BOOK REVIEW

LEGAL IDENTITY, RACE AND BELONGING IN THE DOMINICAN REPUBLIC: FROM CITIZEN TO FOREIGNER, BY EVE HAYES DE KALAF (ANTHEM PRESS 2022) 126 PAGES. PRICE $40.00. ISBN 9781785277641

ALLISON J PETROZZIELLO[*]

Legal Identity, Race and Belonging in the Dominican Republic: From Citizen to Foreigner ('*Legal Identity*')[1] makes a timely contribution to debates on whether the development goal on legal identity for all should be interpreted as an opportunity or a threat by bringing to the fore the lived experiences of those actively being stripped of their citizenship.[2] Dr Eve Hayes de Kalaf, a sociolegal scholar specialising in Latin America and the Caribbean, offers a cautionary tale for development actors who are working to promote legal identity and birth registration as part of the Sustainable Development Agenda. Where questions of racial national identity and belonging are unsettled, the development solutions being rolled out to strengthen identity documentation systems can and are being deployed in dichotomous fashion: document issuance for those a given state is willing to recognise and denial, deprivation or differential inclusion for those it is not.

Based on policy analysis, archival research and interviews conducted as part of her doctoral research, Hayes de Kalaf demonstrates how this has been happening on the Caribbean island of Hispaniola, which the Dominican Republic shares with Haiti. Starting in the early 2000s, financing from the World Bank and other international donors enabled the Dominican state to perpetuate its practices of arbitrary and retroactive citizenship stripping, turning Black Dominican citizens mostly of Haitian ancestry into foreigners in the country where they were born. Chapters 2 and 4 provide important context on the ways the Dominican state has engaged in legal, institutional and administrative manoeuvres to make Haitian-descended populations 'permanently foreign', confirming knowledge on the case

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[*] The author is a feminist migration researcher, human rights advocate and specialist in Latin America and the Caribbean, currently pursuing a PhD in Global Governance at Wilfrid Laurier University/Balsillie School of International Affairs in Canada. She is affiliated with the International Migration Research Centre (Canada) and the Caribbean Migrants Observatory (Dominican Republic).

[1] Eve Hayes de Kalaf, *Legal Identity, Race and Belonging in the Dominican Republic* (Anthem Press 2022).

[2] Bronwen Manby, '"Legal Identity for All" and Statelessness' (2020) 2(2) *Statelessness & Citizenship Review* 248; Institute on Statelessness and Inclusion, 'SDG 16.9 Legal Identity for All: Opportunity or Threat? Summary Video', *Youtube* (Video, 4 December 2019) <https://www.youtube.com/watch?v=j2x3FKWKwso>; Laura van Waas, Zahra Albarazi and Amal Chickera, *Sustainable Development Goal 16.9 "Legal Identity", Nationality and Statelessness* (Institute on Statelessness and Inclusion 2018) 9 <https://files.institutesi.org/Legal-identity.pdf>.

as documented in extant scholarship.[3] Chapters 3 and 5, by contrast, make important original contributions to the literature. The former links international organisation support and efforts to 'include the "excluded"' with the administrative (re)ordering of Dominicans, while the latter amplifies the voices of those who have been affected by this reordering.

Hayes de Kalaf argues that the World Bank's involvement in promoting legal identity exacerbated historical tensions over the right to Dominican nationality for people of Haitian descent born in the country, many of whom already held documents proving their Dominican citizenship. During the early 2000s, international financial institutions, led by the World Bank, were pushing narrowly targeted poverty reduction and social safety net measures to mitigate the effects of unbridled capitalism.[4] At the same time, addressing under-registration was emerging as a development concern especially for Afro-descended, Indigenous and other marginalised groups.[5] For the rural poor to be targeted by social protection programs, first they had to be registered and documented. Women were particularly targeted for inclusion in Conditional Cash Transfer programs, which meant documentation for women took on greater importance. Unfortunately, not only did these renewed efforts do little to encourage Government bureaucrats to address the historical exclusion of people of Haitian descent; they also bolstered state architectures and technologies to block them from accessing the legal identity documentation many had already acquired as Dominican citizens.[6]

