

PREFACE

This report was written by Patrick Gavigan, a consultant to the National Coalition for Haitian Rights (NCHR) and edited by Jocelyn McCalla, Executive Director of NCHR and Sandrine Desamours, NCHR Refugee Program. It is based upon a fact-finding mission to the Dominican Republic from October 17 to 31, 1995 by Gavigan and Desamours, and testimony gathered by Anne Fuller, then-Associate Director of NCHR, in Haiti in August 1995. It is the fifth report on the Dominican Republic published by NCHR since 1989 (three of the prior reports were published with Americas Watch and Caribbean Rights and the fourth with Americas Watch).

During the October visit, NCHR representatives met with the General-Director of Migration, Vitelio Mejia Ortiz, Rómulo de los Santos, Haitian Affairs, Department of Migration, Major General Aquiles Hernández Oleaga, Jefe de Estado Mayor of the Army, Ramón B. Martínez Portorreal, Director of Prisons, J. M. Castro-Magluff, Head of Mission, United Nations High Commissioner for Refugees, Haitian Ambassador to the Dominican Republic, Guy Alexandre, Haitian Ministre Conseiller Melius Hyppolite, Haitian Consul-designate Edwin Paraison and Pedro A. Pimentel Hued, International Organization for Migration, as well as members of Dominican and Dominican-Haitian labor unions, human rights organizations, churches and social service agencies. We would like to extend a special thanks to Sonia Pierre of the Movimiento de Mujeres Dominico-Haitianas and Joseph Cherubin of the Movimiento Socio-Cultural de los Trabajadores Haitianos for their organizational assistance.

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The National Coalition for Haitian Rights (formerly the National Coalition for Haitian Refugees) is a not-for-profit organization that seeks to promote and protect the rights of Haitian refugees and Haitian-Americans under U.S. and international law, advance respect for human rights, the rule of law and support for civil society in Haiti.

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Introduction

The September 1991 coup d'état against President Jean-Bertrand Aristide drove more than 100,000 Haitians into exile. The refugee diaspora reached across the Caribbean -- from the neighboring Dominican Republic to The Bahamas, French Guyana, Curaçao, Turks and Caicos, Jamaica, Honduras and, most prominently, the United States camps at Guantánamo Bay, Cuba.

Aristide's return in November 1994 and the subsequent re-establishment of democratic institutions in Haiti prompted a number of Caribbean states to initiate programs for the repatriation of the Haitian populations within their borders. The United States returned 20,000 from Guantánamo between September 1994 and January 1995; The Bahamas began repatriating up to 800 Haitians per month in July 1995; smaller numbers have been deported from other island states. Repatriated Haitians have returned to find a government unable to provide the resources or administrative structure for resettlement and an economy which has yet to revive enough to offer employment opportunities. A massive refugee repatriation in the near future would place great stress on Haiti's still-fragile democratic institutions.

Hoping to avoid that outcome, the National Coalition for Haitian Rights (NCHR) initiated a project aimed at bringing about a region-wide dialogue on Caribbean refugee and immigration issues. Its goal is the development of policies supporting a comprehensive regional response to migration issues, including, most immediately, the regularization of the status or repatriation of Haitian migrant populations in accord with international legal norms. The first phase of this project is an investigation of the status of the Haitian immigrant communities in the Caribbean. NCHR began with an analysis of the Dominican Republic, Haiti's only contiguous neighbor, which contains a large and extremely vulnerable Haitian population.

The Dominican Republic has been a major factor in Haitian political and economic life since the colonial era. A series of conflicts, originating in the independence wars of the nineteenth century and culminating in the massacre of thousands of Haitians in the Dominican Republic in the twentieth, generated tensions which still characterize relations between the two states. Since the 1980's, these tensions have principally focused on the use of Haitian labor in the Dominican sugar cane industry. The seasonal migration of low-wage Haitian cane cutters, which began in the early 1900s, gradually left a large permanent population of Haitians and Dominicans of Haitian origin in Dominican agricultural zones and major cities. That population has grown to an estimated 500,000 residents today.¹

The use of forced Haitian labor on state-owned sugar cane plantations was the focus of four reports issued by NCHR (three in conjunction with Human Rights Watch/Americas and Caribbean Rights; one with Human Rights Watch/Americas) between 1989 and 1992.² Those investigations

¹ The Dominican Republic is estimated to have at 7.2 million residents. Thus, Haitians and Dominican-Haitians comprise at least 7% of the population.

² Americas Watch, National Coalition for Haitian Refugees and Caribbean Rights, *Haitian Sugar-Cane Cutters in the Dominican Republic* (1989); Americas Watch, National Coalition for Haitian Refugees and Caribbean Rights, *Harvesting Oppression: Forced Labor in the Dominican Sugar Industry* (1990); Human Rights Watch/Americas, National Coalition for

described how Haitians were deceptively recruited in Haiti, turned over to the Dominican military at the border and transported to sugar plantations throughout the Dominican Republic, where they were forced to work and live under appalling conditions for the duration of the cane harvest. The 1989 and 1990 reports generated a storm of international publicity and denunciations which led to the promise of reforms. Although a 1990 decree ordered changes, they were never fully implemented.

Three months prior to the 1991 military coup which drove Aristide from Port-au-Prince, President Joaquín Balaguer responded to the international criticism of Dominican treatment of Haitians in the sugar industry by ordering a massive deportation of Haitian cane cutters. In the ensuing chaos, an estimated 50,000 men, women and children flooded across the border. The deportations ended with the coup but, as our 1992 report noted, the use of coercion in the sugar industry continued and working and living conditions in the cane fields remained abysmal. Focused on events in Haiti, we did not revisit the Dominican Republic in 1993 or 1994. Concerns about Dominican migration policy resurfaced in the summer of 1995 when NCHR received several reports indicating that the level of forced repatriations of Haitians had significantly increased.

In response to this situation, NCHR sent a mission to the Dominican Republic in October 1995 to gather information on the status of Haitian residents and Dominican citizens of Haitian descent. The mandate of the mission extended beyond the bateyes to the Haitian populations working in other agricultural areas, construction and tourism, and living in the towns and cities.

The mission concluded that Haitians are vulnerable to exploitation in and arbitrary deportation from the Dominican Republic because the Dominican government refuses to undertake any serious program to normalize their immigration status. Although the 1990 decree required the issuance of individual contracts to and the normalization of the immigration status of every cane cutter, these provisions have rarely been enforced. Temporary work visas and labor contracts in the cane industry still remain the exception and the terms and conditions of the contracts are rarely honored when available. Few long-time residents of the bateyes, the shantytown camps where the cane cutters live, have residency permits or have received labor contracts and, without Haitian or Dominican papers, have no way to apply for permanent residency status.

These labor and visa conditions also affect the larger number of Haitians who work outside the cane fields in the coffee, rice, tobacco, construction and tourism industries. Finally, the children of first-, second- or third-generation Haitians born in the Dominican Republic often face serious obstacles in applying for the Dominican citizenship to which they are legally entitled under the Dominican constitution. The result is a population many of whose members are effectively stateless, subject to the jurisdiction of the Dominican security forces and available for use as pawns in Dominican elections and Dominican-Haitian foreign relations. Today, most Haitians in the Dominican Republic (and Dominican citizens of Haitian descent) are in danger of deportation at any time.

The mission found no evidence of an official government policy to resume systematic deportations of Haitian residents. Although President Balaguer's 1991 expulsion decree remains in force, the rash of repatriations reflected a return to a pre-coup pattern of expulsions related to the economic and political exploitation of undocumented Haitian workers which had long been the

Haitian Refugees and Caribbean Rights, *Half Measures: Reform, Forced Labor and the Dominican Sugar Industry* (1991); Americas Watch and National Coalition for Haitian Refugees, *A Troubled Year: Haitians in the Dominican Republic* (1992).

norm in the Dominican Republic. This exploitation takes place in an atmosphere of often-intense anti-Haitian rhetoric abetted by major political figures, the military and the police. Historically, its animus has been most evident in the treatment of sugar cane cutters; today, it extends to Haitians (and Dominican-Haitians) working in all areas of Dominican economic life.

Since NCHR's first report on the Dominican Republic in 1989, international criticism of the abuses suffered by Haitian cane cutters has produced one massive deportation and some marginal improvements, but no substantive changes. Conditions in the state sugar cane industry are still abysmal. Working conditions remain coercive -- workers are virtually trapped in the cane fields, working long, grueling days for very low pay and usually-unavailable social and health services. The bateyes have changed very little -- most have no potable water, electricity or sanitation facilities. Improvements have generally been the result of efforts by labor unions and local and international foundations and non-governmental organizations in spite of the fact that the Dominican government has a clear responsibility to provide humane working and living conditions on the plantations which it owns. In testimony before and submissions to the United States Congress and executive agencies, the International Labor Organization (ILO) and Organization of American States (OAS) and United Nations human rights bodies, the Dominican government points to decrees issued, laws passed, inspectors hired and working permits allocated to Haitian residents as evidence of a progress which, in fact, exists only on paper. This, our fifth report in seven years on the Dominican Republic, echoes the long list of human rights violations and the short list of changes enumerated in the previous four.

