselves. With an unemployment rate of 50%, losing a job in Dominican Republic means being victim of a tragedy. The sugar cane sector is that of gives job to many Haitians; this sector changed when in 1999 the government decided to privatise it. Three companies took a market worth \$120.000.000. they have left the production chain unchanged and since then, it is as if there were two different speeds; the rapid one, belonging to tourists, and the stationary one, belonging to plantations, where hundreds of workers work in the fields. The proceeding of work of the sugar cane is the following: cane are cut by hand, and then they are collected on

⁴⁸ Haitian politician, President of Haiti since 2017 until July 2021, when he was assassinated.

wagons, pulled by oxen until the railstation, from which are sent to refineries, in order to become in sugar. We are talking about a system whose conditions would have been considered unacceptable even in the XIX century. In fact, since 2013 the U.S. Department of Labor denounces the exploitation of workers in the Dominican sugar cane plantations⁴⁹. The working day starts in the middle of the night because the production must not stop. With an unemployment rate of early 50%, loosing a job would mean something terrible for many numerous families, that completely depend on the man that works in the plantations.

It is since 1930s, during the years under Rafael Trujillo, that there is talk of antihaitianism; as already mentioned, more than 20.000 Haitians were exterminated, in what is known as the Parsley Massacre, so called because the soldiers of the regime asked people for pronouncing the word “parsley”, killing with blows of machete anyone who had a vague French inflection.

Nowadays, the situation is still fragile: Haitians are accused of accepting too low wages by Dominicans, ruining the whole sector. Conditions of Haitian population, even more devastated after the earthquake of 2016, are still dramatic: 80% of the inhabitants lives with less than a dollar per day, far less than a dollar per hour that they earn working in the plantations.

According to official data, there are now half million Haitians in Dominican Republic, but they might be more. Moreover, if Haitians were not there, who would work in the plantations? More than the 65% of Dominicans work in the third sector⁵⁰. This means that it exists a sovranism that is perceivable in many ways in the island, but Haitian working condition in Dominican Republic is something Dominicans need.

1.3 Hints on the prejudice against Haitians

The relationship between Dominican and Haitian people is characterised by a feeling of prejudice and distrust; this phenomenon continues for many years, as if it was something peculiar regarding these two states. Nowadays, even if at international level the principles of human rights should be respected, a so called modernized prejudice was making room. For instance, the words “Haiti” or “Haitian” were excluded by jurisdictional language of the last decades⁵¹.

⁴⁹ Mazza, F., “Sovranismo tropicale-Fame, machete e sovranismo: la vita agra degli immigrati haitiani”, Linkiesta, 2019

⁵⁰ Ibidem.

⁵¹ Martínez, S., Wooding, B., “*El antihaitianismo en República Dominicana: ¿un giro biopolítico?*”, Universidad de Connecticut and Centro para la Observación Migratoria y el Desarrollo Social del Caribe, 2017

Michael Foucault⁵², in his “Right to death and power about life”, coined the term biopolitic, whose meaning is the creation of new forms of knowledge about society and population, and how this knowledge is used by the government. Speaking of a biopolitical round (with the meaning given by Foucault), it seems that it involves the jurisdictional context; that is, it has the aim of making the antihaitian exclusion works less throughout surveillance, the violent domination, physical containment or the local expulsion of people. It should work through public management, computerized storage of civil registers, and the classification of the population in an hierarchy of unequal groups. This biopolitical round conforms to more flexible labor demands of neoliberal economy of Dominican Republic. Haitian and Dominican of Haitian descent will be socially and economically confined, continuously, in a deteriorized civil state and in a very exploitable economic position. All this mentioned above, does not aim at reducing the uncertainty and anxiety that the judgement number 168 of September 23rd, 2013, in which it was claimed that Haitian immigrants had to leave the country: that was the opportunity also to cancel the citizenship of Dominicans, sons of Haitian parents that did not legally live in Dominican Republic. This judgement was the occasion of letting the world know the kind of relationship that involved the two Caribbean states. The decision of the judgement triggered positions and expressions of outrage between the involved population and the supporters of liberal rights of the country, and abroad too. The judgement anyway, has been considered as legally binding both for the Dominican Executive and the legislature, that responded with several immigration and nationality reforms. One more example is the case of Juliana Deguis Pierre, a dominican of Haitian descent, to whom was denied the identity card (this case will be discussed in the next chapters).

Going back to the judgement 168, it tried to make a change for what concerns citizens of Haitian descent; it commanded the government to coordinate efforts in order to solve the issue of nationality of citizens of Haitian descent, and of the rights of residency of undocumented Haitians citizens. Besides, this judgement constitutes something new in the Dominican panorama. The change was meant to be a positive one, and not a step back as it was in 1937 under Trujillo, who commanded a bloodshed on the border with Haiti. Dominicans authorities claim that judgement 168 made a progression in a new politic of Dominican Republic with regard to its immigrants and the Haitian minority, that entails the technology application to individual and collective control of identity and the division of the society in groups that has

⁵² A French philosopher, historian of philosophy and science (1926-1984).

the right to national protection⁵³ (in the next chapters the discussion about judgement 168 is deeper and other views are taken into consideration).

Michael Foucault used the term “biopolitical” precisely for defining changes like the one above-mentioned, that started to transform the idea of population and of government in the industrialized states in Europe between the end of XVIII and the beginning of XIX century. The biopolitical round highlights a decline regarding the sovereign right to take on a life and an increase on the role of the government in organising the unequal distribution of life resources among the nationality.

Nowadays, in Dominican Republic it is claimed the defense of sovereignty, as justifications to the reforms made after the enactment of judgement 168, although those reforms mark the passage for a new way to control migrants, more appropriate for a neoliberal political economy. The old manner to control was characterised by showing the Dominican sugar cane slavery. The bosses of the plantations were minor ruler, that exercised supervision and control on migrants thanks to guards or supervisors of the company. The decline of the sugar production during the last decade of XIX century and the beginning of the new millenium reduced the geographic barriers and increased the possibility to move for Haitian immigrants and Haitian descendents to plantations and more economic sites.

Actually, a new system of control tried to set institutional fences, in order to limit the social and economic mobility of Haitian immigrants and Dominicans of Haitian descent. What the new system is trying to stop is not the geographic escape from plantations, but the social and economic escape of poverty, and a work that would be implemented through a rise to a middle class with skilled workers. The judgement and its associated laws and reforms do not want the physical elimination of the Haitian presence in Dominican Republic. It aimed at what Foucault called a new device (tools aimed at knowledge and institutional psysical and administrative mechanisms, that could empower and maintain the state power), that could replace the physical obstacles with more efficient documentary and cybernatic barriers⁵⁴.

After the enactment of the judgement, a process of exclusion with regard Haitian continued to exist; I will mention some hints concerning the new generation, in order to realize how, although many time has passed since Haitians and Dominican have been trying to relate with

⁵³ Martínez, S., Wooding, B., “*El antihaitianismo en República Dominicana: ¿un giro biopolítico?*”, Universidad de Connecticut and Centro para la Observación Migratoria y el Desarrollo Social del Caribe, op. cit., pag. 99.

⁵⁴ Ibidem, pag. 100.

each other, it is still very difficult to cohabit. The indignation caused by the judgement made room to a cautious optimism and then to disappointment. The government of Santo Domingo seemed to yield to the local defense and to show the willingness to regulate the situation of many undocumented people⁵⁵. Anyway, Judgement 168 did not modify, and nobody discussed about it, the measure that legally excludes the dominican children of undocumented immigrants from the right to nationality, born after 2007. May be this group of people will grow proportionate to the crisis; in the future, what it has been discussing in the reactionary jurisdictional context, is not the territorial expulsion of Haitians or Haitian descendants, but their integration in the political economy of Dominican Republic as people of second class⁵⁶. Haitian descendants will not be excluded from the Dominican area, but they will be probably excluded from the more important benefits of Dominican nationality.

The most chilling aspect of the story is not the expectation that the old way to treat immigrants would continue, but the addition of a new form of legal and bureaucratized exclusion. The distinction between the old and the new biopolitical exclusionism is something worth to be analysed.

The old exclusionism was made of violations known by the human rights advocates and that have been described by Human Rights Watch⁵⁷. Anything seeming to be Haitian to the police, to military guards or to migration officers, is a possibly victim of beating, harassment and the risk to expatriation without the possibility to be on trial. These kind of expulsions have been topic of several international discussions regarding human rights, particularly when the first government of Leonel Fernández⁵⁸ took power in 1996. Tens of thousands of undocumented Haitians were repatriated every year, throughout judicial proceedings that completely ignored minimum standards of an adequate process. In violation of what the Dominican law would foresee regarding the right to a fair trial for foreigners within the proceedings of expulsion, the deportations to Haiti were conducted in a matter of hours or days after imprisonment, without judicial authorisation or appearance before a court. The xenophobic right probably has incremented the pressure in order to expand the expulsions. In 2016 a reporter of New York Times claimed that thousands of immigrants and Dominicans of group B were clustered in a temporary settlement for internally displaced persons, Parc Cadeau, on the Haitian boundary.

⁵⁵ Ibidem, pag. 108.

⁵⁶ *Ivi.*

⁵⁷ Non-governative organisation: it deals with human rights protection and defense, its main headquarter is in New York.

⁵⁸ Dominican politician, graduated in Law and Political Science at the University of Santo Domingo.

Several of those displaced persons had been harassed by some Dominican nationalists, in order to be repatriated or expatriate to Haiti, fearing for their security⁵⁹. The use of abuse and harassment of the old form through threats seems to be still in force.

Even worse is the impact of the failure of the court about future generations of Dominican people of Haitian descent. They will be those that will face the fact that they do not have access to Dominican citizenship and to regularisation measures introduced by President Medina⁶⁰ and Dominican Congress. Little attention has been paid to the future of children born from parents that do not legally live in the country since 2007. Within the new regulated and bureaucratized form of exclusion, outlined by judgement 168, the deteriorated civil status of immigrants undocumented parents will be inherited for life by their children (born in Dominican territory), and by their descendents⁶¹. The exclusion of the citizenship *ius soli*⁶² will involve children born after 2007. The possibilities of the future Haitian descendants to escape the poverty will be strengthened with the invisible form due to the identity document and computerized data base. It will be probably be created a class of citizens with civil incapacity, people that are culturally Dominican but they are actually foreigners (they will be of Haitian nationality, or they will not have nationality at all).

The logic of judgement 168 turns to be a sort of legalisation of the lack of granting nationality and their related rights. The block with regard to Haitian descendants of the social and economic progress, such as education and travels abroad, will hinder their capacity, necessary to realize their maximum human potentiality, and it will force them to live in a condition of subordination, exploitation and poverty⁶³. These civil restrictions of capacity of Haitian descendants is new and more dangerous than the judgement itself. Making legal an old Haitian issue throughout norms and administration of bureaucratic information means a new form of control, even more difficult than the old exclusionism.

Biopolitic is a social cybernetic that works by classifying sub-populations, from the single person to the collectivity of population. The line between “make live” and “let die” makes room

⁵⁹ Martinez, S., Wooding, B., “El antihaitianismo en República Dominicana: ¿un giro biopolítico?”, op. cit. pag.109.

⁶⁰ Danilo Medina Sánchez is a Dominican politician and economist, President of the island from 2012 to 2020.

⁶¹ Martinez, S., Wooding, B., “El antihaitianismo en República Dominicana: ¿un giro biopolítico?” op. cit. pag. 110.

⁶² Principle of the law for which the nationality is acquired due to the fact to be born in a certain territory, regardless of the citizenship of parents.

⁶³ Martinez, S., Wooding, B., “El antihaitianismo en República Dominicana: ¿un giro biopolítico?” op. cit. pag. 111.

when a state grants to its citizens conditions of human prosperity or holds rights to those who are part of the wrong side of the norm within the qualifying outline of the status of regulation. The biopolitical state improves the conditions of life of a part of the population, while the other part is disposable because of negligence⁶⁴.

In the last years, Haitian immigrants and Dominicans of Haitian descent freely move in the Dominican territory, but they are less capable to escape from the effects of the fact they are undocumented, with no qualifications or credentials. The exits from poverty are now bureaucratically taped, even when the economic circumstances leave the majority of the Haitian descendants with the only choice of an ageing, agro-exporting sector.

The aim of the proceeding is that of maintaining the Haitian immigrants and people of Haitian origin vulnerable and destitute, but free to move in order to reach their job, if they have one⁶⁵.

As broadly written, the relationship based on mistrust and prejudice between the inhabitants of the island begun centuries ago, when Haitian started to migrate to Dominican Republic in order to have better conditons. The topic of migration and the relationship between the two population will be dealt and investigated in the next chapter.

⁶⁴ Ibidem, pag. 112.

⁶⁵ Ibidem, pag. 116-117.

CHAPTER 2. Haitian migration: where to migrate and who are the migrants

This chapter deals with the phenomenon of migration for what concerns Haitian people; particularly, it will be analysed the migratory phenomenon towards the Dominican Republic. The migratory phenomena can be very complex and diversified; in fact, its dynamics include economic, social, demographic factors, as well as the time in which a migration occurs.

2.1 Haitian Migration: overview

When people decide to emigrate, they can be classified in different groups, depending on which categories they belong to. In the case of the Haitian migration, we have to say that making clear this diversification is still complicated; unfortunately, the problem is the division between legal and illegal status of migration. There were cases in which a special status was created, the hybrid one. In 1980 the Cuban Haitian entrant status was created in the US, because of the massive influx of people entering the Florida shores; and in 2012 a humanitarian migrant status was directed for Haitian migrants coming to Brazil, to face the consequences of the earthquake in Haiti⁶⁶.

In the recent years, the Haitian migration revealed how the implementation of restrictions of some northern countries (like France, US and Canada) has facilitated new destinations in the South. The geographical diversification of Haiti's international migration has started a new phase after the earthquake of 2010; the new directions are mainly in Latin America. The emergence of Brazil as a regional power and its exceptional geopolitical relations with Haiti, gives us the idea of the reason why this continental country has become an important pole of the Haitian diaspora⁶⁷. The geography of this diaspora explains the location of Haitian refugees and asylum seekers in North America and the French Caribbean territories. The acknowledgement of the multidimensional nature of the Haitian migration by the local authorities in South America has paved the way for the legalization of Haitians. At the same time, the process of migration involving Ecuador, Brazil, Chile and Peru created a new regional migration system; this new South-South migration route is part of a larger Haitian migration system that connects Latin America with North America and the Caribbean⁶⁸.

According to the International Organization for Migration, five of the ten countries with the highest emigration rate belong to the Caribbean area. According to World Bank data, 1.377.000

⁶⁶ Audebert C., *"The recent geodynamics of Haitian migration in the Americas: refugee or economic migrants?"*, Université de Poitiers, MIGRINTER Research Centre, pp. 55-71, 2017.

⁶⁷ Ibidem, pag. 56.

⁶⁸ Ivi.

Haitians were abroad in 2013; this underestimates the significance of the phenomenon. The actual number is closer to 1.5 million individuals, or the equivalent of 15 percent of Haiti's population. Haitian emigration is different from the one that characterizes the countries of Latin America; this is due to the several aspects that compose the Haitian society (socio-economic, political and geological factors have provided a new dynamic of migration). Living conditions in rural areas have been aggravated by demographic pressure on scarce land resources. In addition, this process has been deteriorating due to the persistence of rudimentary agricultural techniques, and above all to the indifference of the ruling class in respect of the condition of the peasants. This brought to the contraction of the arable land and the reduction of agricultural resources and the impoverishment of the peasantry. In the last decades, large-scale rural exodus has grown, especially for what concerns urban economies; after 1986, the rise of slums and the so-called ruralization of cities as Port-au-Prince, Gonaïves and Cap Haïtien, have re-shaped urban environments, and daily survival strategies have become the normality for a wide segment of Haitian population⁶⁹.

The Haitian economic insecurity remains connected to other forms of insecurities that have been part of the history of the country. Natural disasters of last years have worsened the already precarious conditions of the island. Hurricane Jeanne in 2004, various storms and hurricanes in 2008 and the earthquake in 2010 have devastated the territory and left people in very bad conditions. Haiti, with its precarious economy and all that ran through, became very vulnerable; and this vulnerability meant “the diminished capacities of an individual or group to anticipate, cope with, resist and recover from the impact of a natural or man-made hazard⁷⁰”. Haiti suffers from a multidimensional vulnerability, that involves, as above-mentioned, economic, ecological and political dimensions, and it approaches to the notion of insecurity experienced in Caribbean societies. This peculiar insecurity is also due to the social structures inherited from the plantations system, the precarious environmental conditions, and the continuous economic and political social crises, related to international relations and geopolitical issues within the Caribbean areas⁷¹.

The dynamics of Haitian diaspora are very complex, and complex are also the legal implications in the receiving countries. The concept of insecurity not only refers to life threat issues (fundamental for what concerns the definition of refugee status), but also it involves rules of

⁶⁹ Ibidem, pag. 57.

⁷⁰ International Organization for Migration, 2015.

⁷¹ Audebert C., “*The recent geodynamics of Haitian migration in the Americas: refugee or economic migrants?*”, op. cit., pag. 58.

law, socio-economic, socio-spatial, ecological, political, psychological and humanitarian aspects. Moreover, it is relevant the incidence that the catastrophic events of the past years have had in the relation between insecurity and emigration⁷².

According to the UNHCR data, there are three main periods of growth in the level of refugee flows since 1990; the second half of the 1990s, the middle of the first decade of the XIX century and the 2010-2014 period. The first migratory wave followed the period of the military dictatorship of Aristide⁷³, and was characterized by deteriorating living conditions. The second wave has experienced both strong political instability and unprecedented succession of environmental disasters; the average number of refugees remained above 20.000 during the 2006-2010 period, while it exceeded 30.000 after the earthquake of 2010.

Destination of Haitian diaspora was mainly North America; Canada, US and France and the neighboring countries of Caribbean basin were the preferred places to migrate. Official numbers claim that 600.000 Haitian immigrants were in US, 86.000 in Canada, 40.000 in France; in the nearby countries, we can find 460.000 Haitian immigrants living in Dominican Republic, 40.000 migrants in the Bahamas and 28.000 in the French Caribbean⁷⁴.

US is the preferential destination of Haitian migration; this is due to the long-term inscription of Haiti in geopolitical orbit of the US since the occupation period (1915-1934), which prepared the basis for the latter's long-lasting economic, diplomatic and cultural presence in the Caribbean nation. These relations with US have facilitated the macro-structural framework behind the flows of political opponents to Duvalier's dictatorship⁷⁵ and migrant workers towards the US, thanks to a more open migration legislation after 1965⁷⁶. Haitian migration flows were directed also to France and its Caribbean territories; this channels have developed during the French territories between the 1970s and 1980s. In the Dominican Republic, the migration was initially based on agricultural labor, and then it became diversified to include students and workers in the service industry, tourism and construction. Haitian migration to the

⁷² Ivi.

⁷³ Jean-Bertrand Aristide is a Haitian politician and the first democratically elected President.. He was President in 1991, from 1994 to 1996 and from 2001 to 2004.

⁷⁴ Audebert C., *"The recent geodynamics of Haitian migration in the Americas: refugee or economic migrants?"*, op. cit., pag. 59.

⁷⁵ During his dictatorship, Haiti experienced increasing international isolation, renewed friction with Dominican Republic and a relevant diaspora of Haitian professionals; the country witnessed growth of corruption and human rights abuses.