The critical lens on development that Hayes de Kalaf brings is timely and useful. First, it is timely as we collectively work to understand the impacts of COVID-19 on those rendered stateless.[7] Indeed, when the Caribbean Migrants Observatory conducted research among people of Haitian descent in 2020, the effects of the targeted social *exclusion* Hayes de Kalaf describes were sorely felt among those who had been stripped of their citizenship and made ineligible for emergency social assistance during the pandemic.[8] The United Nations predicts

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[3] Kristy A Belton, *Statelessness in the Caribbean: The Paradox of Belonging in a Postnational World* (University of Pennsylvania Press 2017) 86; Trenita Brookshire Childers, *In Someone Else's Country: Anti-Haitian Racism and Citizenship in the Dominican Republic* (Rowman & Littlefield 2021); Bridget Wooding, *Haitian Immigrants and Their Descendants Born in the Dominican Republic* (Oxford University Press 2018); Samuel Martínez, 'The Price of Confrontation: International Retributive Justice and the Struggle for Haitian-Dominican Rights' in George Andreopoulos and Zehra Arat (eds), *The Uses and Misuses of Human Rights: A Critical Approach to Advocacy* (Palgrave 2014); April J Mayes, 'Ties That Bind: La Sentencia and Citizenship in Contemporary Hispaniola' in April J Mayes and Kiran Jayaram (eds), *Transnational Hispaniola: New Directions in Haitian and Dominican Studies* (University of Florida Press 2018) 201, 208; David C Baluarte, 'The Perpetuation of Childhood Statelessness in the Dominican Republic', *The World's Stateless Children* (Institute on Statelessness and Inclusion, Wolf Legal Publishers 2017) 434.

[4] Daniel Béland and Rianne Mahon, *Advanced Introduction to Social Policy* (Edward Elgar Publishing 2016).

[5] Hayes de Kalaf (n 1) 33.

[6] ibid 49.

[7] COVID-19 Emergency Statelessness Fund (CESF), 'Together We Can: The COVID-19 Impact on Stateless People & a Roadmap for Change' (Institute on Statelessness and Inclusion 2021) <https://www.institutesi.org/pages/covid19_and_statelessness>; see also the SCR Symposium section edited by Jamie Liew, 'Statelessness and COVID-19' (2021) 3(1) *Statelessness & Citizenship Review* 120.

[8] Bridget Wooding and Allison J Petrozziello, *Research Brief: COVID-19 Impacts on Haitian Migrants and Their Descendants on the Southern Border of the Dominican Republic* (Caribbean Migrants Observatory (OBMICA); Editora Buho 2021) <http://obmica.org/images/Resumen_investigacion_RD_COVID_JUN_2021-compressed.pdf>.

the pandemic will reverse decades of progress in terms of poverty reduction. It calls for greater investment in data and statistical systems to measure achievement of the Sustainable Development Goals ('SDGs');[9] whether any progress has or can be made when access to social development policy and programs increasingly is made contingent on having an ID remains to be seen. The continued underdevelopment of stateless populations and others lacking civil registration may not be visible in states' reporting on the SDGs if some 67 indicators are derived from information contained in civil registration and vital statistics systems.[10]

Second, the development lens is useful to question the assumption that identification and registration drives will lead to the provision of legal identity for an unqualified all. As Hayes de Kalaf notes, historically:

> … the use of large-scale identification practices has led to atrocious human rights abuses … particularly for … individuals who, due to their race or national origin, do not always fit comfortably within state-centred, ideological and white-centric notions of who merits membership of the 'imagined community'.[11]