The objective of this investigation is to move beyond another presentation of the serious human rights problems faced by Haitians in the Dominican Republic. NCHR hopes that these findings and recommendations will serve as a background for discussions among Dominicans, Haitians, other Caribbean states with Haitian populations, and regional and international governmental and non-governmental organizations aimed at developing bilateral and multilateral approaches to address the migration issues which shape the treatment of Haitians inside the Dominican Republic.

NCHR's recommendations begin with an assertive role for Haitian diplomacy in negotiating migrant labor and immigration accords with its neighbor. We also suggest, however, a role for the United States, the European Community, the OAS, United Nations organs, particularly the United Nations High Commissioner for Refugees (UNHCR), and the International Organization for Migration (IOM) in the development and implementation of Haitian-Dominican and regional accords addressing Caribbean migration issues. And, for the fifth time in seven years, we ask the United States, CARICOM and the European Community to use economic and foreign aid leverage to pressure the Dominican Republic to honor both the international human rights instruments it has agreed to abide by and its own constitution and laws in its treatment of its Haitian residents and Dominican citizens of Haitian descent.

This report is organized into five sections. Part I provides an historical context for the anti-Haitianism which infuses Dominican treatment of its Haitian residents and Dominican citizens of Haitian descent and cautions against the possibility of either easy or rapid solutions. Part II examines the composition of the Haitian population in the Dominican Republic, noting that Haitians actually comprise a number of sub-groups, each of which may have a distinct immigration status and set of legal claims against the Dominican state. The third section looks at recently proposed changes to Dominican nationality and immigration laws aimed at the Haitian population.

Part IV summarizes the findings of our visits to several bateyes and investigations of labor conditions in the non-cane agricultural and construction industries where most Haitian immigrants now work. Finally, we set forth our broad conclusions and a set of specific recommendations in Part V.

Historical Background

Relations between Haiti and the Dominican Republic have long been characterized by racial and political tensions which have given rise to a deep anti-Haitianism inside the Dominican Republic. This anti-Haitianism has both historical and political roots, and provides the context for the widespread abuse and profound insecurity endured by the Haitian and Dominican-Haitian populations inside the Dominican Republic today.

A. Historical Animosity -- The Wars of Independence

The historical conflicts between the two states reach back to the colonial era. The island shared by Haiti and the Dominican Republic was visited by Christopher Columbus in 1492, on his first voyage to the Americas. Called Quisqueya by its original inhabitants, it was claimed by Columbus for Spain and renamed Hispanola. The discovery of gold brought early settlers, but Spanish attention quickly turned away from Santo Domingo toward richer colonies in Mexico and Peru. French pirates, traders and farmers took advantage of Spain's disinterest to settle in the west. France eventually fought for the settlement, gaining formal possession in 1697. The area known as Haiti became France's richest Caribbean colony, its sugar export economy driven by slave labor imported from Africa. The Haitian slave population grew to vastly outnumber the French and followed the French Revolution with its own protracted revolt, launched in 1791. The Haitian armies eventually defeated the French and founded the first independent Latin American state, the Republic of Haiti, in 1804.

The Haitian slave rebellion had spread to the area of the Dominican Republic (recently ceded to France by Spain) in 1801 when rebel leader Toussaint L'Ouverture led an army into Santo Domingo, briefly uniting the island under Haitian rule. Driven back by the French shortly thereafter, the Haitians returned and recaptured Santo Domingo in 1805. The Spaniards then retook their former colony and held it until 1822, when a Haitian army under Jean-Pierre Boyer invaded for the third time, defeated the Spaniards and governed the area for 22 years. A guerrilla war forced the Haitians to withdraw and permitted the Dominicans to establish a separate republic in 1844. A Haitian effort to regain control in 1849 failed, but contributed to the climate of instability which led the Dominicans to invite the Spanish back to govern in 1861. However, the resulting repressive rule led the Dominicans -- this time with the help of Haiti -- to unseat the Spaniards for the last time in 1865.

Thus, although Haiti had "liberated" Santo Domingo from Spain, the Dominican Republic was to define its own independence struggle in terms of freedom from Haitian domination. Dominican history portrays the Haitian 22-year occupation as harsh and oppressive. Haitian efforts to re-occupy the Dominican part of the island in the 1840s and 1850s fostered a deep mistrust about Haitian intentions throughout the nineteenth century. Prompted by Haitian assistance in the

last Dominican effort against Spain, economic and political relations gradually improved toward the end of the century. The antagonisms of the occupation faded as the perceived military threat from Haiti declined, Haiti agreed to remove any constitutional claim to the entire island and the two states agreed to delimit their common border.

B. Political Anti-Haitianism -- The Trujillo Era

However, the historical antagonism which had waned by the dawn of the new century was soon replaced by an anti-Haitianism fabricated for political purposes by General Rafael Trujillo, the Dominican dictator who assumed power in 1930 and ruled the Dominican Republic with an iron hand until his assassination in 1961. The large Haitian population in the border area, brought into the country to work on the Dominican sugar plantations during the American occupations of Haiti (1914-34) and the Dominican Republic (1915-25), was both the instrument and victim of Trujillo's politics.

1. Sugar and Haitian Labor

Sugar cane became an important agricultural commodity in the Dominican Republic in the 1870s when refugees fleeing the Ten Year War in Cuba arrived and established sugar mills.³ The First World War destroyed the beet-sugar industry in Europe, sugar prices doubled and investors searched for new supplies. Prompted by the huge sugar corporations at home, the United States initiated a dramatic expansion of sugar cane production in the Dominican Republic between 1914 and 1925. The United States met the higher demand for cheap labor to cut the cane by importing workers from Haiti rather than using the traditional *cocolos* -- English-speaking migrant workers from the Virgin Islands, Jamaica and the Turks and Caicos. The use of Haitian laborers was not only easier -- they were close at hand and already under United States control -- but also gave the Americans a way to diffuse some of the tensions in the Haitian countryside which fed the *campesino* guerrilla efforts against the North American occupation.⁴ The number of Haitians entering the Dominican Republic each year gradually increased, reaching a census-reported 50,000 in 1935.⁵

Trujillo maintained cordial relations with Haiti during the first seven years of his dictatorship in an effort to persuade Haitian governments to deny asylum to Trujillo opponents and to silence any anti-Trujillo newspaper or radio pieces which might have stirred up trouble within the Dominican Republic. A review of Dominican newspapers, magazines and published books from 1930-1937 reportedly did not reveal a single anti-Haitian political or racist article, and government propaganda was consistently pro-Haitian.⁶

³ For a description of the early history of the sugar industry, see Roger Plant, *Sugar and Modern Slavery: A Tale of Two Countries* (London: Zed Books, 1987); Suzy Castor, *La Ocupación Norteamericana de Haití y sus Consecuencias* (Mexico: Siglo XXI, 1971).

⁴ Ramón Antonio Veras, "Contratos y Reclutamientos de Braceros: Entradas Clandestinas o Repatriación" in Wilfredo Lozano, ed., *La Cuestión Haitiana en Santo Domingo* (Santo Domingo: FLASCO: Centro Norte-Sur de la Universidad de Miami, 1993), p. 111.

⁵ James Ferguson, *Dominican Republic: Beyond the Lighthouse* (London: Latin American Bureau, Ltd., 1992), p. 82. The census probably substantially underestimated the size of the Haitian population.

⁶ Bernardo Vega, "Variaciones en el Uso del Antihaitianismo Durante la Era de Trujillo," *Listín Diario*, October 24, 1995, p. 6.

However, Trujillo also wished to remove the Haitians living within the Dominican Republic's recently demarked borders and to "Dominicanize" the sugar cane industry, but had been unable to do so because the United States -- in Haiti until 1935 -- would oppose the loss of cheap labor for the American sugar plantations.⁷ He finally carried out that policy in a horribly brutal fashion after the American exodus, ordering the massacre of all Haitians found outside the sugar plantations in October 1937. The number of Haitians killed has always been in dispute, but estimates range from 5,000⁸ to 37,000.⁹ After the massacre, the Haitian government successfully provoked international condemnation of the killings and Trujillo eventually agreed to an indemnity of \$750,000 for the Haitian government, but ended up paying only \$25,000 to government officials in Port-au-Prince.

2. Trujillo's Anti-Haitian Campaigns

Trujillo's attitude toward the Haitian government changed dramatically after the massacre. Angered by the Haitian denunciations of the killings and the unfavorable international publicity, he launched a vicious racist propaganda campaign against both Haitian political leaders and the Haitian people in order to justify his actions to the Dominican public. Joaquín Balaguer, then an ideologue for the Trujillo regime and currently the Dominican president, published a book in 1945 in which he reflected upon the "Haitian problem" as it had been viewed before the massacre. Balaguer wrote that

by 1935 there were 400,000 Haitians in our country, resulting in the corrosion of national solidarity; voodoo, a kind of African animism of the lowest origins, became the preferred cult among Dominicans of the border area. The gourde [Haitian currency] replaced the peso. Peasants were learning from the Haitians anti-Christian customs, such as incestuous unions. We were about to be absorbed by Haiti.¹⁰

Trujillo continued to use anti-Haitian propaganda against Haitian democratic leaders he disliked; the Dominican dictator would "turn on" and "turn off" racist attacks "depending upon the state of the personal relations between Trujillo and the Haitian president of the moment."¹¹ The pattern shifted with the arrival of military governments in Haiti in 1946, with whom Trujillo generally got along well.