⁷⁶ The Immigration and Nationality Act of 1965 established a seven-category preference system that gave priority to relatives and children of US citizens and legal permanent residents, professionals and other individuals with specialized skills, and refugees.

Bahamas emerged in the second half of the XX century, and it gradually became a transit place as well as a destination⁷⁷.

The reasons why Haitian people choose to leave their country are multiple; Haiti suffers a very fragile economic situation, that forces people to seek jobs in other places, and is often victim of natural disasters. The country struggles to carry on its agriculture domestic industry, due to international trade policies that overstate food aid and cheap food imports from the United States and elsewhere⁷⁸. Additionally, Haitian territory is subject to climate change disasters, due to its tropical position; natural disasters increase the difficulties in producing and accessing food.

According to the Geneva Convention of 1951, a refugee is

“any person who owing to a well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his/her nationality and is unable, or owing to such fear, is unwilling to avail himself/herself of the protection of that country”.

An asylum seeker is a person who is seeking protection as a refugee and is still waiting to have his/her claim assessed. Haitian refugees and asylum seekers have been housed for the most part in North America and France; the development of migration flows after the earthquake of 2010 has been characterized by a differentiation of destinations, including the French Caribbean territories⁷⁹.

As far as South America as destination of Haitian migration is concerned, historical and structural aspects have to be taken into consideration; first, due to a ever more capitalist world economy, people started to migrate from the periphery to the center; second, the geopolitical dimension of inter-state power relations. At the beginning of the XIX century, many countries in Latin America, Brazil first, joined the traditional state powers (the US, Canada, France) on the Haitian geopolitical chessboard⁸⁰. These new players, with their military presence, marked a turning point in the implementation of their diplomatic and economic interests towards Haiti. In 2004 the United Nation Mission for the Stabilization of Haiti (MINUSTAH) was established

⁷⁷ Audebert C., “*The recent geodynamics of Haitian migration in the Americas: refugee or economic migrants?*”, op. cit., pag. 59-60.

⁷⁸ Lutz, J., “*Haitian Migration: Food Insecurity, Fragility, and a Better Way Forward*”, Center for Strategic&International Studies, 2021

⁷⁹ Audebert C., “*The recent geodynamics of Haitian migration in the Americas: refugee or economic migrants?*”, op. cit., pag. 59-60.

⁸⁰ Ibidem, pag. 63.

under Brazilian command and had the aim of ensuring safety, supporting state law reforms, strengthening the capacity of the Haitian state. After the catastrophic event of 2010, the Mission undertook to secure urban areas, deliver humanitarian assistance to the camps, repair infrastructures and fight against the cholera epidemic. Brazil played a de facto pre-eminent geopolitical and diplomatic role in the country. Also Chile, Uruguay and Peru have supplied substantial military contingents and became new destinations for Haitian migrants.

Relations between Haiti and Brazil have proven to be asymmetric from a geopolitical and diplomatic point of view, and this brought to an enabling environment for the economic interests of big Brazilian companies. They have also reinforced bilateral relations between Brazil and Haiti on migration issues⁸¹. The beginning of Haitian migration system in South America is based on the complementarity of the migratory functions⁸² of each country. The variety of this state migration policy stands for the distinct approach of the nature of the Haitian migration. It is worth to mention countries like Ecuador, Chile and Peru. They are states that have become secondary destinations for Haitian migration and that have three different diverging migration policies. Ecuador and Peru have remained transit countries for Haiti migration, while Chile has become a country of settlement. It promoted contract labour migration. Haitians who enter the country, do it with a temporary visa and do not apply for a refugee status as they do in Dominican Republic or Mexico; most of the times this temporary visa lasts two years, at the end of which they can apply for a permanent residence⁸³.

Between 1991 and 1994 there was an Haitian refugee crisis, as a result of the political tensions present in the country during the Duvalier's regimes (the US response to this crisis is dealt in paragraph 2.3). The crisis affected the Caribbean states too. Haitian migrants in these territories are part of a complex plan of economically-and politically-induced population movements⁸⁴. People who were recruited for temporary jobs formed real communities which have expanded with the arrival of other migrants, employed in other activities. The communities formed by migrants are usually isolated and very poor, without the possibility to access to basic services and fundamental rights. After the return of president Aristide in 1994, the Caribbean states

⁸¹ *Ivi.*

⁸² Migratory functions are transit, settlement, or both of them.

⁸³ Audebert C., *"The recent geodynamics of Haitian migration in the Americas: refugee or economic migrants?"*, *op. cit.*, pag. 65-66.

⁸⁴ Gavigan, P., *"Migration Emergencies and Human Rights in Haiti"*, Department of International Legal Affairs, Office of Legal Cooperation, 1997.

started to develop programmes with the aim of distributing Haitian population within their borders⁸⁵.

Haitian migration is a complex and deep phenomenon, and in the next paragraphs I try to explain it, mostly focusing on the view that the world has on its phenomenon, and on the Haitian flows towards United States, and finally to Dominican Republic.

2.2 Haitian image to the rest of the world

After the earthquake of 2010, Haiti gave to the world a negative image of itself: or maybe, the world has chosen to give that image of Haiti. After the disasters, the degradation in which the country found itself came up, but that degradation has behind a long history, that is worth to know. Haitian history comprehends enslavement, forced migration and displacement, colonialism, foreign intervention, forced isolation and economic exploitation. The image that the world has received has cancelled its culture and beliefs; even the likeness of the landscape have changed after the earthquake, because the island was definitely devastated. Some scholars talk about Haitian exceptionalism, that is both negative and positive: negative exceptionalism leads Haiti to disappear and reinforces problematic stereotypes, while positive exceptionalism focuses on Haitian history and promotes regional, African diasporic and global affiliations⁸⁶. Scholars use the expression Haitian exceptionalism because of the result of Haitian Revolution of 1791-1804, that made Haiti the first independent black nation in the New World. Although this event was fundamental for Haitian history but also for other neighboring countries, Haitian Revolution has voluntarily been silenced in history, through ways of banalization, above all in the eyes of the Western World⁸⁷. According to Michel-Rolph Trouillot⁸⁸, in the nineteenth century Haiti was made recognizable to the world thanks to a paradigm, that connects Haiti to a racist nineteenth-century literature in order to overemphasize Haiti's singularity. He thinks that also some Haitian scholars have tried to underline the Haitian singularity, but this emphasis on this aspect is also a methodological and political way to reply to the negation of Haiti through a positive acknowledgement of Haitian identity, history and culture⁸⁹. Taking a step back to the two exceptionalisms, a distinction has to be made between the negative one, radicated in the racist culture of nineteenth century, and the positive one as counter-discourse. The shift in it

⁸⁵ Ibidem.

⁸⁶ Clitandre N., *"Haitian Exceptionalism in the Caribbean and the Project of Rebuilding Haiti"*, Journal of Haitian Studies, Center for Black Studies Research, 2011, pp. 146-153.

⁸⁷ Ibidem, pag. 148.

⁸⁸ Haitian American academic and anthropologist.

⁸⁹ Clitandre N., *"Haitian Exceptionalism in the Caribbean and the Project of Rebuilding Haiti"*, op. cit., pag. 148.

has been the earthquake of January 12, 2010; in fact, after that dramatic event, Haitians have realized their common ground with the Caribbean, as a result of internationalizing forces to develop a pan-Caribbean consciousness and an ideology defined within the universe of Black Atlantic⁹⁰. The perception of Haitian Revolution is unfair; it did not develop out of an isolationist ethos, it was never just about the liberation of enslaved people in Saint-Domingue; it has to be considered the Revolution within the acknowledgement of the above-mentioned paradigm. Furthermore, when talking about Haiti and Haitian history, ties with Caribbean and African diasporic connections have to be taken into consideration. The paradigm of Haitian exceptionality is a proof that the theoretical jump from looking at the Haitian Revolution as a singular event to a collective and universal event in many ways has not been organic either, but a continuous methodological and political process. As already mentioned before, now we have a pre-earthquake Haiti and a post-earthquake Haiti. The theme of Haitian exceptionalism reappears in post-earthquake narrations, making Haiti exceptional again, and making the world conscious of this exceptionality. Scholars claim that this new exceptionalism has to do with resilience; and furthermore, this not only gave to the world a new perception of Haitians, but it also gave a new perception to the Haitians themselves. And even if this new approach underlines the capacity of the Haitian population to resist, it has been established by the world medias in challenging ways.

Talking about resilience concerning Haitian population means recognizing that Haitians have been living in a state of degradation for a long time, and are capable to do so because of a never ending story of struggle and resistance⁹¹. To show that medias wanted to report some specific aspects of the devastated island after the earthquake, journalists chose mainly two images; the first is that of extreme poverty and the second is that of resilience (not for nothing Haiti is known to be the poorest country in the Western emisphere, as we constantly read in newspapers when someone has to refer to it). Of course some time after that catastrophic event, no one continued to talk about Haiti; nobody talked about Haiti's conditions, its recovery and the necessity to rebuild that state. The reflection is that the entire world manifested sensitivity and compassion in respect of Haitian population, showing even admiration for those people who have experienced both the bloody hurt of revolution and devastated bodies due to some natural disasters. I think that this thoughts regarding Haiti as a country and Haiti population can pave

⁹⁰ Ibidem, pag. 149.

⁹¹ Ibidem, pag 150.

the way to better understand why people decide to leave the country, where they choose to go and which difficulties they may encounter in their receiving countries.

2.3 Again on Haitian history and Haitian migration to US

The history of Haitian migration to the United States before the 1990s is reported and divided into four different periods. The first one, 1957-1964, was formed by Haitian people belonging to political and economic elite; the second, 1965-1972, when the flow of politically disaffected immigrants corresponded with an ethnic revival of Haitian culture; the third, 1972-1982, characterized by shortened efforts towards ethnic organization, anti-immigrant sentiment caused by a worsening economic situation and internment in camps; and the last one, 1982-1986, that coincides with the beginning of the appellation of Haitians as a group at risk for Acquired Immune Deficiency Syndrome (AIDS), and including the group's belief that its future was in the United States⁹².

I would like to analyse first these years of Haitian migration, and then focus on the last decades and see the differences of migration over time.

As I wrote before, Haitian migration towards the United States is divided into four periods. The first period, characterized by members of political elite, involves people of the mulatto class and others belonged to the emerging Black bourgeoisie who had reached the social ladder through education and whose vehicle was the rethoric of negritude; both classes wanted to avoid to be classificated as indigenous people. Haitian approach was more similar to the positions of the Blacks as an underclass in American society, rather than one of racism. This group of immigrants thought that their stay in the US would be temporary, as they were fighting due to political reasons; actually their hope was maybe of a potential Duvalier's dethroning and a replacement of a regime with their political system. Due to their beliefs, they did not care much about adaptation in the US; besides, they could not practice their professions, and their conditions became very uncomfortable. For what concerns the mulatto group, they had lost their traditional social status because of their migration and relegation to the ranks of the Blacks, which they considered to be derogatory and degrading. In America they were treated like "coloured", that according to them was the last form of degradation. To overcome this situation, both groups decided to notify American society of their French origin and civilization (the theme of prejudice is treated in the next chapters, but it is visible the necessity to rely on their

⁹² Fouron G., "*Haitian immigrants in the US: Migration and Identity*", US Department of Education ,1987, pp. 21-27.

belonging to European world through their language, in the hope of not being discriminated). This was not enough, as they failed to unite against the evident hostile and unfeeling approach they had perceived in the host nation, because the same racial hostility they had known and felt in Haiti continued to separate them in America. In fact, the mark “Frenchie” was not enough in order to assure a positive identity, even if Haitians insisted very much to be pegged with that terminology, as they felt different from the general underclass. According to the point of view of American society, they were coloured. In response to this consideration, Haitians reinforced their efforts to overthrow the Duvalier’s regime. They witnessed how skin colour, a fundamental marker in Haitian society, lost its importance in America, as Americans always considered them as blacks.

This first wave of migrants disappeared into the fold of American society, when they realized that the regime in their country could not be deposed; Washington worked things out with the Haitian dictator and revoked its assistance for the exile groups. The majority of the members of that group refused the Haitian identity in the United States; most of them tried to classify themselves as Hispanics, Whites or West-Indians. Of this first group of Haitian migrants in the United States nobody talked a lot and today we have little evidence⁹³.

For what concerns the second period, 1965-1972, a new wave of Haitian migrants arrived in the United States. This group of people was encouraged by the protests of the Civil Rights Movement in the US and a very elevated number of migrants decided to leave Haiti in order to reach America. Their motivation was especially related to the regime of terror caused by the government of Duvalier, to the renewed US immigration laws, and the efforts to recruit agents sent to Haiti by American firms robbed of their labor force for the Vietnam war. Their arrival in the US corresponded to the ethnic revival that was pervading American society; several American institutions started to educate Haitian immigrants on the need to arrange ethnic lines. Due to this proceeding, most of the Black Haitians that had followed the first wave of migrants in the US started to express Haitian needs following ethnic considerations. The outcome was that Haitians included and absorbed the notion of black pluralism like the American society intended it. Haitian migrants were considered as the flawless candidates for a new ethnic group status, as they were culturally different from Black Americans, and they rejected the new

⁹³ Ibidem, pp.21-22.

constraints imposed by the American society, and in the last, they showed a high sense of national pride⁹⁴.

The third period of Haitian migration in the US experienced an important growth in numbers of people who left Haiti, but at the same time, a decrease in the realisation of Haitians as a new ethnic group. This was due to the changes within the funded programs and the dismantling of the structures founded in the period of the Civil Rights movements. Furthermore, during this period, the Haitians who had chosen to segregate themselves, had to be embedded in groups of native Blacks, without considering the origin. They could not have a proper identity anymore. In addition, Haitian immigrants were divided due to the language issue; in fact, the old immigrants continued to speak French, while the new generations of immigrants started to speak Creole as their own language. Besides these changes in the conditions of Haitian people in the United States, great numbers of immigrants continued to arrive. The reason why was maybe the switch from the government of Francois Duvalier to that of his son Jean-Claude in 1971, that continued the politics of his father, with limitation of political freedom and widespread repression⁹⁵.

The United States in the 1970s tried to restore the economy of Haiti through a capital inflow, and actually they did in the capital city of the island, but the rest of the country did not get stimulated. People who had left the rural areas but were not working in the local economic boom had to leave their country as the only alternative. Gaining the legal visas was not easy and many of them became illegal migrants, but they did because wanted to escape their tragic situation. Also in the US in that period the economic situation worsened and contributed to the diffusion of anti-immigrants attitudes; immigrants started to be seen as competitors for the jobs of the American workers and immigrants were offered to native workers as their scapegoats⁹⁶. The image given to Haitians in America was that of impoverished, illiterate people, unneeded and unwanted in US. Haitians were incarcerated and obliged to live in very bad conditions; the Immigration and Naturalization Services undertook to isolate those immigrants from their families or social advocates who wanted to assist them. As a consequence, Haitians were forced to isolated camps. This negative approach had the opposing result, as Haitian immigrants felt a sense of togetherness and brought them closer to the American social advocates, who were there in order to assist foreign immigrants. Unfortunately in the 1980s this effort to unite Haitians

⁹⁴ Ibidem pp.22-23.

⁹⁵ Ibidem, pag. 24.

⁹⁶ Ivi.

and American society failed, as Haitians were the only group to be classified at risk and carriers of the AIDS according to the Center for Disease and Control.

The fourth and last period of this analysis observed how the naming as group at risk for AIDS had a scary effect on Haitian's effort to present their group as separate and ethnic, distinct from the larger Black population. The classification as a group at risk isolated Haitian immigrants more than ever; some of them lost their jobs, others were excluded from the community where they used to live; others were physically attacked and harmed from the rest of the population. Their presence in working environments was seen as suspicious, and people began to be feared by Haitian immigrants. In order to defend themselves, Haitians started to step back from open identification with anything Haitian; in the meantime, the Haitian government reinforced its effort to break down the opposition movement emerged that had grown during the Carter administration⁹⁷ and suppressed the only possible alternative for Haitian immigrants, a reverse migration movement⁹⁸. In 1987 Duvalier escaped from Haiti and finally Haitians could regain their dignity in their country; they wanted to return home, even if they were aware that those years as immigrants in America had deeply changed them. Unfortunately they soon realized that the project of a reverse migration would have remained just a hope; their country was unable to offer them the garb they had in the US, although also in US their life was not easy at all.

Moreover, it was true that Duvalier had left, but unluckily Duvalierism had remained in the island and immigrants could not have the resources to eradicate themselves. They were devoid of the educational documentation that would have guaranteed them an improvement in their socioeconomic condition; and also, they failed to collect enough financial resources to allow them to restart their life in their home country. This way Haitian immigrants understood that their future was America. Haitians, both those living abroad as immigrants and also those living in Haiti, looked at the colonies living abroad and realized people were permanently in another country, even if both groups saw the possibility of using the resources of immigrants to foster some changes in Haiti⁹⁹. Haitians moved abroad are commonly designed under the term "diaspora", but Haitian diaspora does not foresee their return to homeland (like the term is intended if we talk about Jewish diaspora). The aim of Haitian immigrants was that of join both societies, the Haitian and the American ones, or however that of their new place or residence.

⁹⁷ 1977-1981.

⁹⁸ Fouron G., "*Haitian immigrants in the US: Migration and Identity*", op. cit., pag. 25.

⁹⁹ Ibidem, pag. 26.

Living in places with more opportunities than their own, could have enriched the possibility to invest education and wealth in their home country. This approach of Haitian immigrants derives from their analysis of themselves as both an emerging ethnic group in United States and a racial group with specific necessities¹⁰⁰. They also used their racial identity to ask for help from different groups (the Congressional Black Caucus, Caribbean immigrant groups, the native Black population). They saw themselves sometimes as part of indigenous Black people, sometimes as an invisible immigrant ethnic group, other times as exploited Third World people.

The last decade has been witness of some natural disasters that caused a new wave of Haitian migration towards US and Mexico. After the 2010 earthquake and the 2016 hurricane Matthew tens of thousands Haitians had to be relocated, and many have escaped from the very precarious conditions of Haiti and reached the US. In 2020, the registered Haitians in the United States were about 705.000¹⁰¹. Nowadays, the Biden administration has offered Temporary Protected Status for Haitian migrants that were in the country before July 2021, granting them protection from deportation for 18 months and temporary work permissions.

Also the border between US and Mexico has dramatically involved Haitian migrants; their destinations were Brazil, Chile and Mexico but they encountered several difficulties, such as anti-Haitian and anti-Black feelings. Moreover, they usually have not access to translators, and for the non-Spanish migrants is hard to get access so public and social services and legal protection¹⁰².

The experience Haitians have been living (and still they do) as immigrants, the exile, the perception of being someone to avoid, to isolate, the living under a society dominated by White people and the feeling of always be inferior to the White, has negatively affected Haitian identity. The American society, but not only the American one as we will see, has increased this crisis of identity by putting Haitians in difficult positions, as most of them were segregated and belonged to the underclass of the lowest status of America. To this, it has to be added the elements that caused the Haitian diaspora; events in their home country did not make them return to it¹⁰³.

¹⁰⁰ *Ivi.*

¹⁰¹ Yates, C., "*Haitian Migration through the Americas: A Decade in the Making*", The online Journal of Migration Policy Institute, 2021

¹⁰² *Ibidem.*

¹⁰³ Fouron G., "*Haitian immigrants in the US: Migration and Identity*", *op. cit.*, pag. 25.

