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## Re-storying Justice: Questions of Citizenship, Home, and Belonging in Amy Serrano's *The Sugar Babies* (2007)

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“For silence would be a failure and a duty as a Human Being to know the truth and not Disseminate it.”  
José Martí.

This essay examines the role that Caribbean artists, writers and intellectuals can play in challenging exclusionary policies aimed at eroding the fundamental rights of states' most vulnerable subjects. Specifically it focuses on documentary filmmaking and the power of storytelling to address the legal-juridical situation of the children of Haitian parents born in the *bateyes* –sugar cane plantation compounds--of the Dominican Republic. Through an analysis of Amy Serrano's feature-length documentary, *The Sugar Babies: The Plight of the Children of Agricultural Workers in the Sugar Industry of the Dominican Republic* (2007), I explore how the act of documenting/recounting the stories of the descendants of the first Africans taken to the Dominican Republic to cut sugar cane for the benefit of powerful US-based companies can further the debate on human rights, citizenship, belonging, and justice. More importantly, I discuss how a film such as *The Sugar Babies* can affirm the humanity and dignity of those children born in the *bateyes* who deserve a better future than the one charted out for them in a country in which they can't even claim political membership.

Since its controversial preview screening at Florida International University in June 2007, *The Sugar Babies* has encountered fervent opposition not only from the government of the Dominican Republic but also from the sugar baron industry which the film explicitly condemns.<sup>1</sup> The story focuses on the lives of Haitian cane cutters living in the *bateyes* of the Dominican Republic under conditions often described as modern-day slavery. Combining interviews with renowned anthropologist Sidney Mintz, *bateyes* residents, and Fathers Pierre Ruquoy and Christopher Hartley, and using voice-over commentary by Haitian-born writer Edwidge Danticat, the documentary highlights the complicity of state-governments in human trafficking and exposes the role played by sugar barons, such as the Vicini and Fanjul families, in the exploitation of Haitian migrant labor in the Dominican Republic.<sup>2</sup> “Sugar Babies is about the sugar we consume, two-thirds of which is

derived from plantations owned by one of the two families in the film,” Serrano said in a 2008 interview.<sup>3</sup>

At the center of this vigorous denunciation of the relationship that exists between sugar, slavery, and power is the plight of the children. Born in the *bateyes*, the children of agricultural workers are condemned to a life of extreme poverty as a result of the appalling conditions in which their parents are forced to live. With wages barely enough to feed their families one meal a day (the meal often consisting of “empty rice”), Haitian cane cutters crossing the border to the Dominican Republic with the hope of finding a better lifestyle than the one they have left behind find themselves trapped into a system of economic immobility. This condition is now passed on to their children. The cycle of endless poverty created by the *bateyes* is effectively conveyed from the very beginning of the film. Black and white scenes from Euzhan Palcy’s 1982 feature film *La Rue Cases-Nègrès* (*Sugar Cane Alley*) are intercut in *The Sugar Babies* to show the transformation of Africans in the New World: from slaves to emancipated subjects, subjects who now experience a contemporary form of slavery. Serrano’s decision to color-treat Palcy’s segment was an aesthetic one in order to connect the story with the past but also to show that “in the micro world of the *bateyes*, the past and present neither evolve nor change” (Serrano 2008: 42). This situation of timeless bondage is effectively represented during the dialogue between the elder Medouze and the child, José, in the film’s opening scene. Medouze, who was once a sugar baby, is now telling a story to José, who represents the next generation of sugar babies. As the story progresses, we see José’s facial expression changing from hopeful to extremely sad. As Serrano explains,

this is vividly captured in Medouze’s pathos and reply to Jose: ‘Damn cane fields . . . All the blacks came down from the hills with sticks and machetes, guns, and torches. They burned all the homes . . . that was how slavery ended . . . [In post-emancipation] I was back in the Black Shack Alley again. . . back to the cane fields. We were free, but our bellies were empty. The Master had become the Boss. So I stayed on, like all the other blacks, in this cursed country. . . Nothing has changed, son, the whites own all the land.’” (Serrano 2008: 41)

Yet for all its emphasis on the sugar industry and modern-day exploitation of labor, *The Sugar Babies* tells also another compelling story, one that places the question of citizenship at the center of current debates on human rights and international law. A long history of anti-Haitianismo has resulted in legislative and judicial decisions that at least since the early 2000s have denied the children of Haitian descent born in the Dominican *bateyes* their birth certificates, forcing them into a stateless condition in blatant violations of their inalienable human rights.<sup>4</sup> Until recently, the Dominican Republic, like the United States, upheld the doctrine of *ius soli*, or birthright citizenship, in order to determine who could claim a right to nationality, but a constitutional amendment passed

in 2010 significantly redefined Dominican citizenship, upholding the principle of both birthright and bloodline (*ius sanguinis*). The children of foreigners who reside in the Dominican territory “illegally” were specifically targeted by the new constitutional provisions, as they were precluded from obtaining citizenship.<sup>5</sup> As stated in Article 18 of the new Constitution, in the section addressing specifically the question of nationality,

“A person is considered Dominican if 1) his or her parents are Dominican; 2) if he or she already had the Dominican nationality before this Constitution came into effect; 3) if he or she was born within the Dominican territory, with the exception of the children of foreign members of diplomatic and consular delegations and foreigners who are in transit or reside illegally within the Dominican territory. A person considered “in transit” is usually a foreigner defined as such by Dominican laws” (Constitution 2010: my translation).