Trujillo's desire for cordial relations with Haiti increased in the 1950's when he personally took over most of the Dominican sugar industry. His need for a steady flow of cheap labor from Haiti required the maintenance of tolerable relations with Port-au-Prince. He succeeded in signing the first bilateral contract with the Haitian government for cane workers in 1952, when 16,500 laborers were brought into the Dominican Republic, and he renewed the contract with Francois Duvalier in 1959. Thus, in one of history's bloodier ironies, the slaughterer of Haitians in 1937 became the largest employer of Haitian workers on the island in the 1950's.

⁷ Ibid.

⁸ Ibid.

⁹ See, e.g., Plant, Sugar and Modern Slavery, p. 1; Ferguson, *Beyond the Lighthouse*, p. 83.

¹⁰ Thomas Fiehrer, "Political Violence in the Periphery: The Haitian Massacre of 1937," 32 *Race and Class* (London, 1990) No. 2, quoted in Ferguson, *Beyond the Lighthouse*, p. 83. Balaguer's tract also swept to the other extreme, conceding the need for a change in the treatment of Haitian cane cutters, arguing that "[t]he iniquitous exploitation to which Haitian *braceros* [cane cutters] are subjected today, victims of an illicit commerce in which the governments of both parts of the island participate with an equal degree of corruption should be substituted, within a regime of national and international collaboration...by another more humane one, alien to this new form of denigrating slavery which is practiced at the present time in the Dominican sugar *ingenios* [mills]."

¹¹ Vega, "Anti-Haitianism During the Trujillo Era," p. 6.

C. Trujillo's Legacy

Trujillo was assassinated in 1961, but the legacy of his "frontier policy" still deeply colors Dominican life. As Frank Moya Pons notes, from 1941 through 1961 "Dominicans received a daily bombardment of this nationalist ideology in school, in newspapers, on the radio, in political speeches, in cultural events, and on television, and ended up assimilating the notion that Trujillo had been, in effect, the savior of Dominican nationality by freeing the country from a new Haitian domination."¹² The patterns launched by Trujillo still mark Dominican-Haitian relations, erupt in Dominican presidential politics and affect Dominican attitudes toward and treatment of Haitians living and working inside the Dominican Republic.

1. Dominican-Haitian Relations

Trujillo's attempts to influence -- and undermine -- Haitian governments by supporting the opponents of those he disliked were reciprocated by Haitian leaders. Francois Duvalier, for instance, invited Trujillo's family to live in Port-au-Prince after the dictator's death -- sending a rather unsubtle message to the new democratic Dominican government -- and then blew up the highway bridges from Malpasse to Port-au-Prince in 1963 to thwart a feared Dominican invasion. For most of the last quarter-century, however, relations between Balaguer (as well as the Partido Revolucionario Democrático) and the Duvaliers and succeeding military dictatorships had been cordial, permitting the annual contracting of cane cutters for the Dominican harvest.

On the other hand, Balaguer's relations with the democratically-elected Jean-Bertrand Aristide -- who severely criticized the Dominican Republic for its treatment of Haitian workers -- were never warm. Balaguer's government never denounced the 1991 military coup against Aristide, routinely violated the economic embargo imposed by the United Nations,¹³ shut down a pro-Aristide radio station broadcasting news into Haiti and provided a safe haven for former Haitian dictators and members of the Tonton Macoutes, who moved freely in and out of the Dominican Republic during Cedras' rule and received asylum after Aristide returned. While the Aristide government-in-exile maintained an embassy in Santo Domingo, the Cedras junta also had diplomatic representatives in the capital who enjoyed the official trappings of diplomatic service. Even today, Macoutes who represented the military government during Aristide's exile drive jeeps bearing official Haitian diplomatic plates in spite of the Haitian ambassador's efforts to have them returned to the Haitian embassy.

The effort to reclaim license plates is not the only source of friction between the Haitian embassy and the Dominican government. The Haitian ambassador has spoken out against the mistreatment of Haitians by the police and the handling of refugee issues by UNHCR and has been roundly criticized in the Dominican press for doing so.¹⁴ Similarly, the appointment of Edwin

¹² Frank Moya Pons, "Las Tres Fronteras: Introducción a la Frontera Dominico-Haitiana," in Wilfredo Lozano, ed., *La Cuestión Haitiana en Santo Domingo*, p. 24.

¹³ In fact, the violations were so common that the Dominican government was forced to accept international observers on the border to assure Dominican compliance. See Alonso de Contreras, "Nombramiento Jonassant Trae Nueva Dificultad a Dominicanos," *El Siglo*, May 13, 1994, p. 9.

¹⁴ See, e.g., Pedro Germosen, "Pide a Haití Explicar Actitud de Embajador," *Hoy*, July 25, 1995, p. 1; "Truena por 'Secuesros' en RD y Alegados Maltratados a Haitianos," *Hoy*, July 25, 1995, p. 2; Luis García, "Embajador Haití Ataca Gobierno RD," *El Siglo*, July 26, 1995, p. 1; "Embajador Haití Denuncia Malos Tratos a Compatriotas," *Ultima Hora*,

Paraison, an Episcopal priest well-known in the Dominican Republic for his efforts in defense of the human rights of Haitian agricultural workers, as Haitian consul in Baharona has not been formally accepted by the Dominican government, although Paraison is carrying out consular duties. On September 14, 1995, heavily armed agents of the Dirección Nacional de Control de Drogas (DNCD), the Dominican drug enforcement police, attempted to raid Paraison's well-known consular residence in Baharona, claiming that they had mistakenly thought that his vehicle (carrying diplomatic license plates) belonged to a drug trafficker.¹⁵

Not surprisingly, in August 1995 the Dominican Chancellor found himself having to deny reports that the Dominican government was providing support to members of the former Haitian military regime who were allegedly using the Dominican Republic as a base from which to destabilize the Aristide government.¹⁶

2. Dominican Presidential Politics

Balaguer has stoked anti-Haitian sentiment for electoral purposes in Dominican presidential elections, particularly to discredit José Francisco Peña Gómez, a Dominican of Haitian descent who has been a leader of the opposition to Balaguer since the early 1980s. For example, in 1983 Balaguer published a revised version of his 1945 book, *La Realidad Dominicana*, under the new title *La Isla al Revés: Haití y el Destino Dominicano*. In what was widely viewed as the first shot in a campaign against a possible Peña Gómez presidential bid, Balaguer returned to Trujillo's themes:

The erosion of Dominican national identity, steadily under way for more than a century through dealings with the worst of the Haitian population, has made worrying advances. Our racial origins and our tradition as a Spanish people must not stop us from recognizing that our nationality is in danger of disintegration if we do not take drastic measures against the threat to it from the proximity of the Haitian people... The first symptom of this loss of identity is the progressive ethnic decadence of the Dominican population... There are other signs, less obvious, but perhaps more dangerous, of Haiti's influence over the moral and physical makeup of the Dominican people.¹⁷

Peña Gómez did challenge Balaguer in 1990 and 1994, losing both elections amidst charges of widespread government voting fraud. In the 1994 contest Balaguer -- and other nationalist candidates -- unleashed an anti-Haitian campaign against him "more viscous than anything Trujillo used."¹⁸ Peña Gómez lost the election by less than 1% of the votes cast.¹⁹ But widespread fraud allegedly committed by the government backfired when domestic and international protests forced Balaguer to schedule a new presidential election for May 1996 in which he would not participate.

As the candidates gear up for the May 1996 balloting, the issue of Peña Gómez' ancestry is once again expected to play a role in the campaign. The stoking of anti-Haitian sentiment began in

July 25, 1995, p. 26.

¹⁵ Interview with Edwin Paraison, Baharona, October 21, 1995; "Perquisition Policière á la Résidence du Consul Haitien en République Dominicaine," *Agence Haitienne de Presse*, September 22, 1995.

¹⁶ Pastor Luis García, "Gobierno No Tolerará Usen RD Desestabilizar Haití," *El Siglo*, August 24, 1995, p. 8B.

¹⁷ Joaquín Balaguer, *La Isla al Revés: Haití y el Destino Dominicano* (Librería Dominicana: Santo Domingo, 1994), p. 45.

¹⁸ Frank Moya Pons, Remarks Delivered at the Conference "The Two Nations of Quisqueya: Haitian-Dominican Relations at the Turn of the Century," Sponsored by the City University of New York Dominican Studies Institute, December 8, 1995, New York.

¹⁹ Peña Gómez' ability to garner at least 50% of the Dominican vote in spite of racist attacks suggests that the depth of anti-Haitian sentiment in the general population may be overstated.