2.4 Haitian immigrants and its descendants in Dominican Republic

Before focusing on the migration that involves Haitian people and Dominican Republic, I would like to talk about the border areas between the two states. The concept of urban intermediation shall be understood as the process through which a city absorbs the economic and socio-demographic flows, including those that come from the context with which the city relates (it actually involves economics, society, culture, technology, environment)¹⁰⁴. In this case, the cities that have to be taken into consideration are Dajabón, in Dominican Republic, and Ouanaminthe, on the Haitian border. It is being formed a sort of hermetic border, that could bring a new regional design, including the Dominican and Haitian northern areas. Nevertheless, this process faces a series of economic and social difficulties, especially as the Haitian area is concerned. That is an unequal relationship, which displays the negative externalities of this process (Ouanaminthe is relevant within this aspect). Since when the Haitians invaded Santo Domingo, the city of Dajabón became a centre of commercial and cultural exchanges between the two states; furthermore, it was subject to a greater control, after the American occupation in Dominican Republic (1916-1924), and Haiti (1915-1934). In fact, towards the end of the 19th century the fall in the price of sugar forced Dominicans to peasants losing their interest in cutting sugar cane and, consequently, in the import of workers from the Anglophone Caribbean¹⁰⁵. The so-called *cocolos* arrived mainly from the territories of St Kittis, Anguilla and Nevis. The American occupation of the countries improved the cross-border workforce. The spike of the sugar cane industry fomented the need of Haitian labor, giving rise to a system of temporary workers.

Even more remarkable is the development that characterised Dominican Republic, that started to fit in the international economy, as sugar supplier. This increased the already known differences between Haiti and Dominican Republic; but it is with the dictatorship of Trujillo that it was given a radical solution to the border issue. In fact, Trujillo signed an agreement with the Haitian government concerning the delimitation and border demarcation, but also, he ordered the killing of thousands of Haitians (and Dominicans of Haitian descent) that worked in Dominican Republic. The so-called 1937 carnage was followed by a colonization programme, called Dominicanisation of the frontier¹⁰⁶. This event dramatically affected both countries:

¹⁰⁴ Alfonso H.D., Cedano S., “*De problema y oportunidades: intermediación urbana fronteriza en República Dominicana*”, Revista Mexicana de Sociología 67, 2005, pag. 100.

¹⁰⁵ Wooding, B., “*Haitian Immigrants and Their descendants Born in the Dominican Republic*”, Oxford Research Encyclopedias, Latin American History, 2018.

¹⁰⁶ Alfonso H.D., Cedano S., “*De problema y oportunidades: intermediación urbana fronteriza en República Dominicana*”, Revista Mexicana de Sociología 67, op. cit., pag. 102-103.

those years were characterized by the imposition of more military controls on the borders and diplomatic tensions, that prevented the enforcement of the contractual regime of groups of migrant workers¹⁰⁷. The interstate regulation for those migrant workers was implemented in parallel with the acquisition of the sugar mills by the Trujillo's administration. Scholars affirm that at that time, the Dominican government used extra-legal coercive methods, as the retention of documents. Even after the Trujillo's dictatorship, when Balaguer came to power in 1966, Haitian workers constantly felt the threat to be relocated; the threat involved both documented and undocumented Haitian workers who lived or worked outside the *bateyes*. The country saw an increasing migratory phenomenon, particularly in the 1970s, due to a hike in sugar prices, that caused a higher demand of Haitian workers¹⁰⁸.

Going back to the discourse of the Dominicanisation, for what concerned the border areas society, it meant a process of colonization that implied the deinstitutionalization of a series of relations and values. Unfortunately, the inhabitants of those areas remember with different approaches the slaughters against Haitian people and the works realized by the Trujillo's government. This first wave of Haitian migration has a lot to do with the economy of the Dominican Republic; Dajabón became the second inland port of the binational trade; furthermore, the area turned into a place of exchange of drugs, weapons and people, that contributed to the increase of corruption, violence and deterioration of public, civil and military authorities. This kind of economic relationship gives an idea of the unequal nature of the contacts between the two countries¹⁰⁹.

The Haitian-Dominican border has some peculiar characteristics; the geopolitic perception is continuously based on an obsolete legislation, powered by the critique situation that involves the Haitian side. The legislation is pretty the same of the Trujillo era; it guarantees the subordination of Haitian people in a context of an unequal exchange, but at the same time it gives origin to disfunctions with respect to the dynamic of the capital of the area and facilitates the intervention of some public actors¹¹⁰.

Since many years, actually more than one hundred, Haitian people move to Dominican Republic in order to find better everyday-life conditions; but since the 80s of the last century,

¹⁰⁷ Wooding, B., "*Haitian Immigrants and Their descendants Born in the Dominican Republic*", Oxford Research Encyclopedias, Latin American History, op. cit.

¹⁰⁸ Ibidem.

¹⁰⁹ Alfonso H.D., Cedano S., "*De problema y oportunidades: intermediación urbana fronteriza en República Dominicana*", Revista Mexicana de Sociología 67, op. cit., pag. 104-105.

¹¹⁰ Ibidem, pag. 116.

the number of Haitian immigrants in Dominican Republic has increased. And of course it is increased also the number of Haitian people born in Dominican Republic, that formed a proper group as they share some aspects, related to the relationship with the rest of Dominican population and the proper features of Haitian population. Several historians talk about a new Haitian immigration in Dominican Republic, according to the classification of the characteristics of migrants and the socio-demographic setting of the new generation (Haitian people born in Dominican Republic).

In the last decades, historians have focused on the reasons why Haitian people choose to leave their country and choose Dominican Republic as the final destination, and have considered the chances to work in better conditions, the process of integration with the Dominican population, the issue of identity and the documentation, the nationality and human rights, among others¹¹¹.

In order to analyze this phenomenon, we have to take into consideration the history of Haitian migration in Dominican Republic. The beginning of the current flow of Haitian migrants started more or less during the first decades of the last century, in connection with an important pushing in the sugar cane industry. In fact, between the end of the nineteenth century and the beginning of the twentieth century some Cuban and American businessmen started to invest in Dominican Republic, in the sugar cane industry; their aim was that of exploit some international and regional environments. As far as Haiti was concerned, together with other Caribbean islands (Jamaica, San Cristobál, San Vincente), it began to offer workforce in Dominican plantations, considering that entrepreneurs needed men in order to be able to make the industry develop. In addition, a large part of the growth of Dominican sugar cane business has a lot to do with a social and political context linked to Haitian migration. We have already talked about the American occupation both in Haiti and in Dominican Republic at the beginning of the last century (Haiti: 1915-1934, Dominican Republic 1916-1924); in Haiti, the introduction of the American agricultural industry caused the forced relocation of several peasants in the territory of their new job; this led to a rural guerrilla against the occupation forces. In reply to those rebellions, American marines forced the surplus workforce to go to Dominican Republic or Cuba, where American interests benefitted from that move, as American business men that had control over sugar cane industry needed cheap workforce¹¹².

¹¹¹ Méroné S.C., *"Inmigrantes haitianos y dominico-haitianos en República Dominicana. Cambios y posibles implicaciones en los perfiles"*, Estudios Demográficos y urbanos, El Colegio de México, vol. 34, 2019, pp 269-300.

¹¹² Ibidem pag. 273.

The majority of Haitian people that arrived in Dominican Republic in the 1920s was not under the state or society control, but entrepreneurs realized that, in order to comply with their plans of work, they necessitated immigrant workers, and the number of Haitian immigrants grew very much. Haitians strengthened their presence in the low-skilled jobs in the sugar cane plantations; this way the social expulsion mechanisms of Haiti and the willingness to choose Haitian workforce by the businessmen in Dominican Republic continued to grow.

During the following decade, we can observe a deeper growth in the numbers of Haitian migration, also due to the Cuba reaction to the economic crisis of that period. In point of fact, the Great Depression¹¹³ played a pivotal role in the American economy and, consequently, in the economy of all those countries that depended on United States, especially Latin America and the Caribbean. As the Cuban economy particularly suffered the economic crisis, its government decided to adopt restrictive measures in order to limit Haitian migration in the country. About 70.000 Haitian immigrants were expelled from Cuba, and most of them reached Dominican Republic, as they did not find work politics in their home land, facilitating the increase of Haitian immigrants workers in Dominican Republic. This growth in the migratory flows happened regardless the limitations of the Dominican government towards Haitian-Dominican border areas, that was figured out only in 1936; the end of those territorial disagreements led to the first important fight that has Haitian migration as the main character. The decision of the limitation of the border areas between Haiti and Dominican Republic represents one of the main reasons of the slaughter of thousands Haitians in 1937, at the hands of the Trujillo dictatorship. The official dividing line left the Dominican territory to some Haitians communities, transforming a large part of the Dominican border area to a culturally Haitian strip, that actually was not under the control of the Dominican government¹¹⁴.

The fact that more and more Haitians continued to arrive and to live without being controlled by the government meant a threat for Dominican population and Dominican government, against their sovereignty and identity. This is correlated to a historical anti-haitianism and racist approach, that in the 1930s reached its apex with the politic of Rafael Trujillo. In order to root out the Haitian threat and establish the authority of his government, in 1937 Trujillo (together with the support of some elites) commanded the slaughter on behalf of the process of dominicanisation of the area. The objective of the action was that of cancelling the Haitian

¹¹³ With the term "Great Depression" it is intended the economic crisis the world experienced between 1929 and 1939 due to the fall of stock market prices in United States.

¹¹⁴ Méroné S.C., "*Inmigrantes haitianos y dominico-haitianos en República Dominicana. Cambios y posibles implicaciones en los perfiles*", op. cit., pag. 274.

population and replace it with Dominican people without Haitian descent, and with White immigrants coming from other countries, therefore a new plan of development of the border area could have been set up¹¹⁵. Someone claims that Trujillo acted that way also due to personal interests; the slaughter was a way to demonstrate to the Dominican elites that his Haitian descent did not represent any weakness in defending Dominican Republic in respect of Haiti and Haitian population¹¹⁶.

Dominican authorities of the time were aware of the need of the Haitian workforce in the sugar cane plantations, also because this industry had become the main source of wealth of the country, generating its major export product. In 1952 Trujillo signed an agreement with the Haitian government in order to recruit Haitian temporary workers for the plantations; this system worked until 1986, even if since the mid-1970s the sugar cane industry gave some signs of decline, and it was not necessary to continue to import immigrants to work there. Anyway, during the thirty years in which this agreement was valid, the bond of migration with the sugar cane industry has been reinforced, and also the agricultural market, assuring the security of an adequate workforce, composed of young men, with a low level of education, who for the most came from rural areas.

A part from the crisis of the 1970s, other several aspects influenced in the changes of the process of Haitian migration in Dominican Republic. Haitian migrants began to work in agricultural fields, without considering the sugar cane plantations (coffee, rice, tobacco). The crisis had widespread through the agricultural activity of the country, causing difficulties for many rural manufacturers, that left their towns towards the larger cities of the United States¹¹⁷. This move caused a decrease of a native workforce, implementing the arrival of Haitian migrants and people of Haitian-Dominican origin. Those people were involved in the production of tomatoes, pineapples, bananas. Haitians consolidated their presence in the fields of the above-mentioned products and still nowadays some Dominican agricultural sectors depend exclusively on Haitian workforce.

Haitian migration changed also because other socio-economic aspects were changing: at the time Dominican Republic assisted to a shift from mainly agricultural activities to a tertiary

¹¹⁵ Ivi.

¹¹⁶ More about the prejudice and the racist approach, implemented by Rafael Trujillo is found in the next chapters.

¹¹⁷ Méroné S.C., "*Inmigrantes haitianos y dominico-haitianos en República Dominicana. Cambios y posibles implicaciones en los perfiles*", op. cit., pag. 275.

economic ones, and to the development of sectors as free zone of exportation, industrial activities, tourism and public services. This new economic model attracted more Haitians, that arrived with different profiles and started to work in diverse fields. This was intended as a new Haitian immigration in Dominican Republic.

As far as Haiti is concerned, in the same period the left part of the island experienced some happenings that worsened the already precarious economic, political, social and environmental situation, and the number of people who tried to escape the country increased.

Examples of such events were the presence of swine fever, between the 1970s and 80s, and the following decision of Haitian government to sacrifice what they had earned from pigs: poverty in rural areas increased a lot. Economic situation was exacerbated by the fall of Duvalier's regime and the *dechoukaj* movement¹¹⁸. Again, between 1991 and 1994 the coup d'état against Jean Bertrand Aristide and the commercial block imposed by UN and the Organization of American States terribly affected Haitian economy, making loose thousands employments. And to this, we must add all the political and environmental crisis that the country experienced during the 1990s and 2000s, that found their apex with the earthquake of 2010 and the breakout of cholera and the following hurricanes; many Haitians decided to leave their home country and for the most of it Dominican Republic became their new country¹¹⁹.

Who are the Haitians that decide to look for better living condition in Dominican Republic? For what concern their age, most of them is between 15 and 55 years old, that means they are in the working age. This is comprehensible as Haitian people leave their home in order to work, since Haiti cannot offer many possibilities. In 2010, 62% of the Haitian population in Dominican Republic was male¹²⁰. Previous index of migration claim that in the former Haitian migratory flows the percentage of women has changed in respect of the in the last census (2010). In 2010 Haitian women in Dominican Republic were 38% of the total migrants, while in 2004 they were 22%. However, recent data confirm that still nowadays the male percentage of Haitian migrants is superior than the female one, and this translates into a selection depending on sex with respect to criteria of migration. This sort of selection in terms of migration depended on some factors; the agricultural reason of the previous decades has played a pivotal role in that, and still today there is a large portion of Haitian population in Dominican Republic that

¹¹⁸ From the Creole, it means uprising and refers to the anti-Duvalier movements and manifestations that occurred from 1984 and 1986.

¹¹⁹ Méroné S.C., "*Inmigrantes haitianos y dominico-haitianos en República Dominicana. Cambios y posibles implicaciones en los perfiles*", op. cit., pag. 276.

¹²⁰ National population and housing census, 2010.

works in that sector, and, given the Haitian and Dominican culture, working within the agriculture is a male's job, and the above-mentioned agreements, valid until 1986, gave priority to the male population.

One more feature of the preference of male immigrants is the negative feeling towards Haitian women in Dominican Republic. In several parts of Haiti there were rumors of Haitian women going to Dominican Republic in order to "lave boutèy", that is a Creole expression that means that women worked as prostitutes in the right part of the island. Prejudice was present, because there was the habit to claim that there were no other possibilities for Haitian women in Dominican Republic; this belief became widespread and turned to a negative social pressure against Haitian women. In contrast to that, there are some possible explanations concerning the "feminization" of Haitian migrants in Dominican Republic; in the last decades, during which we witnessed a change in the economy sectors, women started to be employed in public services, tourism, and the industrial free zones. Furthermore, the prejudice against Haitian women decreased, and this went hand in hand with the continuous worsening of Haitian economy. Finally, feminisation in Dominican Republic may find its explanation with the end of the contracts signed under Trujillo dictatorship and that ended in 1986 and with the multiple social, political and environmental protests that took place in Haiti; men that were already in Dominican Republic wanted to settle there with their families¹²¹. In addition, the 2010 earthquake caused many Haitian women to leave their country for Dominican Republic; the progressive new arrivals in DR involved many women and children, and was connected to inequalities and gender-based violence in the Haitian territory¹²²

Concerning Dominican people of Haitian descent, they have different age and sex with respect to immigrants; their average age is 8 years old. The youth of the Dominican-Haitian may derive from the feminisation of Haitian people; the fact that in the past Haitian migration mostly involved men did not give the possibility to form a consistent part of young population of Haitian descent, as the majority of children of Haitian migrants were born in Haiti. The presence of women in the island, and the percentage of them that were married in the country, led to the growth of a significant part of young population with Dominican-Haitian descent.

¹²¹ Méroné S.C., *"Inmigrantes haitianos y dominico-haitianos en República Dominicana. Cambios y posibles implicaciones en los perfiles"*, op. cit., pp 280-281.

¹²² Wooding, B., *"Haitian Immigrants and Their descendants Born in the Dominican Republic"*, Oxford Research Encyclopedias, Latin American History, op. cit.

Another different aspect is the gender of Dominican-Haitian people; almost half was represented by women. The notable differences of these two groups reflect the different processes from which they derive. As migrants, Haitians have been subjected to some selection processes due to sex, age, educational level and more; instead, the Dominicans with Haitian descent, being born in Dominican Republic, did not go through these processes¹²³.

Life for Haitian migrants might be very complicated in Dominican Republic. One of the most serious problems in the island is getting the Dominican documents¹²⁴, and this phenomenon is correlated to the historical prejudice embedded in the Dominican society (the Dominican prejudice and its impact on Haitian migrants in DR is deeply analyzed in the following chapters). Life might be complicated also because of the exploitation towards Haitian migrants. Dominican Republic is a major source of trafficking of women; this phenomeon involves both Dominican women, that go to Europe, Dutch Antilles, Argentina and Costa Rica to be sex workers¹²⁵, but also Haitian ones. Dominican government is trying to fight against illegal prostitutions and is developing policies against the trafficking of women, but one more problem of Dominican Republic (and this also is related to Haitian immigrants) is the access and the enactment of justice.

Haitian migration developed through a very long period of time, and it was forced by critical conditions in which Haitian citizens used to live. Migration involved several flows and destinations, but in order to enter into the depth of what is the aim of my dissertation, the migratory flows in Dominican Republic are what I decided more to focus on, with the purpose of analyzing all the aspects that caused the migration and all the aspects of the new complex life of Haitian immigrants in Dominican Republic.

¹²³ Ibidem, pag. 282.

¹²⁴ Martin P., Midgley E., Teitelbaum M. S., "*Migration and Development: Whither the Dominican Republic and Haiti?*", Center for Migration Studies of New York, 2002, pp 570-592.

¹²⁵ Ibidem pag. 587.

CHAPTER 3. How the prejudice impacts Haitian life in Dominican Republic

This chapter analyses the historical origin of the Dominican prejudice towards Haitian people living in Dominican Republic, its development and how it impacts their everyday life in Dominican country. The chapter goes back to the era of the President Trujillo, in order to manage to understand the adopted discriminatory policies towards Haitians, that have increased after 1937 and are still present in the country. Finally, the impact of the prejudice in the access to fundamental rights (such as that to nationality) and the access to the judicial system is mentioned (even if the topic will be deeper investigated in the next and last chapter).

The method I used in order to deeper investigate this phenomenon is blended, that is to say that, a part from my theoretical research and approach, I did some interviews with Dominican people working for some Dominican organisations that have to do also with Haitian migrants. I thought it would be interesting to integrate my academic work with the content of some direct evidences that may implement and confirm the result of my study.

3.1 Prejudice in Dominican Republic: racism or anti-Haitianism?

Dominican Republic is a country where discrimination and violence are widespread. These attitudes do not only involve Haitian migrants, but they will remain the object of my study. In particular, in a society considered racist, racialisation is often perceived as a reason for brutal behaviour towards Haitian. In the Dominican case, violence is even normalized in everyday life and the rejection of diversity is connected with the formation of racialised groups¹²⁶. Tensions between Haitians or people from Haitian descent and Dominicans are fomented by the state and the social structure (in everyday life the relationships between Haitian and Dominican people are quite normal). Scholars talk about an innate racism in the society and in the national system. the violent expression of racialised prejudice that ends up in brutal and aggressive behaviour dates back to the origin of the country and culminated with the massacre wanted by Rafael Trujillo in 1937. Unfortunately, things did not change, and in 2005 two thousands people were deported from the country, due to their “looking Haitian”, rather than their lack of documentation; the media reported 13 people were killed due to racial reasons¹²⁷. The fact is that the Dominican government has always allowed and fostered a discriminating attitude towards Haitians; racialised violence is considered legitimate by the Dominican government, and this approach is due to a society that is intrinsically racist. One of the main resentment against

¹²⁶ Howard, D., *“Development, Racism and Discrimination in Dominican Republic”*, Development in Practice, Taylor and Francis, 2007, Vol. 17, pp. 725-738.