Conceived as a measure to combat illegal migration and entered into effect two weeks after the devastating earthquake that struck Haiti in January 2010, the constitutional change, as it specifically targeted the children of undocumented Haitian agricultural workers, was seen by human rights activists as a way to retroactively strip Haitians born in the Dominican Republic of their citizenship. As long-time human rights advocate and activist Sonia Pierre stated, “the Dominican of Haitian descent has been put in a situation of total exclusion” as a result of these constitutional changes, being denied healthcare, schooling, and jobs (Hanes 2010).<sup>6</sup> All the more controversial, at the time of this writing, has been a most recent court ruling that denies full citizenship rights to people of Haitian descent born in the Dominican Republic. On September 23 2013, the Dominican Republic’s Constitutional Court, citing the 2010 Constitution, passed Ruling 0168-13, according to which Dominicans born to undocumented parents are to have their citizenship revoked. The ruling, often referred to as *la sentencia*, is retroactive to 1929 and is likely to affect an estimated 250,000 Dominican people of Haitian descent, including many who have had no personal connection with Haiti for several generations and who may be left stateless. Unanimously condemned as an additional human tragedy enacted at the border of the two countries, the DR Constitutional Court ruling constitutes a new chapter in what Fernando Valerio-Holguín calls “the Dominican primitivist discourse of the border,” an imaginary space in which the construction of Dominican cultural and racial identity occurs in opposition to Haitians (“Primitive Borders” 76).<sup>7</sup>

Even though *The Sugar Babies* predates the 2013 Constitutional ruling, the question of the stateless condition of Dominicans of Haitian descent is crucial to the film human rights agenda. And to those reviewers who have criticized the film for blatantly condemning Dominican antihaitianism without, however, considering the broader structural conditions leading to the ill treatment of Haitians (Derby: “Se Fue” 254-55), Serrano’s documentary, when considered in the light of the

recent Constitutional ruling, will continue to play a significant role in the on-going debates on the citizenship crisis in the Dominican Republic.<sup>8</sup> By contextualizing the story of the children of the *bateyes* within current debates on human rights, Serrano has joined the international order of NGOs and human rights system, what Saskia Sassen has termed “the new geographies of power” (Sassen 2002) working together to make states comply with international human rights law with regard to the treatment of individuals within the borders of their territory. Along with Sassen, other scholars have recently underscored the importance of human rights in the discourse of contemporary migration. In *The Rights of Others* (2004), for example, Seyla Benhabib argues that international law in the past few decades has significantly delegitimized what has traditionally been conceived as the central tenet of Westphalian sovereignty, namely states’ ultimate authority over their subjects (12). More recently, Christine Ho and James Louchy have proposed “migration as a human right” in their call for better policies that might achieve structural change in both national and international contexts (2012: 160).

Yet the question remains whether international law automatically translates into better living conditions for the civil society actors, all the more so if these same actors inhabit regions of the so-called Third World or the South (Falk et al: 2008: 1). More to the point, Balakrishnan Rajagopal raises a concern that is central to the argument of this essay. “How does one write resistance into international law and make it recognize subaltern voices?” (2003:1). Rajagopal’s analysis, framed within the context of Third World social movements and changing historical patterns of Third World resistance, is particularly insightful when discussing artistic forms of resistance—documentary filmmaking in particular— as we have seen them emerging in the Caribbean and Latin America in the past few decades. In Serrano’s view, “Documentary filmmaking is a powerful vehicle for telling stories and communicating things that shouldn’t be, while perhaps alluding to things that could be if we respect human rights and the right of self-determination for all humanity” (2008: 46). Influenced by the theories of Herbert Marcuse, Serrano conceives of the role of the artist as a “cultural creator” who can effect change. The title of the film’s production company that Serrano founded, Siren Studios, strongly conveys this activist agenda. Drawn from Irish folklore, the myth of the mermaids who killed men or lured them to their death also has a second and often suppressed significance: “the song of the siren that captivated, rescued, and inspired humanity to do and be their best.” It is the latter meaning, Serrano posits, that informs the film’s message (2008: 47).<sup>9</sup>

In his seminal *One Dimensional Man* (1964) Marcuse articulates a severe condemnation of an increasingly conformist Western society, one in which individuals have become so depersonalized

that they can only function as cogs in the mechanized wheels of the social order. The one-dimensional man for Marcuse is the individual in which alternative ways of thinking and creative living have become nullified. It is only through art, Marcuse maintains, that the possibility for social criticism leading to social change can be found. He writes: “Like technology, art creates another universe of thought and practice against and within the existing one. But in contrast to the technical universe, the artistic universe is one of illusion, semblance, *Schein*. However, this semblance is resemblance to a reality that exists as the threat and promise of the established one” (238). Crucial for Marcuse is the coexistence of the present system of the dominant order with its negation. Specifically he envisions a two-dimensional existence in which the world of the possible (the artistic universe) coexists with the present consumer society of organized capitalism making it possible to imagine situations radically different from the current system. Marcuse conceives of the artist as the “societal subversive,” the courageous individual who challenges the defining oppressive ideologies created by society in order to achieve human freedom and happiness.