May 1995 with the announcement of a government proposal to change the basis of Dominican nationality in order to deny citizenship to the children of undocumented Haitians born in the Dominican Republic. It continued into November with government claims that thousands of Haitian nationals were illegally included on the Dominican voter rolls. And it intensified in December with unsubstantiated press reports alleging that Dominicans were being killed in large numbers in Haiti, claims denied by the Dominican ambassador in Port-au-Prince.²⁰ A mission from the Dominican Human Rights Committee (Comité Dominicano de Derechos Humanos), a Dominican non-governmental organization, visited Port-au-Prince during the first week of January 1996 to investigate the reports and found the allegations to be groundless.²¹

3. Dominican Treatment of Haitian Workers

Finally, the anti-Haitian polemic of the Dominican government has been most visible in its reaction to the widespread criticism of its treatment of Haitian sugar cane cutters. In 1981, *Sucre Amer: Esclaves aujourd'hui dans les Caraïbes* (Bitter Sugar: Modern Slavery in the Caribbean), a book by a French freelance journalist, Maurice Lemoine, moved the International Labor Organization (ILO) to dispatch a fact-finding mission to the Dominican Republic. In 1983, the ILO published a report condemning the "near-slavery" working practices it found on the sugar plantations.²²

These practices -- and the appalling conditions in which cane cutters worked and lived -- were described in a report published by NCHR, Americas Watch and Caribbean Watch in 1989.²³ The report drew international attention to the Dominican Republic, raising a storm of controversy inside the country. In addition, the United States Trade Representative subsequently accepted for review a petition filed by Americas Watch requesting the United States to deny the Dominican Republic preferential access to United States markets under the U.S. Generalized System of Preferences because of the abusive treatment of Haitian workers.

In October 1990, President Balaguer implicitly conceded the validity of the report's claims when he ordered the issuance of labor contracts to all Haitian sugar cane workers, the "regularization" of the immigration status of all Haitians living in the Dominican Republic, the improvement of living conditions in the bateyes, the camps where the sugar workers live, and the establishment of Department of Labor delegations in the sugar refineries to "monitor the respect for human rights of said workers and insure that the most strict compliance of the contract terms is carried out with each worker."²⁴

An NCHR, Americas Watch and Caribbean Watch follow-up report in March 1991 noted the "important efforts" made by the Dominican government to improve working and living conditions in the sugar fields, but concluded that those efforts remained only promises "because of the

²⁰ Two Dominicans visiting the Port-au-Prince morgue on separate occasions in December claimed to have seen the bodies of dozens of Dominican nationals, all of whom allegedly had died from gunshot wounds. The press reported both sets of allegations. See Domingo del Pilar and Diogenes Tejada, "Niegan Matan en Haití Cien Dominicanos," *El Nacional*, December 14, 1995; "Afirma Vio Haití Muchos Cadáveres de Dominicanos," *Ultima Hora*, December 30, 1995, p. 22. The latter article duly printed one of the visitor's assertion that Dominicans were "being killed like pigs in Haiti."

²¹ Abinader Fortunado, "Niegan Mataran Haití 100 de RD," *El Nacional*, January 4, 1996, p. 3.

²² *ILO Official Bulletin*, Vol. LXVI (Report of Commission of Inquiry), 1983.

²³ Americas Watch, National Coalition for Haitian Refugees and Caribbean Watch, *Haitian Sugar Cane Cutters in the Dominican Republic* (November 1989).

²⁴ Decree 417-90 (1990), Art. I.

Dominican government's failure to implement and enforce [them]."²⁵ A May 1991 Lawyers Committee for Human Rights report on child labor in the cane fields also concluded that progress had been hampered by the government's "lack of will."²⁶

On April 25, 1991, the Bush Administration's Trade Representative Office ended its review of Dominican labor practices and decided to extend trade benefits based upon the "improvements" allegedly brought about by Balaguer's order. Two months later, Balaguer gave his own response to his human rights critics.

That response was a decree ordering the deportation of all Haitian cane workers under 16 or over 60 years of age.²⁷ By August, an estimated 8,000 Haitian cane workers had been forcibly deported; another 25,000-50,000 Haitians, many with no connection to the cane industry, were also forced out or fled voluntarily to avoid military round-ups or in fear of further government action. Resorting to the rhetoric of the Trujillo era, Balaguer found his move

widely supported within the Dominican Republic, and newspapers carried many articles and editorials attacking foreign interference in the country's economic affairs and developing the traditional theme of Dominican national identity. The time-honored references to the nineteenth-century Haitian occupation and the neighboring country's territorial ambitions resurfaced once more alongside the explicitly racist concepts of cultural invasion and biological degeneration.²⁸

The deportations continued up to the September military coup against Aristide which brought Lieutenant-General Raoul Cedras to power in Haiti. But the anti-Haitian sentiment only intensified as perhaps 30,000 refugees fled Haiti into the Dominican Republic in the wake of the coup. The Dominican military made every effort to stem the refugee flow and the government refused to consider more than a handful of requests for political asylum.

NCHR published its last report on the Dominican Republic in October 1992.²⁹ The report denounced the political motives behind the 1991 deportations and the arbitrary and abusive way they were carried out by the Dominican military. It went on to note that coercive labor practices continued unabated in the sugar industry and that the 1990/91 "reforms" had little real effect. Sugar cane cutter labor unions had been legalized, but the government would not bargain with them in good faith. The massive recruitment of child labor was ended, although children are still sometimes rounded-up by the Army to work in the cane fields. Some minor improvements in living conditions were reported. Cane cutters' wages were raised a bit, but still did not permit more than bare subsistence for the cutter and no help for the cutter's family. The appointment of sugar

²⁵ Human Rights Watch, National Coalition for Haitian Refugees and Caribbean Rights, *Half Measures: Reform, Forced Labor and the Dominican Sugar Industry* (Human Rights Watch: New York, 1991), p. 1.

²⁶ Lawyers Committee for Human Rights, *A Childhood Abducted: Children Cutting Sugar Cane in the Dominican Republic* (Lawyers Committee for Human Rights: New York, 1991), p. 65.

²⁷ The expulsion was also widely viewed as a means of pressuring the Aristide government in Haiti. See Corten and Duarte, "Five Hundred Thousand Haitians in the Dominican Republic," *22 Latin American Perspectives* 94 (Summer 1995), p. 97.

²⁸ Ferguson, *Beyond the Lighthouse*, p. 89-90.

²⁹ Americas Watch and National Coalition for Haitian Refugees, *A Troubled Year: Haitians in the Dominican Republic* (October 1992).

industry inspectors by the Secretary of Labor was a positive effort to monitor abuses, but their work has been all but invisible and thus ineffective. Three years later, the prospects for Haitians in the Dominican Republic remain bleak.

Immigration Status and Human Rights Violations

A. The Haitian Immigrant Populations in the Dominican Republic

Although Haitians have been migrating to the Dominican Republic since the turn of the century, the number of Haitians (and Dominicans of Haitian descent) living in the country has never been officially determined. The Dominican government has never conducted a census of or released any demographic information about this population. Unofficial estimates range from 400,000 to 1 million.³⁰ Regardless of the correct number, the Haitian population is actually composed of four discrete subgroups, each with its own migration pattern and immigration status under Dominican and international law: seasonal agricultural workers, undocumented "permanent residents," children of Haitian immigrants born in the Dominican Republic and political refugees.

The first group -- the seasonal cane cutters who come (or are deceptively or forcibly brought) to the sugar fields to work through the harvest and return to Haiti when the harvest ends -- has received the most international attention. Most sources suggest that, prior to the 1991 coup, 15,000 to 20,000 temporary workers entered and exited the Dominican Republic around the beginning and the end of each sugar harvesting season. An unknown number also migrates from Haiti to work on a seasonal basis in the rice, tobacco, coffee and other agricultural harvests.

The first more-or-less permanent group of Haitians grew out of the cane cutters who -- for a variety of economic and personal reasons -- did not return to Haiti but remained in the bateyes all year. These *viejos* ("old ones") were later joined by immigrants seeking work in the coffee, rice or tobacco fields or the tourism and construction industries who also established themselves permanently in the Dominican Republic. The Dominican Director-General of Migration believes that 400,000 Haitians without residency visas now live permanently in the Dominican Republic.³¹ Carolle Charles, a political scientist, argued in 1991 for a number closer to 500,000.³² Sociologists Andre Corten and Isis Duarte also suggest a figure of 500,000, based on an analysis of Haitian population increases between 1970 and 1991.³³ Of this population, Corten and Duarte conclude that approximately 75,000 are tied to the sugar industry.³⁴

³⁰ We were told that the government census of 1993 had, in fact, included the Haitian population, but that these figures were never released.

³¹ Interview with Vitelio Mejía Ortíz, Director-General de Migración, October 26, 1995, Santo Domingo. In 1970, the Department of Migration recognized the presence of a total of 97,000 legal and illegal Haitians in the country; that number jumped to 109,000 in 1971 and 150,000 (with 35,000 new cane cutters) in 1974. See Carolle Charles, "La Raza: Una Categoría Significativa en el Proceso de Inserción de los Trabajadores Haitianos en República Dominicana" in Wilfredo Lozano, ed., *La Cuestión Haitiana*, p. 155.

³² Carolle Charles, "La Raza," pp. 155-56.