¹²⁷ Ibidem, pp 725-726.

Haitian people is because of the Haitian occupation of Dominican Republic (1822-1844); the willingness to maintain certain boundaries against some past abuses supported the reiterated aggression and prejudice against people of Haitian descent¹²⁸. The concept of race is still very present in many countries in the world, and above them we find Dominican Republic; “race is understood in terms of the social construction of categories based on phenotypical appearance and self-assumed or externally ascribed biological inheritance”¹²⁹. Also Dominicans face racial differentiation if they move to another country, and those that do not want to classify themselves as negro or mulatto, are considered black Hispanics, or latinos or African Americans. They refuse the possibility to descend from black people, as they have built a national identity based on the European, Spanish, white model. European origins and heritages are celebrated, while African ones are denied and rejected¹³⁰. Race is generated by the creation of social and cultural meanings that are attached to some specific physical features or colours.

Minority communities, particularly if of black colour, have always been object of discrimination, marginalization, and exploitation; this because of the decision of the governing class, that takes advantage of the weaknesses of the minorities. In those circumstances, there is the tendency of using violence, driven by a spread racism and xenophobia. Unfortunately, this is a phenomenon of which we are witnesses all over the world; usually, these situations develop where the ruling class is formed by an authoritarian regime that politically exploits fear and wants to divide societies for its own interests. The politic of fear is what concerns immigration policies around the world, and includes an unknown number of human rights abuses.

Anti-Blackness is a peculiar form of racism directed towards black people that at the same time denigrates Blackness and systematically excludes Black people through overt and structural racism¹³¹. Anti-Black racism has been developed by the white supremacist and frame black bodies as inhuman, disposable and problematic, and usually it is considered a threat for white society and population. Given that all kinds of racism are inexcusable, some differences have to be cleared. At a global level, colonizers encouraged anti-Black racism as a justification of their violent behaviors (that includes practices of dispossessions and enslavement) and still today black racism works to inform discrimination, negative prejudice and stereotypes towards

¹²⁸ Ibidem, pag. 727.

¹²⁹ Ibidem, pag. 729.

¹³⁰ Ivi.

¹³¹ Nicol, M., “*Stateless Discussion Guide, Anti-Black Racism and Colorism*”, support provided by POV.

those of Haitian descent to benefit those in power¹³². Anti-Blackness impedes to people of Haitian descent or of visible African descent the access to fundamental rights and freedoms. Moreover, colorism¹³³ acted to render Haitian people as others and to generate a racial caste system, in which a person's value is determined by his/her skin colour. In Dominican Republic, colorism and anti-Black racism are connected; the ideology that wants to create differences between superiority and inferiority is used to justify power and privileges of Dominican elite on the rest of the population (as a matter of fact, 90% of Dominicans have African ancestry, although they do not want to be classified as Black or of African descent).

As far as the Dominican Republic is concerned, it has historically felt an anti-black, and above all an anti-Haitian sentiment. Scholars refer to it as *anti-Haitianismo* (anti-Haitianism), that is a racist ideology that derives from the colonist way of thinking. The Dominican country still lives with this feeling, that is powered by several discriminatory policies and practices built on skin colour, language or even frenchified (of Haitian origin) names, and some of them violate Haitians and people of Haitian origin¹³⁴. Especially since 2001, Haitians and people of Haitian descent have had problems with restrictions concerning social and demographic mobilization, as the result of the incapability (or unwillingness) of the Dominican country to regularize long-term migrants' migration status. Very famous, and it will be dealt in the next and the last chapter, is the judgement of 2013, in which it was revoked the citizenship of about 200.000 people, and most of them were of Haitian descent, born as far back as 1929. The decision taken in 2013 has been the peak of years of accumulated discriminatory practices and policies that endeavoured to deprive people of Haitian descent of their right to the Dominican nationality. To this, the international community reacted denouncing Dominican Republic for violating human rights and committing abuses, but the central government rejected to admit that the concerned policies and practices were aimed at limiting the mobility of Haitians, and that they could not be considered as acts of racism and discrimination. The practices taken in consideration were arbitrary deportations and denial of identity documents (sometimes relied on skin colour). These practices caused many more refugees and statelessness, and as they result inexistent for the state, they are denied all of those essential rights that people need and should get access. Consequences of course impact also the everyday life of individuals, causing mental health

¹³² Ivi.

¹³³ A practice of discrimination that attributes more lives to people with a whiter skin and institutes prejudice against darker-skinned people.

¹³⁴ Restrepo Rocha, A. C., "*Systemic Racism and Anti-Haitianism in the Dominican Republic*", Universitat Autònoma de Barcelona, 2018-19, pp 7-38.

problems, alcoholism, depression; and this has effects on the life of the whole society. The most hit categories are women and children (as always happens in circumstances of poverty and degradation). I found confirmation of what I studied by listening the words of my witness RD1: this feeling of Dominicans towards Haitian people is a sensitive issue at a political and social level within the same families; historically, we all know that there are conflicts that has to do with the foundation of the countries, and this conflict has never stopped between Haiti and Dominican Republic, since 1821, when Dominican Republic became independent from Haiti. In the last century, the anti-haitian dictator Trujillo ordered the slaughter of 1937, and many of these feeling towards Haitian still persist in the Dominican society, especially within the military forces. Xenophobia is still very present in the country; and this xenophobia is correlated with the issue of national security; there is a very negative feeling, and it is visible in the racial issue, in the class issue. Even with children, if your skin is black you are geld up as Haitian, with a derogatory meaning of course¹³⁵.

And again, when I asked which is her personal feeling and attitude towards this phenomenon, she confirmed the long-lasting prejudice that involves the life both of Dominicans and Haitians:

My everyday-routine is working with Haitian people; we take care of medical operative, we visit the communities. When I decided to work for this organization, it was quite problematic for my family, because the discrimination against Haitians starts within the family, and Haitian population brings along stigmatization. You have to defend your work and this is not a feeling of pro-haitianism, but we just take care of human beings. This is a constant fight with the nationalist groups, that are absolutely anti-haitian, and with our organization we have to fight for our job against the government. It a very sensitive issue within the society and politic¹³⁶.

For what concerns the prejudice impact on Haitian population, I asked RD1 “how is the everyday life of Haitian people in Dominican Republic? How the Dominican prejudice influences the everyday life of Haitians?”, and she answered that:

this depends on the places where Haitians live, on their economic conditions, because since it is an economic migration, we can find people of all economic levels. At the same time, within the same social group, there are people that live better than others. In their everyday life, many of them live with the fear of be captured by Dominican authorities; this is a widespread

¹³⁵ Witness of my interview with RD1, 08/04/2022. The identities of the people interviewed are maintained anonymous. In order to be able to make the interviews and to report their content, I signed them an informed consent, that is attached at the end of this dissertation.

¹³⁶ Witness of my interview with RD1, 08/04/2022.

phenomenon in Dominican Republic. A part from that, Haitians interrelate with Dominican people in a normal manner, especially in the rural communities. In the urban ones, Haitian are more isolated, there are little clusters of Haitian people that live in urban areas, and live in quite regrettable conditions (actually also many Dominicans live these deplorable conditions). Haitians have no guarantee for healthcare, education (the primary education is compulsory, but they have difficulties for what concerns university and specializations)¹³⁷.

RD2, to my question related to the living conditions of Haitians in Dominican Republic, explained the situation very in detail, going back to the history of Haitian migration and investigating the condition of Haitians in the sugar cane plantations:

the island is shared by two republics, and these two republics have not always had a clear border; in fact the border division is relatively recent, dates back to the first half of the last century. Although the delimitation is partial, it is a very porous border, due to different reasons. One of the reasons is the space, because the island is very little. In the inland, countries that have borders, have of course a movement of people, because it is the human condition itself (the fact that people move among borders). The permanent movement of people between Haiti and Dominican Republic is very impressive. In Dominican Republic the economic conditions are more favorable, and this is why the flow from Haiti is intensive. The political, legal, economic security conditions are more stable in Dominican Republic than in Haiti. Haiti takes a long time in a permanent political instability, in permanent insecurity levels and intern conflict; the displacement is inevitable. At the same time, the Dominican state developed a migratory policy in order to attract Haitian workforce in Dominican Republic for different economic sectors, but actually they were mainly for sugar cane industry. Through *bateyes* Haitian people started to come to Dominican Republic. This phenomenon developed a kind of economy and of community that we call “*la comunidad bateyana*”¹³⁸, that has its own history, economy and culture (that is hybrid). *Bateyes* are in every part of the Dominican territory, wherever there are sugar cane there are *bateyes*; with the term *bateyes* we mean the community around the sugar cane plantation. Above all, *bateyes* are in the east part of the island, in the area of the province of Santo Domingo, and also Porto Plata. Working in the *bateyes* is very hard, because it comprehends also the transportation of the sugar cane; time ago in every *batey* there was also the house of the colonizer, the owner of the plantations. In the Spanish part of the island colonizers were Spanish; they could be of other European nationalities, but the majority

¹³⁷ Witness of my interview with RD1, 08/04/2022.

¹³⁸ The community of *bateyes*.

was Spanish. In the French part of the island, the majority was French, and the majority was killed during the Haitian Independence War. Furthermore, in the *bateyes* there are the so-called *barrancones*, that are where the temporary workers (*braceros*) live. These *braceros*, with the help of the government and with an alliance between the government and the colonizers, came to Dominican Republic when the *zafra*¹³⁹ occurred. Sugar cane is very long and is very difficult to cut through machete. When *zafra* ends and the sugar cane is ready for binational and international market, these workers go back to Haiti. This is very important in order to understand the application of the judgement 168/13, it is pivotal in order to understand the topic of transit. This is the theoretic basis of the temporary migratory plan for what concerns the first *balaguerismo*¹⁴⁰.

Haitian workforce is involved in several economic sectors, but it is highly focused on the sugar cane production, because as it requires a very hard work and to product sugar cane is very fruitful, having Haitian workforce presents advantages, because this way you can have workforce in semi-slavery conditions. This work, that should be paid, actually is not. *Batey* has its own economy, that does not foresee a proper salary; the Haitian worker receives a kind of voucher, that can exchange with some products that the colonizers himself sells to him, within the *batey*. Haitian workforce lived in certain serfdom condition, that resulted into slavery. At the same time, *bateyes* have also some security conditions; the Dominican state, in order to guarantee a control area on the *batey* territory, created a politic that expects that workers enter the zone but they cannot go out; some say that this is not slavery because the workers mobility is controlled. Actually the workers cannot decide when to enter and to go out; they go out only when the state allows them to do it. The state does a security cordon, a militar cordon outside the *batey*. As we are in a capitalist economy, and within this economy there are no slaves and no servants, the colonizer creates a structure aimed at keeping the workers inside the *batey*, and create a proper economy. In the modern Dominican Republic *batey* is a microcosm; nowadays *bateyes* are urban marginal centers. The cabarets in Dominican Republic are typical of that; alongside to the migration that involves the *batey*, two forms of migration have been created. There is a kind of regular migration, that is generated by the country; migrants are regularized workers, because they have documents given by the Dominican state, and these workers are temporary. There is a second group of workers, brought by the Dominican state, that are permanent, because the colonizer needs a workforce that remains permanently (permanent

¹³⁹ *Zafra* means when the sugar cane is cut in order to extract sugar; *zafra* requires much workforce

¹⁴⁰ Period of the presidency of Joaquin Balaguer, (1960-61, 1966-78, 1986-94).

workers comprehend both Haitian and Dominican people, as the upper level works are meant for Dominicans, while the lower level ones are for Haitians); those workers obtain a permanent work license. This process creates a generation of people of Haitian descent that become Dominican¹⁴¹.

The living condition of Haitian people in Dominican Republic depends on the migratory status from which they come. People who have a regular status or descend from people who were regular migrants have better living conditions. Here comes into play the anti-Haitian prejudice, the prejudice towards blackness.

At the same time there is an irregular migration, and this flow of people wants to enter to the *batey* economy, but they do not manage to be part of the regular track of workers; they begin to enter in the Dominican economy through a migrant trafficking network. In addition to this, there is a network of human trafficking aimed at sexual exploitation. The Dominican state allows two forms of migration, that the Dominican state officially denies. It claims that women were not brought to the country (it was actually allowed, and they had roles, because the permanent worker needed his family; and those women worked in the *bateyes*). The Dominican state denies this passage because women conditions were very bad; there were pregnant women and even children that worked in the plantations. Furthermore, the country and the settler's company encouraged a regularized entry of women for all those temporary men that worked in the *bateyes*, because you cannot have a large number of working men, stripping them of their sexuality. Together with *barrancones*, there are many shanties, called *cabañas*, where men can find women. All these are forms of migration¹⁴².

We can see how the process that began in the half of the XX century did not change much, because migrants condition did not improve (sexual and commercial exploitation remained untouched), because there is a dynamic for which migration works due to necessities of the market. The fact is that the Dominican state wants to attract a new unity of production (we are talking about of human beings), but the capitalist system exchanges humans for machines; the state wants a machine in a human body, but humans are not machines. Humans move with their humanity, that involves family, health problematics, feelings, plans, dreams, desires, projects, and when humans move from one place to another, as it occurs to Haitian coming to Dominican Republic, they do with all their luggage¹⁴³.

¹⁴¹ Witness of my interview with RD2, 22/04/2022.

¹⁴² Witness of my interview with RD2, 22/04/2022.

¹⁴³ Witness of my interview with RD2, 22/04/2022.

After having being confirmed of my academic work by the people who constantly live the prejudice, I would like to remain focused on the topic of racism and discrimination, as it is very deep and worth of analysis. I have already focused on how colonial history and history of migration have always had to do with the prejudice, especially in the region of the world that is the object of my dissertation. As written before, the authoritarian regime is the perfect setting where appetite for power and personal interest of the regime or of elites can develop. Power is often the objective of the ruling class of those countries, and in fact, according to Hans J. Morgenthau¹⁴⁴, politics aims at keeping power, increasing power and demonstrating power. All societies are built on some hierarchy, with a social system in which several parts interact with each other, and every part plays a role depending on its capacity to control certain resources¹⁴⁵. In the history of Dominican Republic, (but actually it is still this way), there are two main groups: the elite and the population. For what concerns the elites, there are at the top of the hierarchy, personal interests and power are strictly connected. According to the above-mentioned political scientist, power may comprise anything that establishes and maintains the control of man over man. Thus power covers all social relationships which serve that end, from physical violence to the most subtle psychological ties by which one mind controls another¹⁴⁶.

Often the power is driven by the relationship established between elites and the rest of the population; when the elites gain the support of the population is more easy to stay in power; to cite Antonio Gramsci¹⁴⁷, “the governing class makes the governed class adopt their cultural and political viwes by convincing the population that their own interests are everyone interests”, that is the ruling class wants to impose their thought and beliefs over an entire population in order to gain its interest in an undisturbed manner. The systemic racism is something embedded in politics and the practices adopted by the main institutions and structures of a society that discriminates against, exploit or dominate a specific racial or ethnic group¹⁴⁸.

¹⁴⁴ German-American jurist and political scientist.

¹⁴⁵ Restrepo Rocha, A. C., “*Systemic Racism and Anti-Haitianism in the Dominican Republic*”, Universitat Autònoma de Barcelona, 2018-19, op. cit., pag. 9.

¹⁴⁶ Ibidem, pag. 10.

¹⁴⁷ Italian politician, philosopher, political scientist.

¹⁴⁸ Restrepo Rocha, A. C., “*Systemic Racism and Anti-Haitianism in the Dominican Republic*”, Universitat Autònoma de Barcelona, 2018-19, op. cit., pag. 11.

3.2 A deeper analysis about the regime of Rafael Trujillo and the massacre of 1937

Going back to the massacre of 1937, if we want to deeper analyse the history of the dictator that culminated with the slaughter, we have to take a step back. In 1920 the governor of the Dominican province of Monte Cristi complained about the deportation of Haitian residents of his province with the National Department of Interior and Police. At that time, Dominican Republic housed many Haitian communities, present both in border areas and in sugar plantations, where Haitian migrants were the main workforce. The central government of Santo Domingo had limited authority on the whole national territory, and when Americans occupied the island in 1916, they were worried about the fluid nature of the border and the hindered mobility of Haitian migrants¹⁴⁹, but local officers were more concerned with opposing efforts by the central state to control them than with moving away Haitians. When Trujillo came to power in 1930, he wanted to take control over the whole country, and the autonomy of rural communities was perceived as an obstacle for his plans. Before 1937, he tried to implement policies aimed at limiting the number of Haitians living in his country. With this move, he wanted to gain the support of anti-Haitian elite, but above all, he wanted to gain control on rural regions. His projects were in contrast with the local officers ideas, who opposed the imposition of the central government that endangered their authority over rural territories. Perhaps, the inability of the government to impose itself over the whole national territory influenced Trujillo's decision to give birth to the massacre of 1937, whose victims were from 10 to 20 thousands Haitians living on the border. This unprecedented violence was both towards Haitian immigrants and to officers that wanted to protect Haitian-Dominican networks from the control of the central state. Anti-Haitian bourgeoisie around Trujillo took advantage of the fracture of the massacre to construct a never-ended ethnic conflict between Haitians and Dominicans. Trujillo's control was justified by the perceived protection of Dominicans by the danger of a passive invasion of Haitian migrants¹⁵⁰. The anti-Haitian ideology of Trujillo called for both the absence of Haitians in Dominican everyday life and the diffused approval of the fact that Haitian culture could be a threat for Dominican society. Former works of Trujillo have been directed on the border area, where the government implemented these aims through the aggressive expulsion of Haitians. Unfortunately, this was only one of the procedures used in order to interfere with Haitian-Dominican networks. Trujillo could not completely eliminate all Haitians from the Dominican territory, as the sugar cane industry necessitated the Haitian

¹⁴⁹ Hintzen, A., "A Veil of Legality", *The Contested History of Anti-Haitian Ideology under the trujillo Dictatorship*, History Department, Univeristy of Miami, 2016, pp 28-54

¹⁵⁰ Ibidem, pag. 29.

workforce; precisely because of the relevance of the industry, the regime of Trujillo started to utilize extralegal coercion to oblige Haitians in the country onto plantations, and to strictly connect Haitian identity with cutting sugar cane¹⁵¹. Government officials encountered resistance from rural communities, and had to persuade local authorities to force Haitians residents to leave their houses and businesses. In order to better understand the anti-Haitian ideology that remained rooted in the following decades up to the present day, we have to deeper analyse the years that preceded the 1937 slaughter. We have to start by saying that during the XIX century, the Dominican central state had few relationships with the rural communities and communities on the border area; the economic situation began to change at the end of the century; during the 1870s Cuban sugar planters arrived in Dominican Republic, bringing expertise and capital, and set the creation of modern, steam-powered mills. During the 1880s there were thirty sugar mills in the east part of the country; this modernization brought to some changes in the Dominican economy. Before the growth of the sugar cane industry became relevant, large portions of land were held as *terrenos comuneros*¹⁵², utilized to graze livestock. As sugar plantations began to corner the *terrenos comuneros*, many peasants had to find some other land to sustain their animals; furthermore, the central government tried to generate a more structured labour force and passed laws attempting to police rural residents' behaviours. The growth of sugar industry gave birth to groups of armed peasants that assaulted both plantations and proclaim themselves in revolution against the central government. Sugar companies could not find Dominicans that complied with their requirements, and recruited immigrants first from the Dutch, France, Danish and British Lesser Antilles. As plantation administration found that Haitian workforce could be recruited more cheaply than that of the Lesser Antilles, Haitians started to be the largest ethnic group in the plantations¹⁵³.