Those of us studying statelessness can build on this research by continuing to examine what is actually being done in the name of 'modernisation' and 'inclusion', and what practices — good and bad, but never neutral[12] — biometric technologies enable.[13] Following Hayes de Kalaf's lead, one could examine the impacts of the 'good practices' that international organisations share with states, such as linking birth registration to social welfare entitlements as an incentive for parents to register their children.[14] As the Dominican case study makes clear, this practice can have the opposite effect for populations that do not fit state prescriptions of who merits membership. Researchers might also wish to build on

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[9] United Nations, *The Sustainable Development Goals Report 2021* (United Nations Dept of Economic and Social Affairs 2021) <https://unstats.un.org/sdgs/report/2021/The-Sustainable-Development-Goals-Report-2021.pdf>.

[10] Irina Dincu, Shaida Badiee and Deirdre Appel, *Birth Registration Is the Basis for Advancing Gender Equality and Children's Rights* (International Development Research Centre, Perspectives, 22 February 2018) <https://www.idrc.ca/en/perspectives/birth-registration-basis-advancing-gender-equality-and-childrens-rights>; Samuel Mills and others, 'Civil Registration and Vital Statistics (CRVS) for Monitoring the Sustainable Development Goals (SDGs)' (World Bank 2017) <http://documents.worldbank.org/curated/en/979321495190619598/pdf/115150-WP-CRVS-for-Monitoring-the-SDGs-web-version-May-18-2017-PUBLIC.pdf>.

[11] Hayes de Kalaf (n 1) 4, citing Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (Verso 1983).

[12] This is a reference to the now infamous Kranzberg law put forth by historian of technology, Melvin Kranzberg, which states that '[t]echnology is neither good nor bad; nor is it neutral' in Melvin Kranzberg, 'Technology and History: Kranzberg's Laws' (1986) 27 *Technology and Culture* 544, 545.

[13] For a fascinating set of conversations on the complex and contradictory ways in which Indigenous, Afro-descended, and nonbinary populations, among others, experience ID systems and exclusion from citizenship and social policy, see the recordings of the June 2021 conference organised by Dr Hayes de Kalaf at the Centre for Latin American and Caribbean Studies/University of London and ISI, School of Advanced Study, '(Re)imagining Belonging in Latin America and Beyond — Day One' *Youtube* (Video, 7 July 2021) <https://www.youtube.com/watch?v=e_8eey3PF1Q&t=321s>; School of Advanced Study, '(Re)imagining Belonging in Latin America and Beyond — Day Two' *Youtube* (Video, 13 July 2021) <https://www.youtube.com/watch?v=9iQkTjBitNY&t=2s>.

[14] World Bank, *Incentives for Improving Birth Registration Coverage: A Review of the Literature* (World Bank Group 2018) vii <https://documents1.worldbank.org/curated/en/928651518545413868/Incentives-for-Improving-Birth-Registration-Coverage-A-Review-of-the-Literature.pdf>.

this work by examining how states actively engaged in social exclusion learn from one another. Just as good policy ideas travel fast, so too do the bad ones. Conditional Cash Transfer programs are a perfect example of a policy idea that originated in Latin America and travelled quickly as part of what Jamie Peck and Nik Theodore call 'experimental statecraft at the threshold of neoliberalism'.[15] Critical interdisciplinary research like Hayes de Kalaf, Peck and Theodore's holds much promise for problematising fast policy (time-compressed, external actor-driven policymaking) by looking at the institutions, social and political practices and other conditions involved in identity and social policy formation, transfer and mutation. The challenge this collective of thinkers may wish to take up is to investigate whether and how states are sharing ideas about how to systematically exclude marginalised groups they do not wish to incorporate.