In an unpublished essay uploaded on Marcuse’s official website, Serrano argues that the contemporary prototype of the alienated artist “has evolved into a growing community of ‘cultural creatives’ that include artists-activists” (Serrano 2002). First analyzed by sociologist Paul H. Ray and psychologist Sherry Ruth in their landmark book *The Cultural Creatives* (2000), this subculture of activists, 67% of whom are women, Serrano maintains, “is silently transforming the world through active, yet creative discourse” (Serrano 2002). Among the main goals of the cultural creatives is a concern with violence and abuse of children globally as well as the importance of personal experiences and first-person stories “as ways of learning and embracing an ethic of caring” (Ray & Ruth Anderson 2000: 8). *The Sugar Babies* is Serrano’s contribution to this group of cutting-edge female artists-activists driven by a “visceral desire to document what has been forgotten and transform social injustice” (Serrano 2002).

The film begins with a call to viewers to take action and channel in creative ways the outrage we all feel upon learning of the conditions of exploitation and subjugation that Haitian migrant workers encounter upon arriving in the Dominican Republic (Serrano 2008: 47). A quotation from José Martí, which I have used as epigraph to this essay, prefaces the narrative and the kric? krael structure of Haitian storytelling tradition, with Danticat acting in the role of the storyteller/commentator, suggests the important role that the audience is going to play in the story we are about to hear.<sup>10</sup> The director’s note before the narrative even begins further establishes the film’s activist tone: “It is our shared belief that by no manner or means, may an individual,

corporation or government profit directly or indirectly from the exploitation forged upon others. The *Sugar Babies* is only one of too many similar stories, but with your help, this story does not have to end this way . . . .” (Serrano 2007). Even though the story narrated is a tragic one, Serrano sees elements of hope in the end, when the camera zooms on the children who are asked what they want to become when they grow up. One after the other they poignantly respond that they want to be nurses, doctors, teachers, lawyers. It is because of our response or action, Serrano argues, that these children “may one day realize what they aspire to be” (Serrano 2008: 47).

In his best-selling *Introduction to Documentary* (2010), Bill Nichols writes that “documentaries possess a voice and a perspective of their own with which they communicate to us” (118). Using sound and images, documentaries tell stories about the world conveyed to us through a specific viewpoint. Akin to style in fiction, voice, in documentaries, gives visual manifestation to the content and organization of the material in the attempt to translate the director’s perspective of the world into visual terms. In *The Sugar Babies*, Serrano uses a polyphony of voices along with stunning images and captivating music to make the story of the children of the *bateyes* engaging and persuasive. Even though Danticat’s narrative provides the main commentary and her poetic and soothing storytelling provokes a moving response among viewers already familiar with her work, it is the interweaving of all the other voices, including, of course, the children’s, that gives the film a character of its own. In the opening scenes, Sidney Mintz’s historical account of the importance of sugar to the transatlantic world gradually advances over the black-and-white images of Palcy’s *La Rue Cases-Nègrès*. Mintz’s testimony is then juxtaposed with Father Hartley’s analysis of the relationship between sugar and slavery and with Father Ruquois’s account of the complicity of the Dominican government in the trafficking of Haitian workers in the sugar cane compounds of the Dominican Republic. Serrano’s film editing process at times brings these different voices in conversation with each other, a narrative technique chosen to give more credibility to her story. Thus, while father Ruquois describes the dynamics of trafficking, Ambassador John Miller, of the Office of Human Trafficking of the US State Department, unapologetically defines the situation of the inhabitants of the *bateyes* as modern slave trade. On the notes of the song “Branded,” written by Bill Cruz, the film’s composer, the camera closes up on the image of a naked child sleeping on a rugged, dirty mattress while mosquitoes fly undisturbed all over his body. Later on, the same camera delivers to the viewers what is perhaps the image-symbol of the entire documentary: that of a little girl (soon to be joined by other children) eating a stalk of sugar cane to hold off the hunger.<sup>11</sup> In a 2009 article published in *Food Ethics Magazine*, Serrano explains the power of this image:

I dwell on easy recollections of starving children running into near seven-foot high cane fields at noon, disappearing into the green as they'd scavenge for edible stalks to feed their daily hunger. . . . The irony of their gleeful little faces appearing through shifting green shapes and emerging with a prized stalk of sugarcane stays with me, for it is the same thing that feeds these little ones which enslaves their families and chains them to their bitter future. (Serrano 2009:20)

Apart from the dehumanizing conditions forced upon these children by the sugar cane industry, the film also highlights the role played by the Dominican government in denying them a future beyond the *bateyes*. Without birth rights to citizenship, the children of Haitian descent residing in the Dominican Republic cannot access a proper education. And without an education the chances of leaving the *bateyes* are next to impossible.