Many Dominican intellectuals were worried due to the changes implemented by the new export economy; the reluctance of many Dominican peasants to establish a docile labor force led some people to deduce that the peasantry prevented the country to modernize. Even though some elites were bothered by the country's capitalist growth, they perceived peasants resistance to the foreign-controlled export economy as backwards. Moreover, the growing number of dark-skinned immigrants from Haiti and West Indies increased fears that concerned the racial

¹⁵¹ Ibidem, pag. 30.

¹⁵² Common lands.

¹⁵³ Hintzen, A., "A Veil of Legality", *The Contested History of Anti-Haitian Ideology under the trujillo Dictatorship*, History Department, Univeristy of Miami, 2016, op. cit., pag. 31.

makeup of the Dominican population. The presence of Haitian immigrants were perceived as a threat to darken the Dominican society, and thus preventing its development. In 1912 the government promulgated a law that limited the presence of non-Caucasian immigrants who could arrive in the country; anyway, besides the danger of the darken of the population, sugar companies enabled the administration to keep employing Haitian immigrants, and their number continued to increase. In addition, the growth of US hegemony affected those worries about Dominican Republic's economic and political advancement. American interests towards Dominican Republic expanded, and they wanted to control more the country; American officials selected the weaknesses of the Dominican country, those aspects that could be the reason of its underdevelopment, among others an autonomous peasantry and fluid borderland. US military detachments started to fight to control trade across the border, but encountered widespread resistance by the local communities. United States invaded Dominican country in 1916 and during the occupation (that lasted until 1924), American officials struggled to eliminate peasants guerrilla in the East part of the country, implement rural vagrancy laws and had a major control of the border. This brought to the resistance from rural citizens across the country. Like the Dominican bourgeoisie, American officials related the Dominican makeup with its power for political and economic goals. In comparison to Haiti, that in the eyes of Americans was definitely black, the Dominican Republic seemed to hold more hope of becoming "civilized" because of its mixed ancestry¹⁵⁴. Even if the American government did not manage to completely stop the ingress of the Haitian immigrants working in the sugar industry, every now and then officials pronounced against the use of Haitian work. Furthermore, they were worried about soft immigration enforcement and tried to increase their control on the border. American occupation strengthened Dominican elite, which believed that, if they wanted to be considered as a civilized nation, the government had to exercise more authority over the peasantry and diminish the danger of other racial mixture (caused by the growing black immigrants that arrived in the country).

In the same period they occupied Dominican Republic, Americans occupied Haiti too (1915-1934), and this occupation, together with the displacement of peasant that it caused, made increase the number of Haitians moving to Dominican Republic. In response to that, some Dominican elites perceived the Haitian arrival as a pacific invasion, that could have weakened the white, Hispanic heritage of the Dominican population. However, the Dominican country was not strong enough in order to impose some limitations in the Haitian undocumented

¹⁵⁴ Ibidem, pag. 32.

immigration; many areas of the island were still disconnected by the central government, and remained hostile to efforts to exercise central state control. Haitians had the possibility to move through the bilingual and bicultural areas of the border, and through the sugar cane plantations. At that time, even if prejudice was present towards Haitian people, there are evidences that claim that their presence did not affect peasantry life, but rural communities felt more distance between themselves and authorities of the central state than between Dominicans and Haitians. In the following years Trujillo started to ascend to power; in 1930 he sustained a coup against the president, and it was evident that Trujillo held the reigns to power. Thanks to his use of violence and coercion, Trujillo assured his election as president and took power in August of that year. Even though some parts of the Dominican elites did not support him and most of the low class did not even know him, Trujillo managed to bring the nation under his control through the use of force and persuasion.

Many of the intellectuals that took part in Trujillo's government attributed to Haitianization the fault of lack of progress for what concerned Dominican Republic, and thought that the new dictator could solve this issue; in 1932 Trujillo endeavoured to prevent sugar plantations from using Haitian labour by calling for workers that had to be Dominican. His goal could not be reached, as US government and sugar companies made pressure: they needed Haitians workers. Apart from elites, he perceived that he had to gain the loyalty of peasantry too. Actually, most people of the rural areas did not have interactions with the central government, and several sub-national stakeholders, (the so-called *caudillos*¹⁵⁵) had control over those territories. Trujillo began to use some strategies in order to have peasants on his side, and he also used force to broaden his authority over the autonomous peasantry. By expanding the power of his government, he managed to bring under his control most of Dominican rural areas; under Trujillo, for the first time the central government was capable of obliging a large portion of the Dominican population to pay for *cédulas*, nationally issued identification documents¹⁵⁶. Starting from 1932, citizens had to travel to their local office of the electoral board once a year and pay to get their document renewed (the document included their place of residence and the colour of their skin). For Haitians who resided in plantations, the central government counted on the sugar companies as the responsible for the payment and the distribution of the documents. (The issue of documentation, for what concerns both Dominican and Haitians, is

¹⁵⁵ In the countries of Spanish culture and heritage, caudillos were the supreme political and military chief, in a dictatorship.

¹⁵⁶ Hintzen, A., "A Veil of Legality", *The Contested History of Anti-Haitian Ideology under the Trujillo Dictatorship*, History Department, University of Miami, 2016, op. cit., pag. 35.

still very relevant for Dominican authorities, and it is a major problem for Haitian people living in the country). The fact that it was the sugar company that held the responsibility for Haitian workers, meant that they were definitely attached to the company and had no freedom within the Dominican territory. Since the 1930s, any resident without the proper documentation could be arrested, and both Dominican citizens and Haitian immigrants had to show their documentation when requested. In the first years of this new rule, when local officers found Haitians without documentation, usually blamed the sugar companies for their lack. The documentation issue is very important and discriminating, as it deals with the registration of private information, and among them it is included the skin colour, and it remarks the difference between white and black. This is just the beginning of the process wanted by Rafael Trujillo, with its aim to eliminate Haitian people from Dominican territory.

However, even though the efforts of the government to change the situation, the independent rural authorities were a limit for the capability of the government to better control the country's immigrant population. Rural citizens had a different feeling towards Haitian presence in the territory, compared to what elites thought about Haitian migrants; the majority of the population saw the free mobility as a right, and many local officers rejected government efforts to limit mobility for both Dominicans and Haitians. In order to protect their authority, officials reacted to public pressure that opposed new government rules imposing greater supervision on rural communities¹⁵⁷. If in the 1920s Haitians that were found without documents were arrested, starting from the 1930s soldiers and immigration inspectors caught Haitians outside the plantations and obliged them to return; when they found some immigrants, sent them to whatever plantation which was willing to be held responsible for those immigrants, and agreed to pay for their immigration taxes, without deporting them. The documents emanated under the National Department of Migration show evidences of the change occurring under the dictatorship of Trujillo: the approach to the Haitian presence in Dominican Republic was extremely different and discriminating. The new system foresaw that the only places where Haitians could move were the sugar plantations, e they were losing their right to mobility throughout the country.

Trujillo noticed the incapability of the government to manage to control the border areas of the country and felt it as a threat to his authority; the plan was to hold Haitian residents and force them to be workers in building roads, and this could be a manner to improve the access of the

¹⁵⁷ Ibidem, pag. 37.

country to the most isolated communities. With this system, Trujillo believed that rural communities would have been less resistant to the central government, and Haitian immigrants would have been removed more easily from the country. His main aim was that of gaining the control over the whole Dominican territory, and actually this move was a turning point. Haitians in the plantations were quite accepted, but Haitians residing elsewhere were not; immigration officials were educated to infringe the law when necessary, with the objective to segregate undocumented Haitians and use them to simplify Trujillo's state building attempts. The implementation of the plan by Trujillo failed. The reason why the plan did not reach its goal is that local officials contested the legality of this action. Trujillo's government had to persuade the Dominican population of the potential threat to their society represented by the Haitian presence in the country. Managing to maintain a veil of legality was the weapon Trujillo needed. In 1937 some belonging to the Dominican elites perceived Haitian presence as a threat for their country, but actually the majority of population did not share those feelings. Official anti-Haitianism was quite unfamiliar for border inhabitants; they considered Haitian people ethnically different, but an illegal campaign against all Haitians would have meant repercussions in that area, where people counted both Haitians and Dominicans in their families and economic networks¹⁵⁸. Trujillo realized that, even though he had done everything in his power to gain control over the whole Dominican territory, he did not manage to rule over the nation, as the relationships between Haitians and Dominicans have impeded the realization of his plan. Soon after the failure of his policies, Trujillo passed to a more drastic solution; as he could not count on local authorities, he chose to use the most loyal sector of the country, the army. In August of that year he began a tour of the border provinces of the country (as he wanted to gain the political control of the region); once in Dajabón he talked about the threat caused by Haitian presence in the country, and promised to solve the issue. Some days later soldiers began to enter to the region around Dajabón; a number that ranges from ten to twenty thousands Haitians and people of Haitian descent were brutally killed; thousands tried to leave but were assassinated while trying to escape the country over the so-called Massacre River. The cruelty with which the soldiers had murdered Haitian immigrants had spread terror among the border citizens. After the slaughter, the central government of Santo Domingo sent to the border region priests, teachers and agricultural colonists from elsewhere in the country in order to Dominicanize the border. Trujillo tried to justify the "incident" as a necessary and measured reaction to the "passive" invasion of Haitians and their culture, that were a danger for the

¹⁵⁸ *Ibidem*, pag. 40.

Dominican nation. After what happened in 1937, Haitians were not simply culturally and ethnically different, but they were the Dominican enemy par excellence, a fundamental threat to Dominican existence.

Since then, an anti-Haitian ideology grew more and more, and even if before that moment it sounded a bit unfamiliar, the rhetoric and politics of Trujillo after 1937 made it always more rooted in Dominican society and thought¹⁵⁹. I have chosen to address so deeply the history that brought to Haitian massacre and the way in which Rafael Trujillo came to it because I believe that this has been a turning point in the history and in the impact of Haitian image at the Dominican eye. Trujillo's massacre was part of a semi-formalised policy aimed at the elimination of Haitian migratory labour and settler from Dominican Republic. Furthermore, in the same period the regime of Trujillo underpinned the immigration of East European and Japanese labourers to colonise the Dominican-Haitian border area; the programme foresaw to limit the presence of Haitian cultivators. The component of African heritage among the Haitian population was considered by the racist a threat for Dominican people, that was European-inspired. The fact that Trujillo regime talked about Haitian presence in Dominican territory as an imminent biological, economic and political threat to Dominican security let us understand how the prejudice towards that population changed the life of Haitian people but also Dominicans too. The impulse to eradicate Haitian population was racist and based on assumptions that are still present in the current Dominican society. Imputations against Haitians and people of Haitian descent claimed that Haitian were incompatible on religious, social and political grounds, and that the two populations could not co-exist. Undoubtedly, genocided was not the only action Trujillo could have chosen to reinforce its idea of *dominicanidad*, it was just one of the possibilities legitimised by the racist discourse which informed his ideas of sovereign territory, security and nationhood¹⁶⁰. The 1937 slaughter allowed state acts of racialised violence against Haitian people and people of Haitian descent living in Dominican Republic. The governments after Trujillo have followed its politics in terms of discrimination and with the intent of limiting Haitian migration.

¹⁵⁹ Ibidem pag. 43.

¹⁶⁰Howard, D., "*Development, Racism and Discrimination in Dominican Republic*", Development in Practice, Taylor and Francis, op. cit., pag. 733.

3.3 Again on Discrimination towards Haitians, on how the prejudice affects the right to nationality and the access to justice system in Dominican Republic

In Dominican Republic the topic of human rights is very complex and deep. Even if the Dominican state has not ratified any of the Convention of Statelessness (the 1954 Convention relating to the Status of Stateless Persons establishes the legal definition for stateless people as individuals who are not considered citizens or nationals under the operation of the laws of any country¹⁶¹), it is forced to comply with its Human Rights obligations established by the Universal Declaration of Human Rights and the American Convention on Human Rights. Both of these documents claim that “all people have a right to have a nationality” and that “no one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality”¹⁶². As far as the specific case I am focusing on is concerned, the anti-Haitian ideology has been developing throughout history and found its peak with the regime of Rafael Trujillo. The massacre wanted by the dictatorship in 1937 is known also as *el masacre de perejil*, because the killings were obviously due to the skin color but depended also on the pronunciation of the word *perajil*, a trick invented by Trujillo himself in order to distinguish Haitians from Dominicans, as it is a difficult word to pronounce for French Creole speakers. Still nowadays something similar is widespread throughout the country; policemen, bus drivers and public servants use skin color and accent as a benchmark to ask for and reject identity documents. After the massacre, Trujillo was capable of convert the whole Dominican society to his anti-Haitian attitude, thanks to the use of media, literature and education. Even his successor, Joaquin Balaguer, talked about Haitians as being the cause of the “blackening” the Dominican country¹⁶³. When the era of Balaguer came to the end, Dominican society was pervaded by anti-Haitian sentiment (it involved every social environment). For example, still today many schools do not accept afro or curly hair. Anyway, the policies and practices used by several Dominican governments towards Haitians or people of Haitian descent are not the cause of racial discrimination, but simply a consequence. Anti-Haitianism is an ideology deeply rooted in Dominican country, and the ruling classes have attempted to legitimise and normalise that racial approach; the policies that have been implemented had the goal of causing fears and insecurity among the population with respect to Black and Haitian people. In Dominican Republic, like elsewhere in Caribbean and Latin America, the ruling class does not represent the interest of

¹⁶¹ United Nation High Commissioner for Refugees, 1954.

¹⁶² Restrepo Rocha, A. C., “*Systemic Racism and Anti-Haitianism in the Dominican Republic*”, Universitat Autònoma de Barcelona, 2018-19, op. cit., pag. 12.

¹⁶³ *Ibidem*, pag. 14.

the majority of the population, but that of the elites. Dominican elites have willingly divided Haitian identity from the Dominican one, making evident the distinction between black and white, African and European, voodoo and Catholicism, and so on and so forth¹⁶⁴. The prejudice that still today invades the Dominican territory is the result of many policies implemented by the elites of the last century; because even though we have learned that through history Haiti and Dominican Republic have never been friends, their pasts are similar and connected; the elites and their willingness to gain power and control have separated the two countries until our times.

Talking about human rights and abuses, Haitians in Dominican Republic are also victim of cheap labor, including the fact that this brings them to be socially marginalized. Dominicans use them as a politic tool too, because actually they need Haitians. Politic tool because Dominican politicians have always (and continue to have) capitalised on nationalist feeling through the tactic of accusing Haitian immigrants for all the problems of Dominican Republic's underdevelopment (lack of jobs, strained public resources, high crime)¹⁶⁵. Like mentioned before, this is a phenomenon quite common everywhere in the world, in those nations where the presence of minor communities of a different origin with respect to that of the home country is relevant, and where immigrants communities continue to grow.

In Dominican Republic, the continuous growth of immigrants that arrive in the country, and the policies that the Dominican state puts in practice towards them, have created a sense of insecurity and fears both for Haitians (that are afraid for their life conditions) and for Dominicans, because the prejudice against Haitians is very widespread. The Dominican government has stated that in 2014 more than 17.000 Haitians have voluntarily left the country in order to go back to their country of origin; voluntarily is a word that makes us smile, as these Haitians would have chosen to leave Dominican Republic and leave everything they had to go to a country where they know nothing (many do not know even the language, because they speak only Spanish). For many Haitians that were found victims of this shameful policy who were born in Dominican Republic, it meant that they could not participate in the only society they have ever known. As we know, Haitian immigrants and people of Haitian descent are the perfect candidates for being involved in cheap labor, and the deliberate creation of a stateless class could only implement the risks of exploitation¹⁶⁶. Workers without a valid documentation

¹⁶⁴ Ibidem, pag. 14.

¹⁶⁵ Lubin, J., "Discrimination against Haitians in Dominican Republic is a borderless issue", Quartz, 2015.

¹⁶⁶ AFL-CIO America's Union, "Discrimination and Denationalization in the Dominican Republic", 2015

are involved in a danger environment, as they are more dependent on their employers, have less possibility to denounce abuses and are more exposed to face the threat of deportation if they ask for help to government officers. In addition, stateless children have problems with the registration to apply for school and are more likely to end up working in the worst forms of child labor¹⁶⁷.

Although the several risks visible to everyone, there are those who stand up for the controversial policy claim that it is a matter of law and order, and the only individuals that are taken in consideration by this law are Haitian citizens illegally in the country. Things went differently, as after the judgement 168 of 2013, through which the Constitutional Court dismantled about 200.000 Haitians of their Dominican citizenship, as the judgement denies the nationality to the offspring of undocumented immigrants, even if born in Dominican territory. The act was retroactive to 1929, thereby it could invalidate the citizenship of several generations of Haitians and above all people of Haitian descent, that probably have never had to do with their origin country¹⁶⁸. Again here we can talk about a discrimination that is systematic and embedded in Dominican history and society. This discrimination against people of Haitian heritage ensured Dominican Republic to promulgate a kind of regularization program, aimed at those individuals born in the Dominican soil that have at least one parent legally who is legally resident in Dominican Republic. It also foresees that undocumented migrants can register to obtain a 2-years residency permission. Even though a large number of Haitian immigrants managed to obtain the permission, many were denied and had to leave the country. Something very common has been the denial of certificate of birth and other nationality documents, that has implemented the current crisis; furthermore, without the documentation of identity many immigrants became stateless. A member of the Association of Haitian Professionals¹⁶⁹, Giles Charleston, claimed that “the Dominican Republic is using the guise of immigration control to push thousands of Dominicans of Haitian descent, including black-profiled Dominicans, out of the country”, and again “it is not just an issue pertinent to Dominican Republic and Haiti, but a larger issue concerning justice and human dignity that should compel every person in the world to stand up and not sit on the sidelines”¹⁷⁰. From these words it is clear that the discrimination issue between Dominican Republic and Haiti should not be confined in those territory, but, as

¹⁶⁷ *Ivi.*

¹⁶⁸ Lubin, J., “Discrimination against Haitians in Dominican Republic is a borderless issue”, Quartz, *op. cit.*

¹⁶⁹ It is an association in which professionals of Haitian descent establish an organization that addresses professional, cultural, educational and social needs of Haitian community, no matter where Haitians reside.

¹⁷⁰ Lubin, J., “Discrimination against Haitians in Dominican Republic is a borderless issue”, Quartz, *op. cit.*

often happens with populations hit by unfairness, should involve the entire world and above all the international community.

As reported by my witness RD1 about the conditions of Haitians in Dominican Republic, it is claimed that:

“we have a binational market between Dominican Republic and Haiti on the border area, so on these border points. Every day thousands of people cross the line, from Haiti, in order to sell or buy products. On the border, this is almost the only economic activity that exists, because those areas are areas of low investment by the government and many of the communities that stay there persist only thanks to the binational market. The products that are sold are of all sorts: food, plastic, clothes. This commerce mainly benefits to the Dominican population that lives there, because the majority of those communities persist due to this commerce, as for what concerns other economic sectors, the majority of buildings in Dominican Republic, both private and public enterprises, depend on the Haitian workforce. Counting on Haitian workforce means human rights abuses, including exploitation, sometimes they are not paid for their work¹⁷¹.