Legal Identity contributes to scholarship on statelessness and citizenship by shining light on the citizenship-stripping practices which continue to affect once-documented Dominican citizens of Haitian descent. The critical examination of 'foreign making practices' in Chapter 5, 'Dominican or not Dominican? Citizens and their Experiences of Legal Identity Measures', is fascinating. Those affected by these practices have many faces, Haitian descendant and not. These practices include miscategorisation, citizens' confused misapplication, indefinite deferral of decision and administrative cancellation of documents when attempting another transaction, such as birth registration of a newborn. While Kristy Belton's book *Statelessness in the Caribbean* is not cited,[16] Hayes de Kalaf's book provides a complementary study. Whereas Belton focuses on the non-legal means through which the Dominican State creates statelessness (bureaucratic practice, discrimination, and negligence), Hayes de Kalaf brings to the fore the lived experiences of those seeking to (re)obtain proof of their legal identity and contrasts these lived realities with the development sector's unwitting perpetuation of such exclusions.

One line of argument that I found somewhat confounding is Hayes de Kalaf's call to 'dehaitianise' approaches to the Dominican case and the controversial Constitutional Court sentence 168–13.[17] This, she writes, is a deliberately provocative move in order to reframe the issue from a migration problem to one of the state using its architectures to redefine citizenship.[18] This comes across as incompatible with other claims which directly recognise anti-Haitianism as a motivating factor for State actions, as laid out in Chapter 2 'Permanently Foreign: Haitian-Descended Populations in the DR'. While the examples discussed in Chapter 5 do demonstrate that the practices of citizenship-stripping have affected others who are not of Haitian ancestry (eg, Black Dominicans of Anglo-Caribbean descent, children of Japanese and Argentinean parents), it is also true that every single one of those cases was eventually resolved, while those of Haitian ancestry were not. Activists and scholars have been insisting that this is not a migration issue for some time, not least through their constant insistence at distinguishing

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[15] Jamie Peck and Nikolas Theodore, *Fast Policy: Experimental Statecraft at the Thresholds of Neoliberalism* (University of Minnesota Press 2015).

[16] Belton (n 3).

[17] Hayes de Kalaf (n 1) 28.

[18] ibid 45.

between Haitians (those born in Haiti) and Dominicans of Haitian descent.[19] While it is not a migration issue per se, concerns about unregulated migration have led successive governments to use international donor-funded migration and identity management systems in tandem to manufacture Dominico-Haitians as foreigners.

In response to Hayes de Kalaf's provocation, I would argue '*Una cosa no quita la otra*'; this is a both/and situation. You can encourage new modes of thinking about identity and citizenship without 'dehaitianising', which is a confusing term that risks downplaying the fact that deep-seated anti-Haitianism continues to fuel state practices of citizenship deprivation and denial. Radically re-envisioning Dominican identity in line with Lorgia García Peña's scholarship does not necessitate dehaitianising — whatever is meant by the term — but rather making space for those of Haitian heritage to be both/and.[20] Here is where the confusion borders on becoming counterproductive. Hayes de Kalaf says her call to dehaitianise comes as a way to 'distance our approach away from an anti-Haitian, racist ideology that reinforces the perverse belief that persons of Haitian descent are somehow incompatible with the Dominican nation specifically because of their Black, African ancestry'.[21] Of course, we should not reinforce anti-Haitian racism, but is it possible to challenge anti-Haitian racism without naming it? If anti-Haitianism is what destabilises the citizenship system, as Aber and Small claim,[22] is it necessary to dehaitianise in order to (re)contextualise the case? If anti-Haitian racism remains a motivating political ideology, then our task as scholars and advocates is not to dehaitianise but to do both the work of examining the technologies which perpetuate systemic racism while also continuing to name the underlying ideology.[23]

There are opportunities to continue interrogating the colonial legacies inherent in identification systems that *Legal Identity* recognises are at work in the Dominican Republic and across Latin America and the Caribbean.[24] How can our research align with efforts to decolonise these systems? Future scholarship can help us think this through, following Malak Benslama's recent call for decolonising statelessness and citizenship studies.[25] Those interested in these questions in the Dominican Republic may wish to consult Ochy Curiel's book, which takes a historical anthropological and decolonial approach to examining the lead-up to the *Sentencia* (in Spanish only).[26]

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[19] Bridget Wooding, 'Supra-National Jurisprudence: Necessary but Insufficient to Contest Statelessness in the Dominican Republic' in Tendayi Bloom and Lindsey N Kingston (eds), *Statelessness*, *Governance, and the Problem of Citizenship* (Manchester University Press 2021).