### **The Invisible Children of the Dominican Republic**

Even before the 2010 Constitutional Court's ruling, the Dominican Republic began to institutionalize policies aimed at dehaitianizing the country as a result of Dominicans' deep-rooted prejudice against people of Haitian descent. In December 2005, the controversial law 285-04, which denied citizenship to Dominican-born children of Haitian immigrants, was upheld as constitutional by the Dominican Republic Supreme Court. Under this legislation, children born on Dominican soil of non-citizen parents were deemed "in transit" and prevented from gaining citizenship, regardless of the length of time their parents had lived in the country. A Book of Foreigners (*Libro de Extranjería*) was created to register the children of undocumented residing mothers, a bureaucratic process whose only purpose was to exclude these same children from obtaining citizenship. Such a policy was, in fact, enforced, in stark contrast to the guarantees of the Dominican constitution, which up to that time declared Dominican any person born within the country's national territory. The September 2005 Supreme Court ruling came just a few months after the Inter-American Court of Human Rights had handed down its decision in *Yean and Bosico v. Dominican Republic*. In this historical judgment, the court ruled that the Dominican Republic, in denying birth certificates to two young girls of Haitian descent, Dilcia Yean and Violetta Bosico, had violated the girls' rights to nationality, equality before the law, and special protection as children, as stated in the American Convention of Human Rights, to which the Dominican Republic is a signatory.<sup>12</sup> The court ruled:

a) The migratory status of a person cannot be a condition for the State to grant nationality, because migratory status can never constitute a justification for depriving a person of the right to nationality or the enjoyment and exercise of his rights; and b) The migratory status of a person is not transmitted to the children. (The Yean n.p.)

The Court ordered that the Dominican Republic publish the sentence “in the official gazette and in another newspaper with national circulation in the Dominican Republic,” that it apologize to the plaintiffs within the first six months of the date of the sentence, and that it pay reparations to both the plaintiffs and the entities that represented them (The Yean and Bosico Children). The sentence was received with outrage by Dominican state officials. The Dominican Ministry of Foreign Affairs called it “unacceptable” and the Vice-President blamed international organizations responsible, in his view, for discrediting the Dominican Republic before the world community (Baluarte 2006: 28).

The most significant aspect of the Yean and Bosico ruling was the emphasis on racial discrimination as a factor in denying birth certificates to the two girls, something that the Dominican government has never expressively admitted.<sup>13</sup> Moreover, through the separate opinion of Judge Antonio Cançado Trindade, the court also articulated the condition of statelessness as a result of the denial of nationality:

Among the causes of statelessness are situations and practices such as those revealed in this Case of the Yean and Bosico Children versus the Dominican Republic (in which the children Dilcia Yean and Violeta Bosico, whose mothers are Dominican and whose fathers are Haitian, were deprived of nationality and remained stateless for more than four years and four months) . . . (The Yean n.p)

The right not to be stateless, or the right to a nationality, has been long recognized as a fundamental human right. Several international human rights treaties including the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights of the Child (CRC), the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) as well as the Universal Declaration of Human Rights contain provisions aimed at preventing or reducing the condition of statelessness. Two additional conventions would be created in the second half of the twentieth century specifically to address the predicament of stateless persons: the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. According to David Weissbrodt and Clay Collins, “statelessness, or the conditions of having no legal or effective citizenship, is a large critical problem” (2006: 245-6) given the rising number of stateless persons on a global scale.<sup>14</sup> As defined by the 1954 Convention, a stateless person is “a person who is not considered as national by any state under the operation of its law” (Article 1).

In response to the criticism advanced by various NGOs and human rights organizations, Dominican officials have denied that the children of Haitian descent born in the Dominican

Republic are stateless. As children of Haitian descent, they argue, they are entitled to Haitian citizenship. Yet many of these children no longer have any ties to the country of their parents' birth. Their parents perceive them as Dominicans and are skeptical about approaching Haitian authorities for the purpose of birth registration for fear that their request will be denied. According to the 2009 COHA analysis, "stipulations within the Haitian Constitution prevent some of these individuals from attaining this supposed citizenship" (Porter 2009).<sup>15</sup>

The UN High Commissioner for Refugees (UNHCR) classifies two types of statelessness: *de jure* and *de facto*, which are often not mutually exclusive. *De Jure* statelessness refers to the legal description as outlined in the 1954 Convention. Yet, there are situations in which individuals often become *de facto* stateless in that even though they have a nationality they cannot prove or verify it. As pointed out by Weissbrodt and Collins, "persons who are *de facto* stateless might have legal claim to the benefits of a nationality, but are not, for a variety of reasons, able to enjoy these benefits. They are effectively, without a nationality" (252). Haitian children born in the Dominican Republic would appear to exemplify the *de facto* stateless definition. Yet the Dominican government's refusal to recognize their citizenship or more significantly, to strip their nationality away from them, as the September 2013 High Court Ruling clearly mandates, also creates a legal pretense for statelessness. Without birth certificates, they remain invisible. Their invisibility locks them in a life of immobility in the *bateyes*, victims of a system of exploitation and neglect. As such they are stateless *de iure* and *de facto*.

### **Do The Children of the Bateys Have a Right to Have Rights?**

To gain entrance into the *bateyes* schools parents need to purchase uniforms. But, as portrayed in *The Sugar Babies*, most families in *the bateyes*, living off credit at the company store, can barely afford to purchase food. This situation is clearly articulated in the film by Danticat during one of her narrative interventions. In the severely limited *bateyes* schools, education, she states, does not go beyond the fourth grade. And because of the "judicial limbo" created by the lack of birth certificates, secondary education remains an unrealizable dream (Serrano 2007). "Father, I am worried about the children. They are not in school," one of the *bateyes* residents declares to Father Hartley. A quote citing Article 7 of the Convention on the Rights of the Child appears at this point on the screen: "The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and as far as possible, the right to know and be cared for by his or her parents."<sup>16</sup>

The right of the child to an education and states' obligations to ensure that primary education is made compulsory and available free to all is the subject of Article 28 of the 1989 Convention. Interviewed by Serrano's crew, Carole Pier, a senior labor rights and trade researcher for Human Rights Watch, specifically refers to Article 32: "States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development" (CRC).