³³ André Corten and Isis Duarte, "Five Hundred Thousand Haitians in the Dominican Republic," 22 *Latin American Perspectives* 94 (Summer 1995), pp. 96-98. The Haitian population allegedly increased from 97,000 in 1970 to 245,000 in

The children born in the Dominican Republic to both seasonal and permanent Haitian workers comprise a legally distinct third group since, by the fact of their birth in the Dominican Republic, they are entitled to Dominican nationality. Children are usually included in the total permanent population estimate; it seems likely, though, that they account for more than one-half of the population. Once again, however, it is not possible to say how many of these children arrived with their parents and how many were actually born in the Dominican Republic.³⁵

The last group, political refugees, is by far the smallest. Of the estimated 25,000-30,000 Haitians who fled Haiti as refugees after the 1991 coup, 1,075 were granted political refugee status by the United Nations High Commissioner for Refugees (UNHCR) and were thereby entitled to receive UNHCR assistance. The Dominican government, however, granted political asylum to only 35 individuals. UNHCR has aided 871 political refugees to return voluntarily to Haiti since the return of democracy in late 1994.³⁶

B. Legal Status

1. Seasonal Workers

Haitian sugar cane cutters historically were brought into the Dominican Republic without immigration documentation of any kind, whether pursuant to the Dominican Republic--Haiti contracts under Trujillo, the Consejo Estatal del Azucar (CEA) (State Sugar Council)--Haiti contracts governing the supply of laborers between 1966 and 1986, or the recruitment practices of the CEA once the contracts ended.³⁷ Without an immigration document, cane workers are unable to travel outside of the cane plantations and are unable to demonstrate a legal right to be in the country. It was only in 1990 that international pressure finally forced the Dominican government to address this issue.

The initial government response, Decree 417/90, gave the Department of Migration the task of "normalizing the presence of all Haitian nationals in [the] territory, of determining their status as temporary resident immigrants or as fixed-term day laborers, especially for those who work as day laborers in the planting, cultivating, cutting and carrying of sugar cane, as well as those who work in the bateyes, factories and offices of the sugar refineries."³⁸ The Director-General of Migration proceeded to launch a widely-publicized campaign to "register" all Haitian workers. However, as we noted in our 1992 report, Decree 417/90 never specified the legal meaning of "normalization" and the Director-General never specified the immigration status that registration would confer or the kind of visa or other document that would be issued to prove immigration status.³⁹ Many of the CEA cane workers who registered had whatever identification documents they possessed removed and were told they would receive a new immigration form. When no new document was issued, they were left without any identification at all.⁴⁰ Evidently most Haitians did

1991, with an estimated increase in the number of Dominican-Haitians by 100,000.

³⁴ Ibid., p. 99.

³⁵ Ibid.

³⁶ Interview with J. M. Castro-Macgluff, Head of Mission, UNHCR, October 19, 1995, Santo Domingo.

³⁷ Trujillo's 12 sugar mills were nationalized after his death. The *Consejo Estatal del Azucar* (CEA) was created in 1966 as the government entity responsible for managing the state sugar industry.

³⁸ Decree 417/90 (1990), Art. I.

³⁹ See Americas Watch and National Coalition for Haitian Refugees, *A Troubled Year*, pp. 8-10.

⁴⁰ Ibid.

not trust the government's vague policy -- the government itself acknowledged that only 50,000 eventually registered.

The Director-General of Migration initiated a new policy in 1992. He authorized the issuance of a temporary work visa to new seasonal Haitian cane cutters. The visa allows foreign workers to remain in the country under the sponsorship of an employer. The CEA or other company or farm hiring a foreign worker is responsible for obtaining the obrero temporero (temporary worker) visa. The employer fills out a form identifying the worker and any family members with him in the Dominican Republic. The employer sends the form, along with photos of the worker and a copy of the labor contract, to the Department of Migration, which processes the information and produces a paper "blue card" for the worker. The card contains a photo and the name of the worker and his family members. The obrero temporero card theoretically permits the worker to obtain all the social and health benefits available under the Dominican Labor Law and to move freely about the country.

Rómulo de los Santos, the Department of Migration official in charge of Haitian worker registration, readily conceded that the efficacy of the visa program depended upon the willingness of employers to comply with Migration's regulations. He recognized that many employers have no interest in registering seasonal Haitian workers and that NGOs and church groups often step in to register workers in the employer's stead.⁴¹ De los Santos accepts registrations prepared by these groups. Other employers register Haitian workers but keep the blue cards in custody in order to inhibit travel. And the Department's oversight is lax -- if an employer does not include a copy of a labor contract with the obrero temporero application, de los Santos merely asks the employer to provide it when renewing the worker's visa the following year. More problematical, the employer initiates the temporary visa process only after employment has begun -- leaving the worker, once again, without any legal identification, access to social and health services or travel for the time required -- weeks or months -- to obtain the visa. De los Santos claimed that his office had registered 80,000 Haitian workers under the "blue card" program since 1992.⁴²

A number of the Haitian workers with whom we spoke said that they had received the blue cards; most, however, had not been registered by their employer and carried no immigration identification. A mission from the United States Committee for Refugees visiting four bateyes in 1994 found that "about 80 percent of the workers had no legal documents, making them vulnerable to labor exploitation and other abuses."⁴³ Even with the immigration card, however, CEA workers reported the same inability to travel outside the plantation we noted in earlier reports. The CEA military guards and guardacampestres (armed field guards) usually do not permit travel without the written authorization of the local CEA jefe.⁴⁴

2. The Permanent Haitian Population

The Dominican government has never made an effort to address the status of the large permanent population of Haitian immigrants. The 1990 decree and the relatively new "blue card" immigration program only address the status of temporary workers, not the situation of

⁴¹ The major concern of these groups is that Haitian workers have access to state health and social services.

⁴² Interview with Rómulo de los Santos, Department of Migration, October 26, 1995, Santo Domingo.

⁴³ U.S. Committee for Refugees, *1995 World Refugee Survey*, p. 177.

⁴⁴ Moreover, the military and national police routinely ignore the visa status of Haitians caught in round-ups or detained outside work sites -- blue cards are ignored or ripped up with other identification and the workers deported anyhow.

undocumented Haitians who have lived in the country for ten, twenty or thirty years. These individuals -- and their families -- often no longer have ties to Haiti and would have no place to go were they deported. Most have no Haitian identity documents and were not born in the Dominican Republic, so they have no legal claim to Dominican nationality.⁴⁵ They are effectively stateless and therefore particularly vulnerable to arbitrary abuse and deportation. The Director-General of Migration told us that no special provisions were planned for this group of immigrants in the drafting of a new immigration law now under way. He said that, regardless of their time in the country, these immigrants entered the country illegally and would remain subject to deportation.⁴⁶

3. Dominican Citizens of Haitian Descent

The clearest claim to official legal status in the Haitian population belongs to the children of Haitians born in the Dominican Republic. Article 11 of the Dominican Constitution grants citizenship to "[a]ll persons born in the territory of the Dominican Republic, except for the legitimate children of foreigners resident in the country as diplomats or those in transit."⁴⁷ Again, while no official figures describing this population are available, estimates tend to range around 250,000.⁴⁸ The Haitian parents of these children, however, often face serious obstacles when applying for the documents necessary to prove Dominican nationality. The major obstacle is fulfilling the Dominican procedural requirement of clear evidence of birth in the country -- the civil registry normally accepts only an official birth certificate issued by a hospital or clinic. However, most of these children -- in particular, those of sugar cane and other agricultural workers -- are born at home and no official record of the birth is available; if the parents are undocumented immigrants, they may fear deportation if they approach a government office to register newborns; and the parents themselves often do not have the birth certificates, passports, visas or other personal identification requested by Dominican registries.⁴⁹

In addition, the "in transit" exception listed in the Constitution has often been invoked to deny Dominican nationality to Haitians born in the Dominican Republic. But as Carmen Cedeño points out, the term "in transit" in the Constitution refers to the regulation of migrants moving through the Dominican Republic with the clear intention to continue on to another country (for example, travelers passing through airports or on ships in Dominican waters or ports).⁵⁰ Since the descendants of Haitians living in the Dominican Republic are usually the children of more-or-less permanent residents (whether legal or not), the "in transit" exception does not apply to them. As Cedeño concludes on this point, the children of Haitian immigrants born in the Dominican Republic receive Dominican nationality "ipso facto and for the sole fact of the birth...independently of whether they do or do not possess documents. That which gives them the status of [Dominican] nationals is the birth [in the country]."⁵¹

⁴⁵ We were also told that Haitian residency or citizenship documents were very difficult to obtain, partially as a result of the administrative chaos resulting from the 1991 coup against Aristide and its aftermath.

⁴⁶ Interview with Vitelio Mejía Ortíz, Director-General of Migration.

⁴⁷ *Constitution of the Dominican Republic*, Art. 11. This right is also asserted in the Dominican Civil Code (Article 9, paragraph 1) and the current Migration Law (Article 7(c)).

⁴⁸ See André Corten, "Política Migratoria y Sociedades de Renta," p. 209-10.

⁴⁹ According to de los Santos of the Department of Migration, a representative of the employer is supposed to accompany the worker to the registry to make sure the birth is properly recorded. In practice, we were told, this rarely happens.

⁵⁰ Carmen Cedeño, "La Nacionalidad de los Descendientes de Haitianos Nacidos en la República Dominicana" in Wilfredo Lozano, ed., *La Cuestión Haitiana*, p. 140.