Furthermore, in the agricultural sector, the sugar cane continues to be one of the most exported product, and this also thanks to Haitian workforce. There are communities that only base their work on sugar cane, the so-called *bateyes*, and those communities are quite isolated from the society, where the population is mostly Haitian, or of Haitian descent (nowadays they witness a second or better third generation of Haitian people living there). These communities have no access to water, healthcare, education, many of the basic standard that should be guaranteed to people; they live isolated because many times they are afraid of go out from their area; they fear they will be arrested due to lack of documents.

Again, when I asked “how this prejudice towards Haitian population, that has been build along time, influences the issue of justice in Dominican Republic? Do Haitian manage to access to Dominican justice?” RD1 responded that:

In Dominican Republic there is no justice for Haitians, unless they have money, unless they belong to a upper economic class, but actually the justice system does not even work for Dominicans. Haitians cannot get access to the justice system; if Haitians need justice, it depends on their legal status. If they have any document, cannot obtain justice. Something that has

¹⁷¹ Witness of my interview with RD1, 08/04/2022.

already happened is that when a Haitian reports, he/she is caught, this is due to the lack of guarantee of human rights¹⁷².

Concerning human rights and the access to justice by Haitians or people of Haitian descent, I wanted to directly talk about the controversial judgement, and posed the question: “I have found and studied the case of Juliana Deguis Pierre (this case study is dealt in the next chapter of this dissertation); my question is, with the judgement 168/13, is Haitian condition in Dominican Republic changed? If yes, has it improved or worsened? Or has it simply become a new way in order to control Haitians in the country?” The answer of RD1 was:

This is a very complex judgement. There were two groups of people who wanted to obtain documents; group A could obtain nationality, they are considered Dominican and are officially registered. As they “became” Dominican, they managed to get access to all those human rights and public services that are denied to Haitian people in Dominican Republic; their life changed significantly. Group B did not manage to get the nationality, and within this group, there are many that have the right to have a Dominican citizenship but the Dominican state, still today, did not grant them. And then, there is a part of population that could not even require to obtain nationality, due to distance or economic reasons. We cannot claim that the judgement 168 did nothing, but there are still many deficiencies in the implementation of this service, because people that corresponds to the requirements do not have their Dominican documents. Many Haitians do not know much about their legal situations in Dominican Republic and the country does not know how to respond. With my organization we work in order to help¹⁷³.

Concerning the justice system in Dominican Republic, RD1 confirmed that it does not work because the Dominican state has no interest in make it work. There is a widespread corruption that prevents the correct functioning of the justice system; it is not independent, it is not transparent; the justice system has to do with political and personal interests, and belongs to the rich part of the society. Unfortunately, the corruption of the Dominican state is one of the biggest problem of the country and one of the main causes of the failure of the system. There have been improvements, because today we talk more about human rights, about Haitian women in Dominican Republic; there are setbacks but we have witnessed some headway by many actors¹⁷⁴.

¹⁷² Witness of my interview with RD1, 08/04/2022.

¹⁷³ Witness of my interview with RD1, 08/04/2022.

¹⁷⁴ Witness of my interview with RD1, 08/04/2022.

Concerning the justice system and the judgement 168, RD2 explained her experience: to my question: “Haitian migrants who live in DR need justice; what kind of relation do they build with justice system? do they manage to access it?” she answered that

The justice system is part of a bigger structure, and the Dominican national structure is racist. It is not racist only because it rejects Haitian people and Haitian as set of assumptions that define the Haitian being. According to the Dominican view, Haitians are cheater, full of prejudice, but this is not the reality. The prejudice towards Haitians is connected to something else, something bigger. The Dominican country is racist because it denies the blackness in the formation of Dominican identity. The Afro, the black part of the Dominican national identity, of the Dominican history is denied in Dominican historiography. Everything of Afro origin that concerns the formation of Dominican country is denied; starting from there the Haitian issue is something more in order to try to deny something that do not belong to Dominicans. In that way, Haiti becomes the necessary enemy in order to deny the blackness. We have a country that, in order to create its own identity, chooses to affirm the White, the Spanish. This is visible in every Dominican historiography book, and in every Dominican foundational myth. Suffice is to think about Duarte¹⁷⁵. In every image Duarte is white; it is something strange but he is whiter in every picture. The Dominican state does not acknowledge black heroes that contributed to the formation of the country; it even denies history of slavery in Dominican Republic. There is no mention of slavery in any history book. The conquest of the island was particularly rough, because one of the first island to conquer, and it was fundamental to show to the Spanish crown and to the world that they had found the gold. The settlers had to exploit very quickly; the genocide of the *Taino* population, who lived in the Caribbean area, was extremely violent. After the genocide there was the assimilation with the Europeans. To conquer and to assimilate means that Spanish obliged native people to become like them; they imposed their language, their manners, they imported European people in order to repopulate the conquered territories. This process caused many mass suicides, because native people preferred to kill themselves than to bear the imposed conditions of the settlers. In order to build a Dominican identity, people preferred the Spanish people as models; it denies the blackness and white people are privileged. Still today black people (of Haitian or Dominican descent) are discriminated in the entire territory. Still today be married with someone whiter is perceived as something positive because this way the race can be whiten, and improved, while be married

¹⁷⁵ Juan Pablo Duarte (1813-1876) was a Dominican politician and one of the founder of Dominican Republic. Together with Francisco del Rosario Sánchez and Matías Ramón Mella he is considered the architect of Dominican Republic, make it independent from Haiti in 1844.

with a black means worsen the race. And this has not to do with eugenics, this is not something thought and industrialized, but it exists a worldview where the white is superior to the black. The black occupies an inferior position, and this allows a certain social structure, that organizes the economy and the migration, and within this structure the Haitian issue fits perfectly, because Haiti is not only black in racial terms, but the Haitian identity built itself on blackness, conversely to Dominican one. When Haiti asserted independence, it did it on the basis of the blackness issue; Haiti is the perfect enemy for a nation that wants to build its identity on the Spanish and European model.

Within the justice system there are many sub-systems: the right to family, the labour law, the criminal law. Every sub-system works in a different manner; within the labour law, the access to justice is different for Haitian people and Dominicans. Usually, the justice system structure is racist and Haitian people have many difficulties to access it, but also many racialized Dominicans have difficulties within the justice system.

A well-known case study is that of Juliana Deguis Pierre, but unfortunately there are many cases like hers, where the Dominican state rejects the possibility to give the nationality to Haitian people or people of Haitian descent¹⁷⁶.

And concerning the judgement 168/13 and if and how it changes the condition of Haitian population in Dominican Republic, she told that

The judgement 168/13 worsened Haitian condition. The judgement was a political coup. The Dominican state has a migration that it chose to have; it has a migratory policy, that is convenient for the state itself. The country wants to have control on Haitian population and it actually has; and it derives from an agreement between the government and the entrepreneurship. The Dominican state maintains a migratory model, that is profitable for the interests of some entrepreneurial sector, that allows the access to a cheap workforce, with low access to labour law. The migration is perfect for the aims of the Dominican government; it has no other interests. It is the typical migration of a capitalist economy, where the migrant is not a human being but he is simply a worker. This does not occur only in Dominican Republic, this migration is present in the whole world, because they say that the reason why people migrate is economic, but that is not true. People migrate because they hope to realize their projects, because they want better living conditions. Within their personal life projects money has a relevant role and this is why we said “due to economic reasons”. But people migrate to escape

¹⁷⁶ Witness of my interview with RD2, 22/04/2022.

from bad security conditions, from bad health conditions, from countries where there are no possibilities. The first migratory politic in Dominican Republic was made by Balaguer in order to bring workers in his territory. Now migrants start to demand rights, start to raise concerns of human beings, and the states start to complain. Migrant do not manage to obtain rights because of the prejudice¹⁷⁷.

With this chapter I wanted to deeply analyze the prejudice and discrimination rooted in the Dominican country; the study of the embedded prejudice in the Dominican society has allowed to better understand the dynamics that brought to concrete political and social measures with which the Dominican central government has chosen to treat the Black and Haitian populations in Dominican soil.

I found interesting the comparison between my academic research and the evidences of some witnesses that have explained and talked about their experiences in the relationships between Haitians and Dominicans. The parallel between the academic work and the field work has contributed to answer to the question I put at the beginning of this dissertation. In the next and last chapter, the topic of justice and the analysis of judgement 168 and its effects are deeper investigated.

¹⁷⁷ Witness of my interview with RD2, 22/04/2022.

CHAPTER 4. Human Rights in Dominican Republic and the possibility to get access to the justice system

The focus of this chapter is the Dominican judicial system and the laws that modified the status and the condition of Haitian people and people of Haitian descent living in Dominican Republic. Furthermore, the chapter concentrates on the possibility to get access to the justice system by Haitian immigrants, living both in legal and illegal status. In order to better understand these dynamics, I chose to analyze a case study too, that deals with the case of Juliana Deguis Pierre. This is an emblematic case that demonstrates the difficulties encountered by Haitian population in Dominican Republic, above all within the judicial system. Starting from a short analysis of the Dominican judicial system, the chapter explores the turning point of Haitian immigration debate, that is the judgement 168/13 and the consequences it had over Haitian population and its condition. Ultimately, the chapter talks about the putting into practice human rights in Dominican Republic and how their access is differentiated depending on who needs them.

4.1 The judicial system in Dominican Republic

Regardless of the historical era, the social structure needed in order to live in community is based on two main pillars: rights and permits, and obligations and duties. To reach a concrete and complete balance is very complex, as in many cases the personal interests prevail over the wealth of the community, and also the subjectivity which regards the justice plays an important role. The conflict between different interests is quite inevitable¹⁷⁸. The justice system has been implemented in order to solve conflict issues. The justice institution should be one of the main members of a working society, that finds its expression through laws, norms, reforms, judgements, courts and judges. The development agenda 2030 has included the implementation and improvement of the justice system among the main goals. The equitable access to the justice system is a fundamental aspect in order to guarantee human dignity, and as a mean to provide a social justice. A working judicial system is synonym of a peaceful coexistence and favours the social wealth. Relating to this, the United Nations Development Programm states that violence and conflict not only destabilize the citizens everyday life, but have consequences in

¹⁷⁸Boletín del Observatorio de Políticas Sociales y Desarrollo, “*Acceso a la Justicia, Estado de Derecho y Desarrollo*”, Gabinete de Coordinación de Políticas Sociales, Vicepresidencia de la República Dominicana, Santo Domingo, 2018.

the economy and the social network of a country¹⁷⁹. Nevertheless, the justice system was not given the right care compared to other issues of the development agenda.

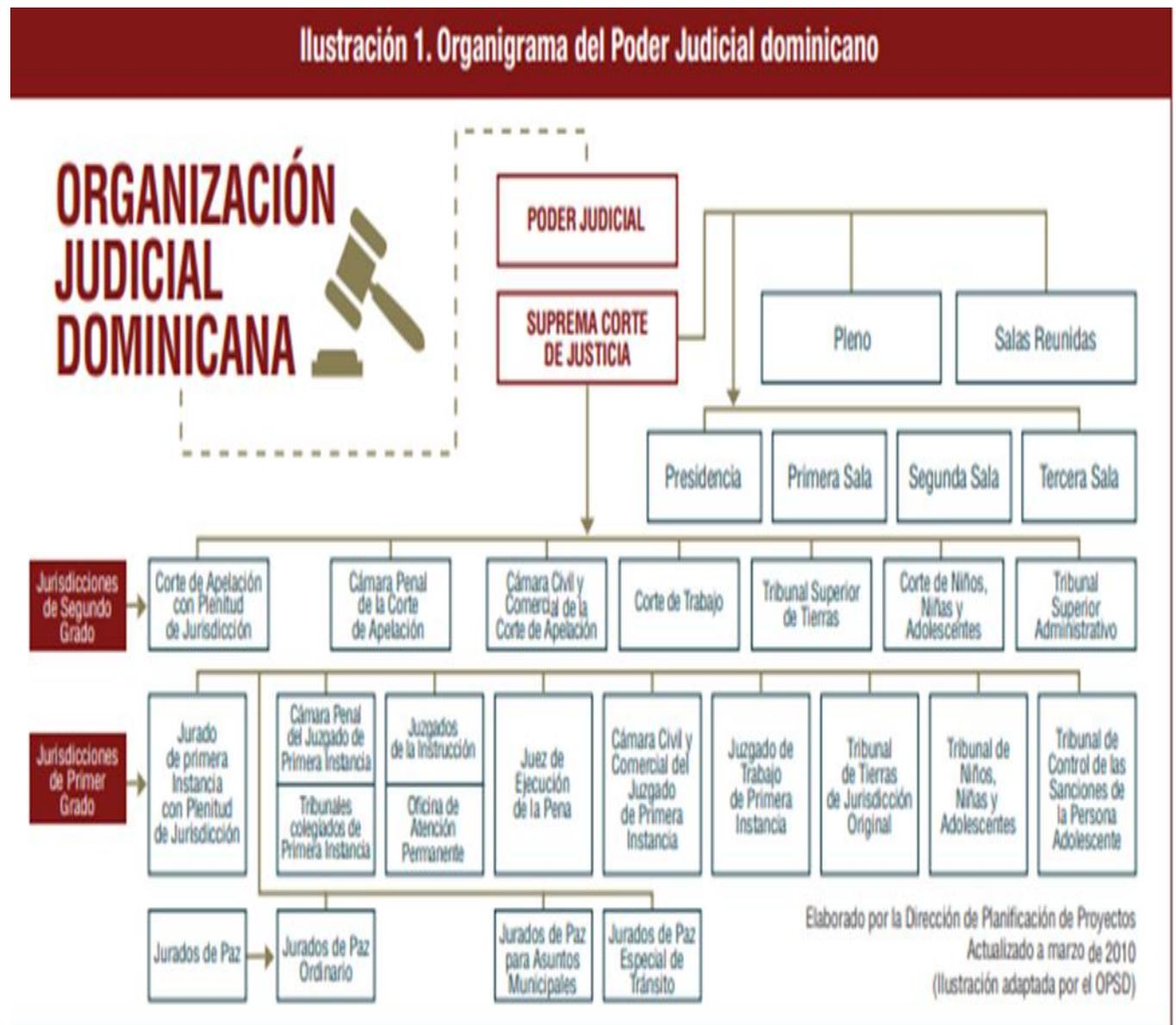
Social cohesion, the participation in the civic life of a country, the enjoyment of private and public services of a country might be guaranteed to all citizens only under a working justice system, that provides to the solution of the possible conflicts (caused by some violation of rights, the disregard towards some fundamental rights, the divergence between interests that could compromise the human sphere, the peace and physical integrity of the population).

As far as Dominican Republic is concerned, the justice issue generates great interest from several point of views. Due to the historical weaknesses and the political instability that characterize the Dominican country, the government has witnessed a Judicial Power reform that includes about 20 years (since 1994). The process left some evident changes; since 1997, with the beginning of the new Supreme Court of Justice, the Dominican country tried out several reforms regarding the whole justice apparatus, the dignifying of the judicial carrer, the formation of the human capital in the magistracy.

Taking a step back in what the history of the Dominican justice system is, during Haitian occupation of the country since 1822 to 1844, the French law was introduced in the government. Evidences of the French law remained even after the independence of Dominican Republic and are visible up until our times. The first Dominican Constitution focused on the justice system; the idea came from the independence of the United States, that separated the state into three public powers. The founders of the Consitution believed that the functioning of the justice system was strictly connected to the political stability. Between the first Dominican Republic after the independence (1844-1861) and the end of the Trujillo's dictatorship, the Dominican country has experienced a political instability that did not allow it to develop and to grow without discrimination and inequalities. Between 1960s and 1990s the country did not manage to enforce its judicial structure. For all that part of the population that did not belong to the elites the access to the justice system and services was very hard, if not impossible. Moreover, the Dominican society had very few knowledges in judicial terms, and this was a limit in the drawing up of the judicial services for the nationals. One of the main reason why the justice system was so fragile, is the corruption that pervades the states of Latin America, including Dominican Republic. The Constitutional Reform of 1994 was a turning point as it laid the

¹⁷⁹ Ibidem.

groundwork for the judicial reforms that have followed¹⁸⁰. Unfortunately, the judicial development of Dominican Republic did not go hand in hand with the economic progress and improvements. Again, one of the causes of the slowdown of the judicial institutions compared to the economic development is the corruption and the high level of criminality within the justice system. The issue of justice is considered one of the main pillars of the constitutional state, and scholars affirm that some improvements might be seen, compared to how the system worked twenty years ago. However, the institutionalization is still precarious and primitive.



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¹⁸⁰ Ibidem.

¹⁸¹ Poder Judicial de la República Dominicana.

The chart indicates how the Dominican Judicial Power is distributed

The main obstacles in the implementation of the possibility to get access to the Dominican judicial system (a part from the above-mentioned corruption and the high level of criminality), are the social inequalities (it is known that in Caribbean and South America this is a very widespread phenomenon) and the institutional fragility. In fact, even if the Universal Declaration of Human Rights states that: “everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him”¹⁸², the right to get access to justice and the put into practice of such right are different things. The Dominican administration model is very fragmented and the outcome is that it does not consent to obtain access to the justice system. In principle, a justice system is fair if it is a system based on certain acknowledged and accepted social principles, such as liberty, integrity, human dignity, lawfulness, equality of all before the law, equality, the respect of human rights and the right to due process¹⁸³. In reality, the construction of judicial systems renders difficult the possibility to get access for the nationals.

Discussing about human rights in Dominican Republic, and both their implementation and violation, I consulted a report; according to the United States 2021 Country Report on Human Rights, Dominican Republic demonstrates some weaknesses under several point of views. Several reports state that government agents committed unlawful killings and arbitrary deprivation, that contrast with the respect for the integrity of the person. Extrajudicial killings of civilians by members of the National Police were something problematic; obviously, Haitian people are more at risk than Dominicans, because of their skin colour and the systematic discrimination (widespread above all among law enforcement)¹⁸⁴. A part from this, many laws are not respected, like the one that prohibits torture, beating, physical abuses; several reports have claimed that members of law enforcement committed these violent acts, and the issue of impunity leaves the country and the citizens even more afraid and discouraged. One more big deal of Dominican Republic (actually this is an issue regarding many more countries of Central and South America) is the detention in prisons and the conditions in which the prisoners live. Just an instance: La Victoria, the oldest prison of Santo Domingo, has a capacity of 2.011 people, and holds 7.647; it can be imagined in which miserable conditions prisoners are forced to survive. Mistreatment and violence are common in old prison like this; some reported also

¹⁸² Article 10, Universal Declaration of Human Rights, United Nations General Assembly, 1948.

¹⁸³ Rico, J. M., “*Justicia Penal y transición democrática en América Latina*”, México, Siglo XXI editores, 1997, p. 17.

¹⁸⁴ 2021 Reports on Human Rights Practices: Dominican Republic, US Department of State, 2021

episodes of harassment and extortion. Some of them even remain outside the control of the government authorities and detainees controlled the inside of prisons with their own rules and system of justice. Prostitution, sexual abuses, drug trafficking and arms trafficking are on the agenda in those prisons.

One more trouble regarding the Dominican judicial system is the issue of arbitrary detention and arrest; of course the law forbids them and provides to any person the right to challenge the lawfulness of his/her detention in court¹⁸⁵, but arbitrary arrest and detention have been reported. Here as well Haitian people are far more discriminated than Dominicans: fear of unmotivated detention is one of the thing of which Haitians are afraid. Together with the arbitrary detention, unfortunately we find the denial of a fair public trial.