From the testimonies presented in the film, we learn that children in the *bateyes* are forced to work in the cane fields from 6:00 a.m to noon and that they work as early as the age of seven. Prompted by Father Hartley's questions, the children poignantly admit to a life of labor exploitation. The children's responses to Father Hartley tell a story of their own. Upon first analysis, they reveal the level of trust that this community has placed in the figure of the Diocesan priest to the point that even the shyest young man, whose face continues to avoid the camera, admits that he actually did cut cane when he was a little boy; or the young girl who, asked by Father Hartley whether cutting sugar cane is actually a job that girls do, reluctantly confesses that she used to work in the sugar cane fields with her father when she was a child. None of the children interviewed admit that they liked the work of cutting sugar cane. They only did it because they were forced by hunger, because "there was no food" (Serrano 2007).

On a more technical level, the children's testimonies in the film serve a performative role bringing the emotional intensities of experience to the fore rather than having us understand this same experience on a conceptual level. As Nichols states, "performative documentary restores a sense of magnitude to the local, specific, and embodied. It animates the personal so that it may become our port of entry into the political" (209). His comments echo Michel De Certeau's notion of stories as a "foundation," a space for actions to follow. In *The Practice of Everyday Life*, he writes: "stories 'go in a procession' ahead of social practices in order to open a field for them. Decisions and juridical combinations themselves come only afterwards, like the statements and acts of Roman law" (1984: 124). Captured by Serrano's camera, the children's stories and life experiences intend to open the field, its laws and norms, inside a country that ignores them. It is out of this "oral narrativity" (De Certeau 126), Serrano hopes, that laws can be implemented by those with the power to articulate and manipulate these "theaters of action" (De Certeau 126).

## **The Challenge of Human Rights**

The Dominican Republic ratified the CRC on July 11, 1991 but the situation denounced by *The Sugar Babies*, in regard to the children's citizenship, and to their economic exploitation, raises the question of the enforceability of human rights on the states signatories to international treaties and regional agreements. As early as 1966, Hannah Arendt, in *The Origins of Totalitarianism*, recognized the quintessential human rights challenge of our times. Writing specifically about the atmosphere of disintegration that characterized Europe in between the two world wars, she stated: "It turned out that the moment human beings lacked their own governments and had to fall back upon their minimum rights, no authority was left to protect them and no institution was willing to guarantee them" (291-2). The Rights of Man, supposedly declared "inalienable" because independent of all governments, "proved to be unenforceable" for individuals who lack the protection of their governments (293), Arendt pessimistically concluded referring to the loss of national rights of minorities and refugees. The moment the modern state begins to practice massive denaturalizations against unwanted minorities by upholding the principle of national sovereignty confirms, for Arendt, the fact that "the nation has conquered the state, national interests had priority over the law. . ." (275).

In light of Arendt's analysis, the stateless children of the Dominican *bateyes* become indeed "Arendt's children," to use Jacqueline Bhabha's provocative description of large number of migrant children today, in the sense that their right to have rights is severely impaired by the disparity in the human rights field between "normative framework" and "concrete enforcement" (2009: 422). At a time when diasporic identities and celebrations of global citizenship have become recurrent tropes of the world's increasing connectedness, and notwithstanding a forceful critique of the inability of the so-called Westphalian logic to sustain a form of global governance that reflects the growing complexity of the present world order (Falk: 2004; 2008), the power of states in regulating the life of their subjects remains a major obstacle to the realization of the right to rights.<sup>17</sup>

In the field of international law and international relations, scholars have argued that states' reluctance to sign on to human rights instruments is often the result of preoccupation over areas of national sovereignty. As explained by Oona Hathaway, existing literature on treaty compliance and effectiveness reveals a wide range of theories that in most cases, however, are not validated by states' human rights practices.<sup>18</sup> According to a neo-realist view, a position that has become influential among international law scholars in the last two decades, compliance occurs because states are motivated mainly by self-interest (Hathaway 2002: 1938). Yet Hathaway maintains that such a theory is not entirely consistent with observed reality, since even the most powerful nations are not

necessarily champions for human rights (1946-47).<sup>19</sup> Against those international law scholars who remain fairly optimistic about states' compliance with their international law obligations, a more skeptical view has increasingly considered states' uttermost disregard for international law. Hathaway quotes Thucydides, who once said that, "the strong do what they can and the weak suffer what they must" (1937-38), words that, according to international law scholars, proved to be prophetic upon considering states' systematic violations of human rights in our times. More significant, however, is the disinclination on the part of international law scholars to tackle the effectiveness of international law when it comes to human rights. A significant disparity exists, Hathaway convincingly argues, between the public international law of money in which "competitive market forces," driven by international business and trade agreements, forcefully press states for compliance, and the field of human rights law. As a result of the "low to nonexistent costs" of retaliatory noncompliance when it comes to human rights, states, Hathaway maintains, "have little incentive to police noncompliance with treaties or norms" (1938).