⁵¹ *Ibid.*, p. 141. In the end, the child of Haitian immigrants may not be able to gain official recognition as either a Dominican or Haitian national. The current Haitian Constitution, which grants Haitian citizenship to the children

The Instituto de Investigación y Acción Jurídica (INVIAJ) (Institute of Legal Investigation and Action), a non-governmental legal-defense organization in Santo Domingo, gave us an example of the difficulties inherent in obtaining birth certificates. INVIAJ represented six Haitian individuals who had attempted to obtain birth certificates for children recently born in the Dominican Republic. As all of the children were born at home, no hospital or clinic certificates had been issued. The normal procedure under Dominican law in these cases is to file a declaración de nacimiento tardía (late declaration of birth) with the Magistrado Procurador Fiscal Sobre Declaraciones Tardías (the judge with responsibility for late declarations), with appropriate evidence that the child was born in the country. In the case of Haitian cane workers, the "appropriate evidence" usually accepted is the CEA employment card signed by the administrator of the CEA mill employing the worker and a letter from the mayor of the jurisdiction covering the worker's batey attesting to the fact that the birth had occurred within the mayor's municipality.

The declarations were appropriately filed. However, when an INVIAJ lawyer returned to pick up the birth certificates, she was told that the documentation filed had not been received from the Office of the Civil Registry, to which they had been sent for official registration. The Civil Registry could not locate the documents, either. Upon returning once again to the office of the Magistrado Procurador Fiscal, a functionary explained that declarations made by Haitian nationals constitute a "delicate matter" which should be taken up with the Municipal Electoral Board (Junta Municipal Electoral), the regional office of the Central Electoral Board (Junta Central Electoral), the national entity responsible for the civil registries. The sub-director of the Municipal Electoral Board, in turn, advised INVIAJ to file a petition with the Central Electoral Board (CEB) requesting the authorization of the declaraciones de nacimiento tardías.⁵²

The resort to late declarations of birth is not a practice limited principally to Haitians. As one commentator notes, "it's an old custom of the average Dominican to declare the birth of children on a date long after the actual birth."⁵³ The difference in Haitian and Dominican declarations lies in the wide latitude enjoyed by each civil registry to use its own criteria of sufficient evidence of birth and arbitrarily reject applications presented by Haitian parents.⁵⁴

Again, official estimates of the number of Dominicans of Haitian descent without Dominican nationality documents are not available. Two Dominican-Haitian non-governmental organizations working principally in the bateyes have attempted to determine the magnitude of the problem. The Movimiento de Mujeres Dominicano-Haitianas (MUDHA) (Dominican-Haitian Women's Movement) conducted a poll of 50 families living in bateyes on the periphery of Santo Domingo in August 1994.⁵⁵ Of the 315 family members included in the study, 228 (160 of whom were over 18 years of age) were born in the Dominican Republic. The poll revealed that 28% had no identification at all and, of the remaining 72% who claimed to have documents, 26% had only a card identifying them as employees of the CEA (leaving a total of 46% with no identification or only a CEA

of Haitian parents regardless of place of birth, prohibits dual nationality -- thus setting up a conflict of nationalities for children born in the Dominican Republic and contributing to the ambiguous nature of their legal status.

⁵² Interview with Doris Eusebio Gautreau, Santo Domingo, October 26, 1995: *Petition Filed by INVIAJ with the Central Electoral Council Concerning Certain Late Declarations of Birth*, dated October 12, 1995.

⁵³ Jesús de la Rosa, "Cuántos Haitianos Residen en R.D.?", *Hoy*, January 11, 1996, p. 6.

⁵⁴ In response to numerous criticisms, the CEB issued a press release forbidding the denial of registration of children based upon assertions that the parents do not "look like" Dominicans or possess Dominican last names. Erik Mendoza, "JCE: Nadie Puede Negar Actas Niños," *El Siglo*, November 11, 1995, p. 1.

⁵⁵ MUDHA Survey, August 1994.

card).⁵⁶ The Centro Cultural Dominicano-Haitiano (Dominican-Haitian Cultural Center) has estimated that at least 25% of this population is without official documentation.⁵⁷

The failure of a child to officially register has serious consequences -- it will not be able to attend state-run schools or obtain a Dominican passport or *cédula de identidad*, the identity document carried by adult Dominican nationals and legal permanent residents.

The *cédula* is issued by the CEB and is used as proof of eligibility to vote in Dominican elections. Although many Haitians do possess a *cédula*, it is widely assumed that *cédulas* held by Haitians are fraudulent. And as the *cédula* is the document used to prove a Dominican national's right to vote, the involvement of Haitians and Dominicans of Haitian descent in recent elections has been a volatile issue. Corten and Duarte argue, for example, that if all Dominicans of Haitian descent were granted the same political and civil rights as Dominicans,

their preferred candidates would enjoy a marked electoral advantage. All indications are that the issue of Haitians and Dominican-Haitians has been used to the advantage of [Balaguer's] party. During the May 16, 1990 elections, Balaguer's... party distributed numerous identification documents to Haitians, whether or not they were Dominican-Haitians, in exchange for their votes. The Central Electoral Board admitted that it had no way of preventing thousands of Haitian citizens from obtaining identification papers to pass as Dominicans.... In May 1994 the validity of the Dominican-Haitian vote was again questioned in a media campaign charging that these voters were not Dominican and had been provided with false papers in order to vote for the [opposition] candidate, José Francisco Peña Gómez. In the sugar-growing regions, however, not all Dominican-Haitians were prevented from casting their votes: it was those suspected of being unsympathetic to the presidential party who were arbitrarily barred.⁵⁸

During our visit in October 1995, the issue was in the press again. Based upon inflated estimates of the participation of Haitian nationals in the 1994 elections,⁵⁹ the CEB launched a review of the voting rolls with the aim of removing ineligible Haitians. The CEB gave no indication of the criteria it would use to identify these ineligible voters (other than by arbitrarily striking French/Haitian family names). The review was completed in November and the CEB began issuing new "tamper-proof" *cédulas* in December. Controversy followed almost immediately, however, when a provincial governor requested the army to occupy a CEB office to prevent a group of young Dominican men of Haitian descent, each of whom had a properly-certified Dominican birth certificate, from obtaining *cédulas*.⁶⁰

⁵⁶ Ibid., pp. 2-3.

⁵⁷ André Corten, "Política Migratoria y Sociedades de Renta," p. 209. Referring to a study conducted by Marino Alcántara, Corten asserts that "65% of the residents of the *bateyes* are Dominican-Haitians who live in a state of "illegality" as a result of purely discriminatory motives of the Dominican authorities. These people cannot go to school, legally marry, obtain decent employment, travel nor exercise their right to vote, even as the children of the Sirian-Lebanese, Spanish, Puerto Ricans and other nationalities don't have these problems." Ibid., p. 210.

⁵⁸ Corten and Duarte, "Five Hundred Thousand Haitians," p. 100.

⁵⁹ For example, the Director-General of Migration told us that 200,000 Haitians -- a number equal to the estimated total adult Haitian population in the Dominican Republic -- were illegally registered to vote.

⁶⁰ Pedro Gonzales Candelier, "JCE Advierte Sobre Posibles Presiones," *El Nacional*, December 5, 1995, p. 4; Alejandro Afortunado, "Intenten Sabotear Comicios," *El Nacional*, December 4, 1995, p. 3.

4. Political Refugees

Despite the efforts of the Dominican army to seal the border after the September 1991 coup, an estimated 25,000-30,000 Haitians were able to enter the Dominican Republic "under circumstances that would suggest refugee-like motivation."⁶¹ After the failure of the Governors Island Agreement to return Aristide to Haiti in October 1993, another wave of military repression in Haiti sent 2,500 to 3,000 additional Haitians into the Dominican Republic. In response, the Dominican military bolstered the police and army presence on the border and reportedly forced many Haitians back to Haiti, sometimes handing fleeing refugees over to the Haitian military. No effort was made by the government to identify persons in the bateyes who might be refugees in need of protection, although a United States refugee organization noted that "[l]ocal priests working with the Haitians said that many of the newer arrivals were peasant activists in Haiti who had fled for political reasons."⁶²

Although the Dominican Republic is a signatory to the major international human rights and refugee instruments, it made every effort to keep Haitian refugees fleeing military oppression from entering the Dominican Republic and made no effort to assist the refugees who succeeded in arriving. In one highly publicized -- and telling -- example in early 1992, the Dominican military surrounded and effectively imprisoned 21 refugees inside an Episcopal church in Dajabón. The refugees remained in the church for nearly 2 months, until the standoff was resolved by the intervention of the recently-established Santo Domingo office of the United Nations High Commissioner for Refugees (UNHCR).⁶³ In response to a continued refugee influx two years later, then-Dominican Vice-Chancellor Fabio Herrera Cabral stated that "[t]he Dominican government is categorically opposed to receiving Haitian refugees, whether they are economic or political...we are going to brake this exodus." He warned that his government "had not rejected the possibility of the use of force to cut off a massive penetration of illegal Haitians into Dominican territory."⁶⁴

The asylum process was highly restrictive. Under procedures established by the Dominican government in conjunction with UNHCR, whose permanent mission opened in October 1992, refugees were required to apply to UNHCR for asylum. UNHCR then reviewed the claim and determined whether the applicant met the requirements for political refugee status. If UNHCR granted an applicant political refugee status, it sent its recommendation to an intergovernmental commission, the Comisión Nacional para los Refugiados (CONARE) (National Commission for Refugees). CONARE reviewed the file and determined whether to grant or deny political asylum.