For what concerns categories such as stateless persons, refugees, and migrants present in Dominican territory, the following paragraphs analyze more in the detail the issue.

This short introduction explaining the functionality of the Dominican judicial system refers to the entire system and the limited possibilities for all residents on Dominican soil to get access to justice, without distinguishing between Haitian and Dominican origin. The issue of the access to justice, as it is very precarious even for Dominicans, it is even more difficult for Haitians living in Dominican territory, both in legal and illegal migratory status.

Connected with the topic of detention and the very bad conditions in which prisoners are, I would like to report my short testimony regarding the justice system of Dominican Republic (just to provide some evidences regarding this topic). I spent some months as a volunteer in a children's reeducation centre, based in Boyá, in the province of Monte Plata, Dominican Republic. Once there, I started to work with children that lived in the centre, and during my staying a new project of the organization was taking shape. It foresaw a collaboration between Progetto Esperanza¹⁸⁶ and the juvenile prison of Boyá. The aim of this proposal was to reintegrate the minors into the society; this because it often happens that someone is arrested for nothing serious (I remember the case of a guy that was in jail because he had stolen a hen from a chicken coop because he had nothing to eat and the authorities did not want to let him go). It is quite strange thinking about the high level of corruption and criminality that is rampant through the Dominican country and the impossibility for some young men to return to their normal life for having stolen a hen. The aim was to try to help the responsible of misdemeanor to reintegrate,

¹⁸⁵ Ibidem.

¹⁸⁶ The name of the centre where I worked as a volunteer; we refers to it also with the term "project".

as in the Dominican system it is very hard to obtain justice, and the risk is that once in jail people are not released anymore. With Progetto Esperanza we met with the prisoners, interviewed them in order to know and raise awareness about their stories and verify if their cases were compatible with the foresaw project of reintegration. Many of those people live in conditions of extreme poverty, and looking out on criminality is the only option they can choose; if they have no regular identity document, it is almost impossible to be enrolled in schools or to look for a job, and this phenomenon increases the possibility that they end up in prison. Without any documentation it is impossible to live in Dominican Republic, and for inmates it is impossible to go out from jail,

If Dominicans were in trouble, Haitian people had very few possibilities to get out of the jail. If it is true that conditions in Dominican jail are terrible and inhuman, I noticed the different treatment between people of Dominican and Haitian origin, based on their skin colour and their belonging to different social status.

In the next paragraphs my aim is that to deeply analyze the difficulties and the differences of Haitian people to access to justice. One of the major problem is the impossibility to obtain legal documents and legal status by the central government of Santo Domingo; this affects every aspect of Haitian life in the island, as legal identity documentation is needed with the purpose of getting access to fundamental rights and services. Very controversial is the judgement 168/13 (already mentioned in the previous chapters of this dissertations), that wanted to better regularize the Haitian migratory situation in Dominican Republic. Controversial because it actually did not improve Haitian condition (as reported by my witness RD2, it worsened it), but it has been a mean to additionally control the mobility of Haitians in Dominican territory. Furhtermore, I would like to put particular attention on some case studies (the most emblematic is that of Juliana Deguis Pierre, a woman who has been denied the possibility to have her Dominican identity documents, but other cases and stories are mentioned) that confirm the obstacles that are encountered by Haitians that want to leave in Dominican Republic.

4.2 The Judgement 168/13 and the Deguis Pierre case

Dominican authorities have searched for a long time to set some policies in order to remove the nationality to the people born in Dominican Republic from Haitian descent. The process of denationalization began when the civil registration authorities began to reject to register the birth of children born in Dominican Republic by Haitian migrants. The process has been implemented in the following years through policies and decisions taken by the Dominican

government. As many Haitians were found without nationality, they were forced to leave the country.

The judgement 168 of the Constitutional Court of September 23rd of 2013 establishes that to be considered as Dominicans, people have to be born in Dominican territory by Dominican parents or Dominican legal residents. The interpretation to this law was applied in a retroactive form to all Haitian people born between 1929 and 2010. The rules foresaw by the law represent a turning point in the process wanted by the Dominican government, that asserted that people born in Dominican Republic by Haitian parents (that lived in an irregular migratory condition) had no right to obtain the Dominican nationality¹⁸⁷. The judgement 168 has been perceived as an arbitrary deprivation of the nationality, as it has been removed to all the people that automatically obtained it under the law of *ius soli*¹⁸⁸. After the emanation of the judgement, people who had right to *ius soli* found themselves with no nationality. The reason why the Constitutional Court decided for this law, as I have deeply analyzed in the previous chapters, is the racist and discriminatory context in which the process to limit the presence of Haitian people in the country developed. Haitians or people of Haitian descent were very marginalized and discriminated after the judgement, as it was based on skin colour, different surnames from the Dominican ones; it represented a violation of the right to equality and to non-discrimination.

Tens of thousands people that were considered as Dominicans were deprived of their nationality; many of them were registered right from Dominican authorities as Dominican citizens, whom were provided documents like *cédulas*, electoral cards and passports¹⁸⁹.

Taking a step back to violation of human rights as that to equality, the judgement is the result of decades in which a structural and systemic racism has taken root in the Dominican country.

Before the judgement 168, in Dominican Republic the principle of *ius soli* was in force; it was embedded in the Dominican Constitution for the first time in 1865, and it claimed that: “Dominicans are considered all the people those are born or will be born in Dominican Republic, regardless of their parents’ nationality¹⁹⁰”. These words has been changed several times through the years thanks to some constitutional reforms, but since 1929 until 2010

¹⁸⁷ Comisión Interamericana de Derechos Humanos, “*Desnacionalización y apatridia en República Dominicana*”, 2015

¹⁸⁸ Birthright citizenship; it is the right of any person born in a country that automatically obtains that nationality.

¹⁸⁹ Comisión Interamericana de Derechos Humanos, “*Desnacionalización y apatridia en República Dominicana*”, *op. cit.*

¹⁹⁰ *Ibidem*.

constitution, it was established that were Dominicans all the people born in Dominican soil, excluding the legitimate children of foreigners residing in Dominican Republic in diplomatic representation¹⁹¹. For what concerned the children of migrants that were in an illegal migratory status, the principle of *ius soli* could not be applied, as they were included in the category of people in transit¹⁹².

In 2010 a new Dominican Constitution was approved: as far as the acquisition of nationality through the principle of *ius soli* was concerned, this aspect did not change with regard to the Constitution of 1929; a third exception has been added, that is that children of parents living in a illegal migratory condition did not obtain the Dominican nationality.

The judgement 168/13 was approved by the Constitutional Court; through it the issue of Juliana Deguis Pierre was solved. Juliana Deguis Pierre is a woman, daughter of Haitian agricultural labourers, born on April 1st of 1984 in Yamasá, in the province of Monte Plata, Dominican Republic. His father registered her in the Civil Register Office of Yamasá in 1984, where they provided her birth certificate. In 2008 (she was 24) Juliana Deguis Pierre deposited her birth certificate in the Documentation Centre of the municipality of Yamasá, with the aim of requesting the issuance of her identity and electoral cards. Since then, the Documentation centre of the Central Electoral Board rejected her request claiming that she has been irregularly registered in the Civil Register Office, because she was daughter of Haitian irregular migrants, violating the constitutional text that was valid at the moment of the registration. Her parents were identified as Haitian workers.

Before she was denied to get access to her documents, Juliana Deguis Pierre appealed for an application for amparo against the Central Electoral Board in front of the Civil and Commerce Chamber of the Judicial District of Monte Plata, stating that the Dominican state was denying her human rights, and asking for the delivery of her birth certificate and cedula. With a judgement of July 2012, the Court rejected her application for amparo because of the fact that Juliana could not demonstrate her application as she was not registered, without considering that her birth certificate had been retained by the office in which she had asked for her documents¹⁹³. Her case reached the Constitutional Court and it argued that, based on national and international law, Dominican Republic has the capabilities in order to determine who are

¹⁹¹ Article 8.2 of the Dominican Constitution of 1929.

¹⁹² Comisión Interamericana de Derechos Humanos, "Desnacionalización y apatridia en República Dominicana", op. cit., pag. 75.

¹⁹³ Ibidem, pag. 84.

its nationals. More in detail, the Court pointed out that the Dominican nationality can be obtained through consanguinity or the principle of *ius sanguinis*, through the place of birth or *ius soli* or through naturalisation; one of the exception to the principle of *ius soli* is the categories of children in transit in the country. Referring to the category “in transit”, the Constitutional Court stated that it is included in all the Dominican Constitutions after 1929, and also in that of 1966 (Constitution valid at the moment of the registration of Mrs. Deguis). According to the 1966 Constitution, the Dominican citizenship could be acquired by all the people born in Dominican Republic, except the legitimate children of people in the country for diplomatic reasons or people in transit. Starting with the Constitution of 2010 the exception of foreigners in transit became wider, including that people illegally residing on Dominican soil will not be considered as Dominicans.

On the basis of the above-mentioned criteria, the Constitutional Court established that, as Juliana’s parents were Haitian workers that arrived in Dominican Republic as seasonal workers in accordance with the covenant *Modus Operandi* with the Republic of Haiti in 1939, her parents have to be considered as “seasonal workers”, and therefore “foreigners in transit”. Moreover, the Court claimed that Juliana Deguis Pierre did not demonstrate that at least one of her parents had legal residency in Dominican territory when she was born. The Court concluded that she had no right to Dominican nationality, in accordance with the article 11.1 of the 1966 Constitution¹⁹⁴, valid when Juliana Deguis Pierre was born. In addition, the Court considered that the fact that Juliana Deguis had not right to Dominican nationality through *ius soli*, did not force her in a situation of statelessness, as she had right to Haitian citizenship. The outcome was that the condition of Juliana Deguis Pierre (as that of many others that lived her same situation) was that of Haitian migrant in an irregular migratory situation in Dominican Republic.

After this judgement the Dominican country wanted to put in practice a regularization national plan, thought for foreigners in an irregular migratory situation. The plan foresaw that the foreigner that wanted to regularize his/her migratory situation had to make the request within the time limit of eighteen months since the entry into force of the plan, that is until June 2015¹⁹⁵.

¹⁹⁴ Dominican Republic, since its independence from Haiti of 1844, has ratified 39 constitutions, more than any country in the world. The 1966 Constitution included a relevant number of fundamental rights and included a reinforced legislature.

¹⁹⁵ Comisión Interamericana de Derechos Humanos, “*Desnacionalización y apatridia en República Dominicana*”, op. cit., pag. 90-91.

For over a century, the right to citizenship by birth or *ius soli* was protected in Article 11 of Dominican Constitution; the article states “Dominicans are: all persons born in the territory of the Republic with the exception of the legitimate children of foreigners residing in the country in diplomatic representation or in transit”. The “in transit” expression is what I am focusing on, and it is the focus of the Dominican immigration debate, providing an excuse for generations of Dominicans nationalist groups to commit discrimination¹⁹⁶. As above-mentioned, even if the Dominican Constitution identifies who has the right to nationality, it is up to the state civil registry office, the Central Electoral Board, to officially recognize the proof of such nationality through its role in both providing the necessary documentation and verifying one’s possession of those documents. The Central Electoral Board released an official birth certificate to a child born in Dominican territory, once the parent of the child provides the correct documentation relating to the birth registration (obtained at the hospital where the child is born). In case of home births, parents can deliver a sworn statement by witnesses of the birth. When parents possess the birth certificate, they have to go to the right Electoral Board and to demonstrate their identity and the child’s birth registration to obtain the official birth certificate. This two-step process is necessary for all people under eighteen years old. At the age of eighteen and thereafter, all adults are requested to possess the national identity card, if they want to be recognized as Dominican citizens. The identity card is necessary to vote, declare the birth of children, run for political office, register for university education, pay into the social security system, open a bank account, acquire or transfer property, obtain lawful employment, apply for a passport, make a sworn statement before the judicial system, and get married or divorced¹⁹⁷. In addition, the freedom of mobility of an individual is strictly connected to the possession of the national identity card, as to be caught without one means being exposed at risk of fines, imprisonment or expulsion from the country. For generations, Haitian migrants have counted on their Haitian identity documents to register their children born in Dominican Republic. The civil registry accepted workplace identification cards, that demonstrated the parental identity. Once legally registered, these Dominican-born children were recognized as Dominican citizens and given birth certificate, passport and national identity card. This was the first generation of Haitian migrants, that continued this way with its children too. Nonetheless, at the same time, there were generations of undocumented Haitians that remained undocumented and lived in

¹⁹⁶ Shoaff, J.L., “The Right to a Haitian Name and a Dominican Nationality: “La Sentencia” (TC 168/13) and the Politics of Recognition and Belonging”, *Journal of Haitian Studies*, Center for Black Studies Research, 2016, Vol. 22, pp. 58-82.

¹⁹⁷ *Ibidem*, p. 62.

very different conditions with respect to their fellow country-men. One more problem concerned the late declaration of birth registration; if sixty days from the birth of a child were passed, the parents needed a lawyer to obtain a legal paper, and this was quite troubling in terms of time and money. Due to this complex registration process, Dominican-born children of Haitian descent have had their life suspended because of this bureaucratic and administrative barriers that jeopardize the constitutional guarantees of nationality to racial minorities¹⁹⁸.

In the last years, the Central Electoral Board has continued to establish discriminatory practices by standardizing a principle of suspicion that transforms racial minorities automatically into suspect. During the time in which birth certificates are under investigation, individuals remain in legal limbo and cannot proceed with any action or state transaction that necessitates proofs of national residency or citizenship¹⁹⁹.

By 2010, after the judgement 168/13, the Dominican government adopted a new Constitution, which consolidated the *ius sanguinis* principle. Article 18 of the new Constitution states: “Dominican citizens are: the children of Dominican mothers or fathers; Persons born on national territory, with the exception of the sons and daughters of foreign diplomats...and foreigners who find themselves in transit or who reside illegally on Dominican territory”²⁰⁰. The new Constitution resolves the ambiguity of the “in transit” exception, leaving ample scope for future distortion, manipulation, and constitutional provisions.

In June 2014, the new-born presidency of Danilo Medina tried to placate the overwhelming transnational resistance to the judgement by introducing a new Naturalization Law. Official state discourse claim that the new law provides a road to regularization of unauthorized migrants and a route to citizenship. During the efforts of the law to correct the crisis, were considered as citizens those who were in possession of the registration of their births between 1929 and 2007. The Dominican country now requires individuals who have possessed the right to citizenship for their entire life to self-report of “foreigners illegally residing in the country” in order to have a residency status that might finally, but without guarantee, make them eligible for naturalization²⁰¹. Generations of Haitians whose birth certificate is now unacknowledged are obliged to make an impossible decision, since once they become registered in the Book of Foreigners they relinquish and forfeit all claims to Dominican citizenship. If they do not manage

¹⁹⁸ Ibidem, p. 63.

¹⁹⁹ *Ivi*.

²⁰⁰ Article 18 of the 2010 Dominican Constitution.

²⁰¹ Ibidem, p. 70.

to regularize their situation within an eighteen-month period, they are at risk of deportation or permanent expulsion from the country. This process forces Haitian migrants to stay without authorized documents, and Dominicans of Haitian descent who previously experienced the right to citizenship effectively and permanently marked as “foreigners” and thus “illegal”.

The judgement 168 and its consequences are the outcome of a deeply rooted anti-Haitian racism, and people marked by the Dominican society as Haitians feel a negative and discouraging impact, no matter if they are recent migrants, third generation Dominicans or yes black Dominicans without Haitian ancestry. The need to be recognized by the marginalized minority groups comprises a demand for acknowledgment of one’s individuality both as an individual and as a collectivity, which for Haitian descendants in the Dominican Republic is closely related to transborder and transnational connections and historicities that evaluate Blackness.

After the emanation of the judgement, in 2014 the Dominican government emitted the Law 169, as a response to judgement 168/13, cause of the massive denationalization. The Law divided the people involved in the judgement into two groups and still today it has not offered a solution for human rights concerned to nationality to be respected. The Law did not generate actual processes, and the discrimination by demanding that people born in Dominican Republic (and that lived their entire life in Dominican territory) have to be declared as foreigners and later naturalised as dominicans was empowered.

On the other side, those initiatives like the presidential decrees 262-20 and 297-21 that nationalise almost 800 Dominican people that were in a stateless condition have proven the Law 169 to be a failure, as those decrees have not been implemented. In addition, the uncertainty related to the precise number of people living in this situation renders the possibility to fully face the issue of statelessness in the country very hard²⁰².

A part from the case of Juliana Deguis Pierre, that is emblematic for what concerns the denied right to Dominican nationality, there are other examples of the current situation of Haitians in Dominican Republic. The BBC interviewed some Haitian migrants that live in a precarious situation. Emildo Bueno Oguis has given his testimony, claiming that he is one of the at least 200.000 people that are in a legal limbo that makes them stateless²⁰³. In 2010 Bueno Oguis

²⁰² Centro por la Justicia y el Derecho Internacional, “A ocho años de la sentencia que desnacionalizó masivamente a miles de personas dominicanas, reiteramos que República Dominicana debe garantizar su derecho a la nacionalidad”, 2021.

²⁰³ Sánchez, M.E., “Una población sin patria en República Dominicana”, BBC news, 2010.

denounced the Dominican government in front of Interamerican Commission of Human Rights because of his deprivation of the right to nationality. Since 2007 he has calling for being provided of his birth certificate, fundamental in order to study, work, travel and get access to any public service, that at the beginning he requested for moving to United States, where his wife lives.

Like Bueno Oguis many other Haitians (probably more than 200.000) suffer due to their situation of uncertainty and instability. Dominican authorities have been denying Dominican nationality to Haitian migrants for decades, and furthermore, at the eye of the Dominican government they are Haitian citizens, but actually Haiti does not even recognize as its nationals.

Others appealed at the Interamerican Commission of Human Rights; in 2005 the Interamerican Court condemned because of the denial of the citizenship to two children, Yean and Bosico, daughters of a Dominican mother and a Haitian father. In that case the Interamerican Court assumed that racial discrimination in access to nationality breaks the Articles 1, 21, 27 of the American Convention on Human Rights (Costa Rica, 1969) and determined that the discriminatory application of nationality and birth registration laws turned children of Haitian descent stateless²⁰⁴. According to the Dominican state it has been a contempt to the Interamerican System of Human Rights.

Even if from the 90s of the last century many allegations have been presented in front of human rights bodies as far as the Haitian minority in Dominican Republic is concerned, since 2007 the situation worsened as a form letter was sent to Civil Register Offices with the instruction to deny birth certificate to children of illegal immigrants (almost all Haitians)²⁰⁵.

4.3 The denied Human Rights in Dominican Republic

Due to the discriminatory and racist attitude of the Dominican government towards Haitians or people of Haitian descent, Haitians in Dominican soil face several difficulties in their access to basic services. There are currently²⁰⁶ 570.933 Haitian migrants in Dominican Republic, 87% of whom were born in Haiti²⁰⁷. Among the total number of Haitians present in Dominican territory, (who also mainly live in the border areas or in any case not in the most urban ones), 51,555 are

²⁰⁴ Open Society Foundations, "Yean and Bosico vs. Dominican Republic", 2010 <https://www.justiceinitiative.org/litigation/yeen-and-bosico-v-dominican-republic#:~:text=The%20court%20held%20that%20racial,children%20of%20Haitian%2Ddescent%20stateless.>

²⁰⁵ Sánchez, M.E., "Una población sin patria en República Dominicana", BBC news, op. cit.