As of today, the Dominican Republic has not signed the 1954 Convention on Statelessness; neither has it signed the 1961 Convention on the Reduction of the Condition of Statelessness. Nor has it fully implemented The Inter-American Court ruling in the Yean and Bosico case. More important, the 2010 changes to the Dominican Constitution, whose principle of *ius sanguinis* clearly introduced a governmental mechanism for creating a condition of statelessness, demonstrate the country's defiant response to the human rights protection system erected by the international community.<sup>20</sup> In light of this rather dismal scenario, we might ask, as Hathaway provocatively does in her essay, whether human rights treaties do indeed make a difference.

Hathaway concludes her investigation on a hopeful note by arguing that the current treaty system, despite a high rate of non-compliance, may actually provide opportunities for countries to convey real changes in practices (2022). Crucial in this process is the role of monitoring systems aimed at evaluating countries' compliance with their human rights obligations. "The solution," she says, "is not the abandonment of human rights treaties, but a renewed effort to enhance the monitoring and enforcement of treaty obligations to reduce opportunities for countries to use ratification as a symbolic substitute for real improvements in their citizens' lives" (2025). Such is also the view shared by other international law practitioners in recent decades, for whom the creation of international law itself has as its main objective the realization of human rights and a commitment to cosmopolitan values of peace and justice. Discussing specifically the condition of statelessness, Weissbrodt and Collins maintain that "treaty monitoring bodies' responses to violations of the right

of nationality . . . are admirable steps in the right direction” (2006: 274) and that NGOs have a role to play by continuing to provide reports, in both oral and written forms, on the state parties’ compliance. Yet NGOs alone cannot fight states’ refusal to cooperate with their efforts. A significant revision of the current treaty system in exposing and publicizing noncompliance has been suggested as the most effective way to push states to live up to their treaty commitments. Equally strategic can be the position taken by regional organizations such as the European Union or the Organization of American States.<sup>21</sup>

### **The Artist as a Societal Subversive Cultural Creator**

Referring specifically to the sugar industry as a system that continues to profit from children labor, Danticat in *The Sugar Babies* raises the question of whether corporations can be held accountable for the conditions of modern-day slavery in the *bateyes* of the Dominican Republic. The film strongly suggests that they can and they should.<sup>22</sup> But would this question also apply with regard to the stateless condition of the children of Haitian descent? Should states be held accountable for denying children the right to a nationality, home, and belonging, and ultimately the right to a dignified existence? In his testimony at the *Yean and Bosico* case, anthropologist Samuel Martínez makes a compelling argument for the link between citizenship and belonging:

Cultural citizenship is a broad expression created by legal scholars and social scientists in order to describe those undeclared assumptions about individuals who, in terms of race, ethnic affiliation and class, belong wholly to the nation, which defines their fundamental identity. Exclusion from cultural citizenship can have negative social, economic and psychological consequences for those who are internally colonized or the underprivileged ethnic-racial minorities who are relegated to an enduring situation as second-class citizens or who are totally denied citizenship (n.p.)

In *The Sugar Babies*’ final scene, as the camera closes up on the children, viewers are left to imagine the psychological consequences that their legal status will have on their identity and dreams to become adults, adults who claim full membership to the community in which they were born and to which they rightly feel they belong. “Where people belong is central to governance as well as citizenship,” Ho and Louchy maintain, adding that policies based exclusively on nationality cannot encompass the complexity of identity and affiliation. Neither can they encompass those who contribute to the well-being of a society through forced labor (170). At a time in which theorists of globalization continue to uphold the principles of mobility and migrancy, in order to undermine ideas of cultural belonging as a necessary complement to political membership, the story of the sugar

babies in the Dominican Republic remind us that for the increasing numbers of individuals, individuals who are denied national citizenship, belonging remains a primary human need.

For all its power and artistic merit, a film such as *The Sugar Babies* cannot restore the rights of the stateless children of the Dominican bateys. “No film, no matter how expertly produced can make one whole again; once a life is broken through injustice and the denial of human rights, it is broken,” argue Ken Betsalel and Mark Gibney in a review essay of the 2008 New York Human Rights Watch Film Festival (552). The film *The Sugar Babies* is no exception. Despite Serrano’s artistry in telling the story of the children of the *bateyes* in the Dominican Republic, the film cannot heal these children of the injustices and denial of human rights caused by exclusionary policies enacted by the government of the country in which they reside. “What documentary art can do,” Betsalel and Gibney go on to explain, “is re-story justice in such a way that we are never allowed the privilege of forgetting” (552). What a film such as *The Sugar Babies* does is re-story justice in such a way that the invisible children of Haitian descent in the Dominican Republic become visible to the eyes of the international community. They become visible through the power of storytelling which creates a space for legal and political discourse to take place. “I hope that people will see their own child reflected in those children laughing in the film,” Serrano also said, “those who, at the end of the film, say they want to become a doctor or a lawyer, but unless conditions change, will face in a few years the harsh reality of the sugar cane field” (2008: 38).