Complaints about UNHCR's performance were widespread. Although Haitian refugees were often uneducated campesinos unaware of their rights as political refugees, a Haiti-oriented education effort by UNCHR was launched only late in the crisis. Although almost all of the refugees arrived via the Haitian-Dominican border, UNCHR did not establish satellite offices or a visible presence of any kind in the border region; refugees seeking asylum had to negotiate the long trip (five hours by car from the nearest border crossing; ten from the farthest) to UNHCR's offices in Santo Domingo, running the serious risk of detention by the military and police at the innumerable check-points along the main highway. Upon arriving in the capital they would find the office located in an upscale neighborhood in Santo Domingo almost inaccessible for Haitians seeking

⁶¹ U.S. Committee for Refugees, *1995 World Refugee Survey*, p. 177.

⁶² *Ibid.*

⁶³ *Ibid.*

⁶⁴ "Le Gouvernement Dominicain Prêt à Utiliser La Force Contre Les Réfugiés Haïtiens," *Haiti Progres* (New York), March 17-23, 1995, p. 12.

refugee recognition. To reach the office, situated near a major police station, a visitor had to pass through four locked gates and a contingent of private security guards and armed members of the Dominican police stationed in the courtyard and inside the building.⁶⁵

In addition, refugees complained that UNHCR initially had no Creole-speaking interviewers and no staff members who understood Haitian customs and manners. The Dominican social service agency subcontracted by UNHCR to provide food, clothing, housing and language assistance to recognized political refugees was accused of insensitive and abusive behavior toward Haitians and malfeasance in the distribution of financial assistance. Already low levels of assistance were reduced by UNHCR in 1993.

In April 1994, tensions between Haitian refugees and UNHCR rose to a crisis point when 101 Haitians occupied the UNHCR office in Santo Domingo, demanding major improvements in UNHCR's refugee review process and assistance program.⁶⁶ The Haitian ambassador in Santo Domingo, Guy Alexandre, summarized the refugee complaints: UNHCR officials had trouble understanding the refugees because few, if any, Creole speakers were available to the UN personnel, UN funds for the mission were woefully inadequate, and the secret journeys, long waits for food, housing and clothing assistance from uncooperative government and UNHCR personnel were humiliating.⁶⁷

The director of the UNHCR operation in Santo Domingo, J.M. Castro-Magluff, was fully aware of the battery of criticism aimed at UNHCR's performance when he met with us in Santo Domingo. He conceded that UNHCR may have started slowly, but insisted that the office had done the best that it could in a difficult emergency situation. He noted that UNHCR arrived in 1991 in the midst of Balaguer's expulsion of Haitians and had to deal with a complicated political environment after the coup in Haiti reversed the flow of migrants.⁶⁸ Castro-Magluff explained that UNHCR was not represented at the border because it never received evidence from NGOs that refugee claims were being made upon arrival in the Dominican Republic. Given scant financial resources, Macgluff said he worked through the churches and NGOs to identify and process political refugees and hired eight Dominican lawyers to process refugee claims in several areas of the border region.⁶⁹

While the lawyers and NGOs involved in refugee issues with whom we spoke conceded that UNHCR was working with a Dominican government uninterested in granting political asylum to Haitians, few believed that UNCHR did all that it could to defend the refugees. Given the clearly political motivation behind the 1991 exodus, the paucity of information about refugee possibilities available to the fleeing Haitians and the widely-publicized intention of the government to stop the refugee flow, it was clear that no refugees would be approaching Dominican soldiers at the border requesting asylum. There seems to have been little excuse, either, for the delays in hiring Creole-speaking staff or for the weak administrative oversight of UNHCR's local subcontractor.

⁶⁵ U.S. Committee for Refugees, *1995 World Refugee Survey*, p. 177.

⁶⁶ "Haitianos Desalojados de Acnur Permanecen Alojados en Hotel," *Radar*, April 28, 1994, p. 6.

⁶⁷ "Declaración del Embajador de Haiti en la República Dominicana," Press Release, April 29, 1994.

⁶⁸ For example, UNHCR found itself dealing with two Haitian ambassadors -- one representing Aristide's government-in-exile, the other, the Haitian military *junta*.

⁶⁹ Interview with J.M. Castro-Magluff, United Nations High Commission for Refugees, October 19, 1995, Santo Domingo.

The efficacy of the asylum process is most telling, however, in the numbers. We were told that, out of a pool of 25,000 to 30,000 refugees fleeing the anti-Aristide coup in 1991, a total of 2,762 Haitians sought UNHCR recognition. As of May 1994, only 1,346 had been recognized under UNHCR's mandate; however, the Dominican government agency responsible for refugees, CONARE, had only granted refugee status to 35 of these individuals, and had not met to consider any Haitian refugee claims since September 1993. We were not aware of any public response by UNHCR to the Dominican government's dismal asylum recognition rate and the clear refusal of CONARE to meet to even consider asylum recommendations from UNHCR.

C. Forced Repatriations

1. A History of Deportations

Migration patterns between the Dominican Republic and Haiti have included periodic attempts on the part of Dominican governments to gain control of or "whiten" the border area by deporting large numbers of Haitians working in the sugar and other agricultural industries. Trujillo's massacre in 1937, a wave of deportations in 1981 -- perhaps more than 4,000 -- following press reports of the extensive use of Haitian labor in agriculture,⁷⁰ Balaguer's decree in 1991 and a military-directed campaign deporting several thousand Haitians prior to Aristide's aborted return attempt in October 1993⁷¹ are four notable examples. The CEA has returned cane workers -- voluntarily and by force -- at the end of every harvest season during the existence of the labor agreements between the two countries. But beyond these somewhat-cohesive deportation policies, Haitians (and Dominicans of Haitian ancestry) have always been subject to deportation at the whim of the army and the national police. In addition, they face repatriation for economic reasons, as the victims of powerful landowners, CEA managers and construction companies who utilize the army and the police to deport Haitian workers in lieu of paying them the compensation they are owed.

The repatriations are part of a complex migratory flow between the two states. Deported Haitians often return to the Dominican Republic to reunite themselves with family members left behind. Or they return because they have neither family contacts nor work possibilities in Haiti (particularly for those who have spent many years in the Dominican Republic). The odyssey of Pierre, a 48-year old cane cutter, is typical. He lived in the Dominican Republic for many years with his wife and seven children, cutting cane at Batey Gotuel near Santo Domingo. He was picked up by soldiers while walking in Santo Domingo with one of his children. The two were held in an outdoor detention pen for six days before being transported to Jimaní. They were again placed in a detention area, this time for two days, to await the arrival of additional Haitians. They were then deported with a large group and went to their hometown, Bon Repos, near Port-au-Prince. The rest of the family sold all of its belongings in Santo Domingo and joined them eight days later. After two months without work in Haiti, they returned to the Dominican Republic, crossing on foot at Pedernales. He found work and lodging on a private Dominican farm, but was subsequently picked up by the Dominican army and forcibly taken with his family to cut cane at a CEA mill.⁷²

A version of this story was repeated again and again in interviews with Haitians living in the bateyes we visited. For example, Federico, 26, had lived in Batey Gotuel for six years before he was

⁷⁰ Roger Plant, *Sugar and Modern Slavery*, pp. 69-70.

⁷¹ U.S. Committee for Refugees, *World Refugee Survey 1994*, p. 160.

⁷² Interview at Batey Gotuel, Santo Domingo, October 25, 1995.

caught in an army round-up and deported to Haiti in July 1991. He spent six months in Jacmel with his family before returning to the same batey in search of work. Victoria, 57, a long-time resident of the batey, was also returned to Haiti in July 1991, but could not survive after the coup and returned nine months later. Louise, 37, was repatriated in August 1991, but most of her family was killed in the aftermath of the coup. She escaped and returned to the Dominican Republic with her two children. Each of these individuals said that all documents -- CEA identification, passports, cédulas -- were taken by soldiers before they were deported.⁷³

2. Round-ups

The Dominican army and national police traditionally have carried out arbitrary round-ups of "Haitian-looking" individuals to provide coerced labor for the sugar industry at the beginning of the harvest (normally in December) and to deport Haitians in the weeks immediately following the end of the harvest season (usually April or May) when the demand for labor declines. The pattern of abuse characteristic of the Army round-up has been institutionalized: indiscriminate arrests, verbal and physical mistreatment, arbitrary confiscation and destruction of identification documents; theft of personal belongings; and the refusal to allow those rounded-up to notify family or friends before being transported to a sugar mill or deported. Victims of the round-ups are frequently dumped in prison -- San Cristóbal (outside Santo Domingo) and the Dajabón army fort are frequent sites -- to wait until enough Haitians have been collected to fill several buses before being delivered to the cane fields or the border.