²⁰⁶ Data refer to a 2020 report.

²⁰⁷ Waddick, N., "Migration, Displacement and Education in Dominican Republic", United Nations Educational, Scientific and Cultural Organization, paper prepared for the 2020 GEM Report, 2020, pp. 4-30.

between zero and fourteen years old and 243.660 are between twenty and thirty-nine years old. Furthermore, nowadays we refer to a second (even third) generation of Haitian migrants; in fact, there are 277.046 persons born to migrants in Dominican Republic.

As already mentioned several times, Haitians in Dominican Republic face several problems within various environments (education, healthcare, access to other basic services). As far as the educational system is concerned, if we consider the 2017-2018 school year, there were 76.598 Haitian students in the Dominican education. Compared to their Haitian fellows, the level of education of Haitian migrants in Dominican Republic is lower: they are more likely to have less than a primary school education or to have a post-secondary education, considering that those with the lowest or highest levels of education are most likely to migrate. Illiteracy is remarkably higher among Haitians living in Dominican Republic than those living in Haiti (23.8% is the percentage of illiterate Haitians in Dominican Republic, against 6.8 of illiterate young Haitians in Haiti)²⁰⁸. Compared to their Dominican peers. Haitian students registered extremely low levels of educational attainment; in 2010 only 55% of Haitian children were enrolled in school, while Dominican-Haitian represented 85% and Dominicans were 92%. In *bateyes* illiteracy rates are higher than anywhere else. In addition, Haitian migrants have lower educational rates compared to other migrant minorities present in Dominican Republic²⁰⁹.

After the judgement 168 of 2013 and after the new Constitution of 2010, that denied the Dominican citizenship to anyone born in Dominican Republic after 1929 to parents that did not have legal residency in the Dominican territory, Haitians involved in the new reforms became stateless, as they were not considered Dominicans, but neither Haitians. Nowadays, children born to undocumented parents of foreign descent can receive a foreign birth certificate, which they can theoretically use to acquire Haitian or other citizenship. With the above-mentioned birth certificate (that is not a document that register you as a Dominican national or render you a regularized migrant) you cannot attend universities or obtain any work; at eighteen years old Haitian guys have to apply for obtaining the permission of residency. Human rights organizations have denounced this behaviour as an act of violence and of discrimination against people of Haitian descent (the right to nationality is not respected).

In order to lighten the consequences due to restrictions to nationality, in 2014 the government promulgated the Law 169, that established two groups of Haitian migrants. Group A included

²⁰⁸ Ibidem, p. 6.

²⁰⁹ Ivi.

individuals who had a birth certificate from a Dominican Civil Registry and has the possibility to have their Dominican nationality restored, and Group B, that included individuals who have never had their birth certificate registered in a Dominican office and were entitled to register themselves as foreigners and become naturalized Dominican nationals²¹⁰. The paradox of Group B is that it is formed by people that were Dominican-born and became foreigners, despite not having left the country.

Less than half of these individuals managed to obtain a Dominican identity document and civil society reports that the process has been delayed. Even with the promulgation of the law and the implementation of the reforms in favour of stateless people, statelessness is a very widespread phenomenon. The categories most at risk are children born to parents who have not received the correct Dominican identity documents and are therefore unable to register their children, individuals that were incorrectly registered as foreigners and consequently were unable to register under any other nationality, and individuals that were afforded a foreigner birth certificate but were unable to claim their Haitian citizenship given the economic and administrative barriers to claiming their Haitian nationality²¹¹.

Haitians are not the only who have troubles with the nationality issue; even Dominican-born have been unable to get their birth certificate and adult identity documents, although they were entitled to Dominican citizenship under Dominican Law. 27% of the poorest quintile of Dominican Republic and 12% of the second poorest have never had their births registered. These data show how the Dominican bureaucratic system is problematic not only for migrants who need it, but also for the Dominicans. To the fragile Dominican system and its limit, Haitians are isolated also due to the discriminatory attitude that impedes them to obtain documents.

A distinction has to be made between undocumented and stateless persons: undocumented persons are Dominican nationals by law, but that have been unable to obtain their identity documents correctly registered. Stateless persons are not considered nationals and are therefore prevented from access identity documentation. Both of these categories, that have to be added to that of irregular migrants, are excluded from the educational system, as they do not possess the necessary documentation to enroll and remain in schools²¹².

²¹⁰ Ibidem, p. 7.

²¹¹ Ibidem, p. 8.

²¹² Ivi.

The barriers originated by the Dominican laws and reforms not only generates problems within the educational system, but also for what concerns the healthcare and the possibility to work. The denied right to nationality not only prevents people to be assigned to some country and to be regularly registered, but impedes them to conduct a life whose conditions are those that should be guaranteed in every part of the world. There is talk of denied human rights because the denial of one right compromises the possibility to have access to all the other.

In fact, in Dominican Republic who does not possess identity documentation and results as stateless, is denied a consistent number of human rights and his/her fully participation in society is fully impeded. Stateless people face many restrictions in their social and political life, and particularly are discriminated against and are prevented from:

- accessing higher education or completing schooling;
- accessing formal employment;
- accessing adequate healthcare, social security and a retirement pension;
- getting married legally or registering the birth of their children, who are also effectively rendered stateless;
- filling a formal complaint with the authorities and seeking remedies if they are victims of violence or human rights abuses;
- travelling abroad and circulating freely within their own country without risk of arbitrary detention and expulsion if they are stopped at checkpoints;
- exercising their right to vote, stand for election or take part in the conduct of public affairs²¹³.

The final chapter of my dissertation has seen put into practice the information collected in the previous chapters. Dominican widespread prejudice has affected and still affects Haitian life, forcing Haitian people to a hard existence, depriving them of fundamental rights and services that should be guaranteed regardless of the country of origin. It has been pivotal to analyze the events of the last years, that profoundly changed the Dominican system and remarked how Dominican prejudice is still strong and rooted in Dominican institutions.

²¹³ Amnesty International, Dominican Republic, Submission to the UN Human Rights Committee, Comments on the follow-up state party's report of 24 August 2015.

The possible solutions to attempt to solve the migration issue in Dominican Republic are found in the conclusions of my dissertation.

Conclusions

The aim of this dissertation was that to deeply analyze the migratory phenomenon that characterizes the relationships between Haiti and Dominican Republic and see how the Dominican prejudice against the Haitian minority impacts Haitian life in the Dominican country.

From my research it is evident that the prejudice has rooted in the Dominican society since the period after Haitian occupation of the island and in the last decades, both due to the authoritarian regimes that have governed the country and the adopted policies that did not favour the integration of migrants with the native population, it has grown stronger.

The consequences of the Dominican racist prejudice are visible in many aspects of the society, that involve both Dominican and Haitian people. The field on which I focused my analysis is the section of human rights, and namely the right to nationality, that is necessary in order to be able to access all the other fundamental rights. The choice to focus my research on the possibility to access to the Dominican judicial system derives from the impressive experience I conducted in Dominican Republic, when saw the different treatment from the local authorities towards Dominicans and Haitians and when I visited the local juvenile jail.

The case study of Juliana Deguis Pierre has been emblematic in order to understand the social and political unrest in which thousands of Haitian people live, and how their life can be negatively affected by Dominican racist policies and how the prejudice is embedded namely within the Dominican authorities and institutions.

The study and the investigation of judgement 168/13 has partly responded to the question put at the beginning of this dissertation, as it was the proof that the judicial system in Dominican Republic does not provide and guarantee fundamental rights to Haitian citizens, as without the possibility to be acknowledged as Dominicans they are not allowed to access to any right or service. This judgement turned out to be an additional way to control the migratory flow that ever since is perceived as a threat by the Dominican society and community. The parallelism between prejudice and actions like the massacre of 1937, the judgement 168 and other norms that prevented Haitians from living with dignity has confirmed the thought that the minority groups are victims of the decisions of the ruling class and that the thought of a few people affects the life of an entire nation.

The conclusion I drew from my research, and the solution that the international cooperation could try to provide to solve the issue of illegal migration, is that at international level the

governments of countries that register a high percentage of immigrants (as is the case of Dominican Republic with regard to Haitian migrants that everyday arrive to Dominican soil) should find a way to provide a common resolution to the matter of migration.

The issue of irregular migrants without the possibility to live with dignity should be solved and public policies should be implemented. In the recent years, examples of governments that have searched for improve migrants conditions have increased. Consulting the United Nations Network on Migration, both Mexico and Argentina have tried to provide to migrants some solutions to their staying in their national territory.

Mexico developed a programme called *Estrategia Intégrate* (Integrate Strategy), that works through an online platform where people in context of human mobility can register; with the uploaded information, the system creates a job profile and they are assigned to a vulnerability score that allows the United Nations Development Program (UNDP) to assist migrants access employment opportunities. The programme permits to generate a mapping of the needs of the considered population and promote more precise care schemes that allow better targeting of the resources used in terms of care and integration of this population by local authorities. In the period September 2020 - March 2022 470 people in contextx of human mobility have been registered in the programme; the more requested procedures have been immigration procedures, immigration status, registration of companies with the National Migration Institute, coordination between shelters and government institutions, access to health services and labor connection.

At the same manner, in 2020 Argentina started to provide to migrants the *Certificado Electrónico de Residencia Precaria* (Electronic Precarious Residence Certificate), that is granted to the foreign person who has started the filing process in Argentina and has provided the required documentation. According to the National Migration Law of the Argentine Republic No. 25,871, every foreign person, regardless of their immigration status, has the right to access social assistance, health, and education, but they cannot work if they are in an irregular situation. This new certificate serves as proof of the start of the filing process and regularizes the migrant from that moment for 90 days, allowing its holder to work and enjoy other benefits granted by regularity while the filing process is resolved.

The example above-mentioned are just two possible solutions to contrast the issue of the illegal status of many people who move from one country to another in order to find more opportunities and better life conditions. In the case of Mexico and Argentina we saw two models of

certificates and permissions that enable migrants to start the procedures to be registered as legal migrants and be able to search for a job that provides them a life of dignity.

Dominican Republic could evaluate to adopt a system similar to those briefly illustrated. I believe that at international level, a common solution should be provided in order to guarantee the access to public services and human fundamental rights to all citizens regardless their origin and background.

From the deep analysis of this dissertation, it emerges that the right to nationality, that is the first right in order to be able to obtain all the others, has to be provided and guarantee, without being victims of any discrimination. The denied right to nationality prevents people to be able to lead a dignified life, and it must be guaranteed to all citizens, regardless their background.

CONSENTIMIENTO INFORMADO

PARA PARTICIPANTES EN INVESTIGACIONES CIENTIFICASPARTICIPANTS

[REWRITE]

de acuerdo con el art. 13 of EU Regulation 2016/679 (“Regulation”)

En esta notificación de privacidad, la Universidad Ca’ Foscari de Venecia (‘Universidad’) proveerá con la información necesaria sobre la recolección de sus datos personales desde el proyecto de investigación REWRITE, que tiene el objetivo de investigar las carreras migratorias de mujeres en situación de movilidad humana, para explorar las interconexiones entre sus trayectorias migratorias, formativas, laborales dentro del marco de las migraciones, a través de un análisis que permitirá a la investigadora desarrollar evidencias sobre los procesos de transformación de la identidad y el impacto que las políticas europeas tienen en las carreras/trayectorias migratorias de las mujeres entrevistadas.

La Investigadora Principal del proyecto es la Dra. MARIA LUISA DI MARTINO, con su investigación postdoctoral REWRITE *‘y el proyecto está supervisado por el Profesor LUIS FERNANDO BENEDEUZI del Dpto. de Estudios Lingüísticos y Culturales Comparados de la Universidad Ca’ Foscari de Venecia’*. Para mayores informaciones sobre el proyecto de investigación, por favor, no dudes en ponerte en contacto con la Investigadora Principal, escribiendo a la siguiente dirección de correo electrónico: marialuisa.dimartino@unive.it.

Este proyecto de investigación ha sido desarrollado de acuerdo con los estándares y las políticas de investigación y está guardado en el Dpto. de Estudios Lingüísticos y Culturales Comparados de la Universidad Ca’ Foscari de Venecia’, donde se almacenarán para 5 años después de la conclusión del proyecto (2028).

1. CONTROLADOR/A DE DATOS

La figura encargada de controlar los datos es la Universidad Ca' Foscari de Venecia, con sede principal en la siguiente dirección: Dorsoduro n. 3246, 30123 Venecia (VE), legalmente representada por la Rectora.

2. OFICIAL DE PROTECCIÓN DE DATOS

La Universidad ha nombrado a un “Oficial de Protección de Datos” (‘DPO’), que puede ser contactada escribiendo a la siguiente dirección de e-mail: dpo@unive.it o a la siguiente

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3. CATEGORÍAS DE DATOS PERSONALES, PROPÓSITOS Y BASES LEGALES DEL PROCESAMIENTO DE DATOS

La Universidad recoge una gran cantidad de datos para llevar a cabo las actividades de los proyectos de investigación. Esto puede incluir datos personales de las personas participantes.

La Universidad puede recoger datos personales de participantes que pertenecen a categorías especiales, como en este caso, serán recogidos datos sensibles en base a las siguientes categorías: raza u origen étnico, opiniones políticas, religiosas, filosofías de vida y creencias, pertenencia a sindicatos, asociaciones y congregaciones (con el propósito de no identificar a personas naturales), los datos relacionados con problemas de salud física, salud mental, datos relacionados con la vida y orientación sexual, o datos relacionados con sentencias o delitos.

La Universidad recoge esta información según una variedad de modalidades, como a través de cuestionarios, encuestas entrevistas, focus groups, registraciones de audio y/o video. En este caso se harán entrevistas en profundidad, siguiendo un guion pre-establecido semi-estructurado y diseñado por la IP para este grupo específico.

El procesamiento de datos personales de las personas participantes se llevará a cabo a través del uso de procedimientos informáticas e informatizadas, adoptando los medios más adecuados y las medidas y técnicas más pertinentes al desarrollo de la investigación y a la organización de las medidas de protección contra accesos ilegales y no autorizados, destrucción, pérdida de integridad y confidencialidad, aunque fueran de natura accidental.

Para proteger la confidencialidad de las personas participantes, la información recolectada será codificada, a través de un proceso de depersonificación y de-identificación, lo que significa que todo elemento identificativo directo, tal como nombres, apellidos, datos sensibles fiscales, DNIs, etc.) serán eliminados y reemplazados por un sistema de codificación creado *ad hoc* por la Investigadora Principal. Por tanto, las mujeres participantes no serán ya directamente relacionables e identificables a partir de los datos recogidos sobre ellas. La de-identificación de los datos será utilizada solamente para llevar a cabo las actividades de investigación. Las actividades de investigación están desarrolladas por la Universidad en el interés público como parte de sus funciones oficiales, por ende, las bases legales para el procesamiento de datos

personales está representado por el art. 6.1.e) de la Regulamentación (*“desempeño de una tarea llevada a cabo en el interés público”*).

En relación al procesamiento de datos personales de categorías especiales, las bases legales están representadas por el art. 9.2.a) de la Regulamentación (*“consentimiento explícito de los datos del sujeto”*) en conexión con el art. 7.2 of “Regole deontologiche”, Allegato A5 to D.Lgs. n. 196/2003 y *“según el art.10 de la Regulamentación relativa a datos sobre sentencias y delitos o actividad criminal”*. Por tanto, al final de este documento, se le pedirá su consentimiento informado para recoger y procesar este tipo de datos personales. Si quiere retirarse de dar su consentimiento en cualquier momento (antes, durante o después) de la entrevista sin perjuicio, escribiendo a la IP o a la Oficial de Protección de Datos (DPO) a los contactos indicados anteriormente. La IP o la Universidad parará el procesamiento de datos, a menos que existan fundamentos convincentes y legítimos para seguir adelante con dicho procesamiento.

4. RETENCIÓN DE LOS DATOS

Los datos personales serán retenidos hasta la finalización del Proyecto de investigación y, después de su conclusión, los datos serán retenidos 5 años antes de ser eliminados definitivamente del Sistema. Estos datos recogidos podrán ser usados para diferentes objetivos, por ejemplo, en diferentes publicaciones, siempre bajo consentimiento. Si surgirá alguna posibilidad futura de utilizar los datos disponibles que no esté contemplada en este momento, se pedirá siempre el consentimiento personal antes de procesar los datos con otras finalidades diferentes a la de este proyecto.

5. RECEPTORES Y CATEGORIAS DE RECEPTORES DE LOS DATOS PERSONALES

Los datos personales serán procesados por la Investigadora Principal del proyecto. Además, los datos personales no podrán ser procesados por otras personas, a menos que no tengan la capacidad de ‘data processors’, entregada por la misma Universidad. La lista está disponible en el siguiente enlace: <https://www.unive.it/pag/36643/>.

Datos anónimos y elaborados (lo que significa que no será posible ya que sea identificada a través de ellos) podrían ser compartidos con otras Universidades y/o centros de investigación, con el fin de llevar a cabo las actividades de investigación y podrían estar incluidos en

publicaciones, informes de investigación, base de datos y citados durante clases, congresos y conferencias.

Los documentos relacionados con el proyecto de investigación (que pueden incluir datos personales) podrían ser accesibles para entidades nacionales e internacionales, para comités de revistas italianas e internacionales para su evaluación legalidad e imparcialidad de la investigación llevada a cabo. Los datos personales podrían también ser accesibles para posibles auditorías.

6. DERECHOS DEL SUJETO DE LOS DATOS Y COMO EJERCERLOS

Tiene el derecho de obtener información desde la Universidad, en los casos previstos por las regulaciones, en relación a datos personales, rectificación, integración y su eliminación o limitar su o como objeto del procesamiento de datos en sí mismo (art. 15 y siguientes de la Regulación). El requerimiento ha de ser solicitado por escrito, sin procedimientos especiales, contactando con la Investigadora Principal al siguiente email: marialuisa.dimartino@unive.it o con el DPO directamente a través del siguiente e-mail: dpo@unive.it o enviando una comunicación por correo postal a la Universidad Ca' Foscari de Venecia - Data Protection Officer, Dorsoduro 3246, 30123 Venezia. Alternativamente, puede contactar con el Data Controller a través del e-mail certificada PEC: protocollo@pec.unive.it.

Los sujetos de los datos que creen que el procesamiento de sus datos personales está violando las disposiciones de la Regulación tienen el derecho de poner una queja formal ante la Autoridad respectiva: Data Protection Authority, según dispuesto por el art. 77 de la Regulación misma, o tomando acciones legales apropiadas (Art. 79 de la Regulación).

DOY MI CONSENTIMIENTO PARA PROCESAR LOS DATOS

Yo _____ (nombre, _____ apellido)

Lugar _____ de
nacimiento _____

Fecha _____ de _____ nacimiento _____

Soy consciente de yo puedo retirarme y renunciar a dar mi consentimiento en cualquier momento sin prejuicio. He leído la notificación sobre la privacidad arriba y

estoy de acuerdo no estoy de acuerdo

Con el procesamiento de los datos de las categorías especiales, especialmente: raza u origen étnico, opiniones políticas, religiosas, filosofías de vida y creencias, pertenencia a sindicatos, asociaciones y congregaciones (con el propósito de no identificar a personas naturales), los datos relacionados con problemas de salud física, salud mental, datos relacionados con la vida y orientación sexual, o datos relacionados con sentencias o delitos, para el propósito del proyecto de investigación REWRITE y con los medios descritos arriba.

Fecha _____ y
lugar _____

Firma _____

Fecha _____ y _____ lugar _____

Firma _____

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