At the end of *The Sugar Babies*, William P. Quigley, Public Interest Lawyer and Professor of Law at Loyola University, interviewed by Serrano’s crew, reminds us that individual actions such as the boycott of sugar made by slaves during the abolitionist campaign significantly helped the abolitionist movement. But it was in the courts that the battle for the abolition of slavery was ultimately fought. Similarly today we can decide to boycott the sugar produced by the Fanjul and Vicini groups, a grassroots campaign that could become part of a push for change at the legislative level. We could indeed demand to rethink the legislation that regulates the government subsidy to sugar production and build transnational alliances (as they are being currently formed) to challenge recent discriminatory court decisions such as Ruling 0168-13 targeting Dominicans of Haitian descent born to undocumented parents. It is not with gratuitous recitation of human rights treaty provisions that the question of the stateless children of the Dominican Republic will be resolved. As human rights advocate have justly observed, “bottom-up mobilization is essential for the success of top-down litigation because, without the former, the latter is trumped by nativist and xenophobic sentiments . . .” (Bhaba 2009: 451).

Serrano's documentary encourages such bottom-up mobilization calling, as it does, for a thoughtful reconsideration and discussion of the law, politics, history, and cultural contexts out of which the stateless condition of the children of Haitian descent in the Dominican Republic arises. But it goes beyond promoting mere intellectual discourse. A human rights document in its own right created through the power of visual media, it urges us to take any kind of action that might impact public policy and contribute to the cessation of abuse and exploitation of innocent children. "We need explanations to get things done," writes Nichols in *Introduction to Documentary* (252). "We need understanding, with its qualities of empathy and insight, to grasp the implications of what we do. . . . Understanding, like critical perspective, leavens explanations, policies, solutions. Social actors are not pawns but people" (252). *The Sugar Babies* represents "history from below" by forcing us to consider the question of citizenship from the point of view of subaltern groups excluded from the right to have rights, those who exist as non-citizens. In the Marcusean's sense of the term, it urges us to engage complex questions of justice while reflecting on the future of international law and its effectiveness in promoting an ethos of global democracy and human rights for all.

## Notes

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<sup>1</sup>After the screening at FIU, the Dominican General Consul rushed to the stage and denounced the film causing the intervention of police officers. It is also alleged that several journalists were bribed by the Dominican Consulate General to write negative reviews of the film (Serrano 2007). In 2008 the film was mysteriously withdrawn from the Miami International film Festival after it had been selected. And, in 2009, a member of the University of Miami's Board of Trustees, along with Dominican diplomats, attempted to cancel the film screening as part of the Latin American Film Series organized by the Center for Latin American Studies (Trustees Try to Cancel).

<sup>2</sup> An additional documentary, *The Price of Sugar* (2008), directed by Bill Haney, discusses the conditions facing Haitian sugar workers in the Dominican Republic through the story of Christopher Hartley, the Belgian priest inspired by Liberation Theology whose sense of commitment and mission for the poor are also captured in Serrano's film.

<sup>3</sup> According to the film website, it is estimated that "two out of every three spoonfuls of sugar consumed in the United States [is] produced by the Fanjul Group, which is the majority shareholder of Domino Sugar" (The Sugar Babies: Statistics). The Fanjul sugar operations in the U.S. are represented by Florida Crystals Corp. located in Palm Beach. Following numerous screenings of *The Sugar Babies* before members of Congress and representatives from the department of Labor and the Office for Human Trafficking, in 2009 the U.S. Department of Labor included sugarcane from the Dominican Republic on its "list of products believed to be made from forced child labor" (Trustees Try to Cancel).

<sup>4</sup> Prior to Serrano's film, the condition of anti-haitianismo in the Dominican Republic as it has exacerbated in the past decade was denounced in a 41-minute documentary, *Di Perejil/Say Parsley* (2006), directed by Irene Rial Bou. Focusing on the deportations and expulsions that took place on the border between Haiti and the DR in May 2005, the film chronicles the effort of three courageous women to bring together two languages, two societies and two cultures.

<sup>5</sup> Throughout this essay I use the term "undocumented workers" as opposed to the more common usage "illegal immigrants" to refer to Haitian migrant laborers in the Dominican Republic. Racist stereotypes against Haitians and an overall diminution of personhood behind the use of the term *illegal* are implicit in my choice. Starting from the premise that migration is a human right, I uphold Elie Wiesel's dictum that "no human being is illegal."

<sup>6</sup> Born (and raised) in a *bateye* to parents of Haitian descent, Pierre devoted her entire life to ending anti-Haitianismo in the Dominican Republic. In 1983 she founded MUDHA (Movement for Dominican Women of Haitian Descent), a non-governmental organization fighting for the civil, political, and human rights of Dominicans of Haitian descent. The recipient of the 2006 Robert F. Kennedy Human Rights Award, Ms. Pierre died of a fatal heart attack in December 2011.

<sup>7</sup> The 1929 cut off year refers to the time when Haitian and Dominican governments negotiated treaties defining the borders between the two countries. On November 29, 2013, the DR president Danilo Medina, via a presidential decree, announced a plan of regularization for foreigners. According to such decree, access to citizenship would be based on criteria such as "unquestionable" ties to the country, employment, and property ownership. Yet, as Haitian-born writer Edwidge Danticat rightly notes, all these criteria are "beyond the reach" of those who have no access to identity papers from birth and who eventually and inevitably will be deported (Edwidge Danticat).