[20] Lorgia García-Peña, *The Borders of Dominicanidad: Race, Nation, and Archives of Contradiction* (Duke University Press 2016) cited by Hayes de Kalaf (n 1) 29.

[21] Hayes de Kalaf (n 1) 12.

[22] Shaina Aber and Mary Small, 'Citizen or Subordinate: Permutations of Belonging in the United States and the Dominican Republic' (2013) 1 *Journal on Migration and Human Security* 8, quoted in Hayes de Kalaf (n 1) 30.

[23] Samuel Martínez and Bridget Wooding, 'Anti-Haitianism in the Dominican Republic: A Bio-Political Spin' (2017) 15 *Migración y Desarrollo* 95; E Tendayi Achiume, *Report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance* (United Nations 2020) 2/25 <https://undocs.org/A/75/590>.

[24] Hayes de Kalaf (n 1) 15, 102.

[25] Malak Benslama-Dabdoub, 'Colonial Legacies in Syrian Nationality Law and the Risk of Statelessness' (2021) 3(1) *Statelessness & Citizenship Review* 6, 32.

[26] Ochy Curiel, Un Golpe de Estado. *La Sentencia 168–13. Continuidades y Discontinuidades Del Racismo En República Dominicana* (En la frontera / La Imprenta Editores SA 2021).

Likewise, there are opportunities to continue developing gender analysis of the Dominican case.[27] *Legal Identity* mentions women in passing, as single mothers targeted for social policy and also 'paradoxically … as both the incubators of this feared invasion and standing at the frontline of efforts to defend the Dominican bloodline'.[28] Future research might wish to deploy intersectional feminist analysis to understand the dynamics of inclusion/exclusion as they continue to operate in identity and other social governance systems, generating a risk of statelessness.[29] Who are the designated or socially sanctioned reproducers of nation? Which mothers and children are seen as worthy of social protection in the eyes of the state?

This book will be of interest not only for researchers, practitioners, students and human rights defenders concerned with the ongoing statelessness situation in the Dominican Republic, but also those paying attention to the technologies being rolled out in pursuit of the legal identity agenda around the world. This book shows that legal identity has been both an opportunity and a threat since well before the creation of the Sustainable Development Agenda, and that international development actors have a track record of contributing to both. We can collectively respond to Hayes de Kalaf's call to 'critically assess the ways in which this target (SDG 16.9) might be counterproductive to the overall aims of the SDGs by (re)producing inequality, exacerbating statelessness and contributing to exclusion'.[30] Finally, we can hold international organisations accountable for the unintended consequences of their actions. Race and belonging cannot be filters for determining legal identity. Non-discrimination must be a central part of what is meant by strengthening civil registration and promoting legal identity for all.

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[27] Allison J Petrozziello, '(Re)Producing Statelessness via Indirect Gender Discrimination: Descendants of Haitian Migrants in the Dominican Republic' (2019) 57 *International Migration* 213.

[28] Hayes de Kalaf (n 1) 20–21.

[29] Deirdre Brennan, 'Statelessness and the Feminist Toolbox: Another Man-Made Problem with a Feminist Solution?' (2019) 24 *Tilburg Law Review* 170; Deirdre Brennan, Nina Murray and Allison J Petrozziello, 'Asking the "Other Questions": Applying Intersectionality to Understand Statelessness in Europe' in Tendayi Bloom and Lindsey N Kingston (eds), *Statelessness, Governance, and the Problem of Citizenship* (Manchester University Press 2021).

[30] Hayes de Kalaf (n 1) 105.