<sup>8</sup> The DR Constitutional Ruling has stirred outcry among human rights organizations and the international community, which caused the DR to respond with the above-mentioned presidential decree. Amnesty International, the Organization of the American States and the governments of Trinidad & Tobago, Guyana, St. Vincent and the Grenadines openly condemned the violation of human rights it represents. Prominent writers and intellectuals, of both Dominican and Haitian descent, have also joined their voices in unanimous condemnation of the discriminatory court decision. See among others the blog entry by Myriam Chancy, the *New York Times* letter to the editor by Edwidge Danticat, Julia Alvarez, and Junot Díaz ("Two Versions of a Dominican Tale"), and the article by Silvio-Torres-Saillant published in the National Institute for Latino Policy.

<sup>9</sup> With a similar activist goal, Serrano also founded *Amy Serrano & Associates* described in its website as "a global society of creative media and communications professionals that offer commissioned projects and in-house initiatives."

<sup>10</sup> The *Crick? Crack* formula (Kwik? Kwak in the French Antillean orthography), within a Caribbean cultural context, signals the opening of a storytelling session. Prompted by the storyteller's pronouncement of the word "Crick," the audience responds, "Crack," suggesting a willingness to listen and reinforcing thus the communal nature of the storytelling performance.

<sup>11</sup> A stalk of sugar cane juxtaposed with faces of children in the background of a black photo montage is also the cover of the film's DVD.

<sup>12</sup> The case originated in 1997 when the mothers of the two girls along with representatives from the Movement for Dominican Women of Haitian Descent (MUDHA), the organization founded by Sonia Pierre, requested birth certificates for their daughters from the Civil Registry. At the time the girls were 10 months and 12 years old. Despite

documentation that showed that Dilcia's and Violetta's mothers were Dominican and that they were born in the Dominican Republic, the Dominican Civil Registry refused to issue the birth certificates to the two girls. Because of this decision, Violetta was expelled from school. In October 1998, MUDHA, the Center for Justice and International Law (CEJIL) and the International Human Rights Law Clinic at the UC Berkeley petitioned the Inter American Commission on Human Rights and alleged the Dominican government with violations of the American Conventions of Human Rights (Baluarte 2006: 26).

<sup>13</sup> As reported in a 2009 investigation by the Council on Hemispheric Affairs (COHA), "the Dominican Republic remains the only country in Latin America with a large African-Latino population that has no laws that effectively challenge racial conflict between them and its scornful majority *mestizo* population" (Porter).

<sup>14</sup> The UN High Commissioner for Refugees (UNHCR) estimates that the total number of stateless people in 2011 amounted to 12 million. Interestingly enough, the Dominican Republic is cited as one of the countries for which "reliable statistics" are not available (The UN Refugee Agency).

<sup>15</sup> The Open Society Institute, a foundation that works for social change, notes that under the Haitian Constitution access to nationality for many Dominicans of Haitian descent is contingent upon a five-year residency in Haiti followed by a naturalization process. In cases in which Dominicans of Haitian descent have approached the Haitian consulate requesting Haitian nationality, they have been told that they are Dominicans (Hanes 2010).

<sup>16</sup> Convention on the Rights of the Child, adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989 (entered into force 2 September 1990), hereafter CRC.

<sup>17</sup> While admitting that referring to the current world order as "post-Westphalian" reveals a certain ambivalence, Falk nonetheless concurs that the growing system of international cooperation is building the foundation for "desirable and attainable forms of post-Westphalian world order that could respond to this formidable challenge of global governance" (2008:31).

<sup>18</sup> Hathaway's study, whose ultimate goal is to test dominant views of international law when it comes to states' compliance with human rights treaties, presents a quantitative analysis of a database comprising the experience of 166 countries over a nearly forty- period in five areas of human rights law: genocide, torture, fair and public trials and political representation of women (1939).

<sup>19</sup> A case in point is represented by the United States, "indisputably the strongest world power since World War II," Hathaway states, but with a very low record of ratification (1947).

<sup>20</sup> It will be interesting to see whether such defiant response will continue in light of the September 2013 High Court Ruling. CARICOM, the Caribbean Community and Common Market that the DR has tried to join since 2005, last month suspended its membership. A proposal has also been advanced by the Prime Minister of St Vincent and the Grenadines for the DR to be ejected from CARIFORUM, which represents the region's liaison with the EU, and from Petrocaribe, Venezuela's subsidized-oil program ("Haiti and the Dominican Republic").

<sup>21</sup> Weissbrodt and Collins offer the examples of the regional pressures placed by the European Union on countries such as Latvia and Estonia to reduce the amount of their stateless population in order to gain entrance into the Union (275).

<sup>22</sup> A brief update on the Fanjul's and Vicini's operations at the end of the film informs the audience that Noemi Mendez, Lawyer and Human Rights Activist for C.E.D.A.I.L. (Centro Dominicano de Asesoría e Investigaciones Legales based in Santo Domingo), and one of the film's interviewee, won a landmark case in the Supreme Court of Justice against the Vicini owned Ingenio Central Colon for wages due to a Haitian worker. She also filed a class-action lawsuit on behalf of the workers. In Palm Beach, Florida, Greg Schell, Public Interest Lawyer for Migrant Farmworkers' Project, and also one of the film's interviewees, refiled a case against Fanjun-held Flo-Sun contesting underpaid work over the course of six sugar harvests (1987-88 through 1992-93) (Serrano 2007).

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