In April 1994, for example, the Dominican press reported on a series of round-ups conducted by the Army and the National Police in Santiago, the major city in the north-east area of the country. Dominican security forces would arrive in a section of the city in large trucks and jeeps, detain anyone in the street with black skin and, if the soldiers believed them to be Haitian, force them into the trucks for immediate deportation at the border town of Dajabón.⁷⁴ Five Haitian youths with student visas studying at the well-known Instituto Superior de Agricultura de Santiago de los Caballeros were caught in one of these round-ups, held for six hours, and were on the verge of being driven to the border when a soldier finally thought to call the rector of the university to verify their enrollment. A Haitian woman with a small business was also arrested and deported even though she held a Haitian passport with a valid Dominican visa.⁷⁵

The repatriations sometimes turn deadly. On December 16, 1995 a bus transporting approximately 50 Haitians and several soldiers to the border at Pedernales overturned near Paraíso, killing five Haitians and seriously wounding 43 Haitians and three soldiers. The bus had collected the Haitians at the San Cristóbal prison. A number of the injured Haitians interviewed by the press stated that they had been arrested by soldiers while working on a private farm and were unable to collect the 17,000 pesos (\$1,300) owed them by the farm owner. They reported having been detained for several days at the fort before being taken to the border. All identity documents were removed and destroyed by the soldiers.⁷⁶

⁷³ Interviews at Batey Gotuel.

⁷⁴ Felix Jacinto Breton, "Disminuyen Redadas Contra Haitianos [en] Santiago," *El Nacional*, April 28, 1994, p. 18.

⁷⁵ Communication from Melius Hyppolite, Ministre Conseiller of the Haitian Embassy, August 24, 1995.

⁷⁶ Accidents involving buses packed with Haitian workers have occurred before, most notably on December 13, 1994 near Baní, where one Haitian died and twelve were wounded, and in January 1989, when 49 Haitians contracted by *buscones* (Creole-speaking recruiters for the CEA) died when the overcrowded and closed truck transporting them to the cane fields ran off the road near Villa Altagracia on the Santo Domingo-Santiago highway.

Because the Haitians carried no documents and the Army kept no list of the Haitians detained and deported, the five dead were buried in the Dominican Republic without having been identified. The bodies were not returned to Haiti because the remote area where the accident occurred allegedly had no refrigeration equipment to preserve the corpses. The Director-General of Migration indicated that his department had nothing to do with the deportations and that the round-ups and repatriations were initiatives of the Army.⁷⁷

The callousness of army treatment of Haitians also has its tragic results. In February 1996, in a flagrant display of disregard for Haitian lives, an army patrol pursuing a small truck believed to contain "illegal" Haitians who had just crossed the border into the Dominican Republic opened fire on the vehicle, critically wounding several of the passengers and killing a two-year old boy who had been sitting on his mother's lap. The mother was one of the wounded.⁷⁸

3. 1995 Repatriations

Throughout the summer of 1995 we received an increasing number of reports of forced deportations of Haitian workers. Organizations inside Haiti -- the International Organization for Migration (IOM), the OAS/UN International Civil Mission (UNMIH) and NCHR's Port-au-Prince office -- expressed concern at the rising tide of forced expulsions and the possibility of massive repatriations at a time when no infrastructure existed in Haiti to reintegrate returnees.

Some 250 Haitians were forcibly repatriated from the Dominican Republic between July 12 and July 17 through the southern border crossing at Pedernales--Anse-à-Pitres. All had been removed from construction jobs or rounded-up on the streets of Santo Domingo by armed men in civilian dress and forced to mount buses which took them to the military fort of San Cristóbal. Not one had an opportunity to return home to collect belongings or earnings or, in some cases, to notify family members. One of the women deported was forced to leave a 4-month-old baby behind. They remained up to three days at the military fort without food while additional Haitians were rounded-up. When enough Haitians had been collected to fill two buses they were driven to the border. An 'X' was shaved on the heads of the males, apparently to prevent them from returning. Most of the deportees' work permits had expired but some carried valid temporary visas.⁷⁹

In Anse-à-Pitres, town officials established a welcoming committee of 11 individuals to organize shelter, food and transportation money for the deportees. The president of the committee, Pierre Michel Bonicet, showed us the record he maintains of those the committee has aided. As of the end of October, the committee had supported 104 individuals. Most stayed in Anse-à-Pitres less than 24 hours before continuing on to their home areas in other parts of Haiti. At the time of our visit, no deportees remained in the town.⁸⁰

⁷⁷ Teddy Sanchez, "Mueron 5 Haitianos; 43 Heridos en Vuelco," *El Nacional*, December 17, 1995, p. 1; Pastor Vasquez, "Entierran 5 Haitianos Muertos en un Accidente," *Hoy*, December 18, 1995, p. 1.

⁷⁸ The Army High Command ordered an "exhaustive investigation" and apparently ordered the arrest of the member of the patrol that shot up the truck. However, the initial response of the High Command was to blame the truck driver for failing to stop at several roadside security checkpoints and ignoring repeated orders to stop. See Marcelo Peralta, "Militares Matan Niño Haitiano al Disparar Vehículo No Se Detuvo," *El Nacional*, February 24, 1996.

⁷⁹ Communication from the UN/OAS International Civilian Mission in Haiti, August 21, 1995.

⁸⁰ Interviews at Anse-à-Pitres, Haiti, October 22, 1995.

An additional 200 Haitian nationals were forcibly repatriated from the Dominican Republic on July 22 and 23 at the little-used border crossing of Los Cacaos in the central border region. Again, those interviewed indicated that they had been taken from work (construction sites) or rounded-up on the streets by the army, forced onto buses and driven to the border without the opportunity to collect belongings or notify friends or family. At least one individual held a valid working permit for the last nine years.⁸¹

Another 92 men were forced back into Haiti on August 1 through the Pedro Santana--Thomassique crossing in the central border area. They were taken by armed men in civilian clothes from construction sites in Nunez, near Santo Domingo, and spent two nights in the San Cristóbal military barracks before being driven to the border. All had their heads shaved. A few claimed to have valid documents; most had been in the Dominican Republic from three months to three years. Those with legal papers said that their papers were torn up by the Dominican army.⁸²

In Ouanaminthe, a Haitian town near the border crossing at Dajabón, the Vice Délégué, Ministry of Information Agent Desamour Daniel, Senator Jean Claude Daniel and Mayor Dufène Chery reported that groups of Haitians, perhaps 50-100 per week, had been forcibly returned through the border town of Dajabón since President Aristide's return in November 1994, although there had been no reports of mass deportations in the area. Neither the Vice Delegation nor the Mayor's office had funds to help the returnees; the Vice Delegation sometimes collected funds from the population to provide the deportees with clothing, food and transportation back to their homes. Some of the deportees reportedly remained in Ouanaminthe, begging in the streets; some tried to return to the Dominican Republic, particularly those who had left family and possessions behind.⁸³

On August 6, 80 Haitian men taken from construction sites near Santo Domingo were repatriated at Pedernales--Anse-à-Pitres. Groups of 92 and 110 people were deported at the border crossing at Cerca-la-Source near Pedro Santana on August 9. And, on August 15, between 90 and 100 people, including at least four women, were repatriated at Los Cacaos. Most were construction workers and, as in previous cases, were rounded up at their places of work in a suburb of Santo Domingo by armed men in civilian dress, transported to the military barracks at San Cristóbal, held for a few days with little food or water, forced to have their heads shaved, driven to the border and pushed across at gunpoint. Not one was given an explanation for the deportation.⁸⁴

Thus, from early July until mid-August 1995, international organizations in Haiti confirmed the forced repatriation of approximately 925 Haitians from the Dominican Republic. In response to the high number of Haitians being brought to the border by Dominican authorities, frequently without any resources, the International Organization for Migration announced an emergency program in August to assist repatriated Haitians to travel to their hometowns in Haiti and reestablish themselves in their communities.⁸⁵ As of late August, the IOM program had provided assistance to approximately 500 expelled Haitians.⁸⁶

⁸¹ Interviews at Ouanaminthe, Haiti, August 4, 1995.

⁸² Ibid.

⁸³ Ibid.

⁸⁴ Ibid.

⁸⁵ *Projet d'Assistance Humanitaire aux Rapatriés de Nationalité Haitienne et aux Personnes Déplacées à l'Intérieur des Frontières*, International Organization for Migration, Port-au-Prince Office, August 1995.

⁸⁶ "Programme d'urgence de l' OIM en faveur des Haïtiens refoulés de la Dominicanie," *Agence Haitienne de Presse*, August 22, 1995.

D. Daily Abuse

The lack of any legal immigration status or way to defend civil and political rights guaranteed by international and Dominican law leaves Haitians (and Dominicans of Haitian descent) subject to indiscriminate arbitrary abuse by sugar cane industry and other employers and the Dominican security forces. Petty extortion is perhaps the most prevalent daily threat. Haitian workers in agriculture and construction find themselves subject to arbitrary detention on the street or at work sites by police and soldiers who request payments from the workers in lieu of arrest and deportation. These detentions often occur on paydays, particularly at construction sites. And Haitians who are caught in round-ups -- or removed from construction sites en masse -- are often stripped by soldiers of any cash or belongings they might be carrying. In addition, soldiers are paid by CEA and private farmers and owners of other businesses which employ Haitians to collect and deport groups of workers. These revenues, we were told, are significant to large numbers of poorly-paid police and soldiers.

Examples of more dangerous abuse abound. In a case which garnered national attention, 40 Haitian cane cutters at the Montellano mill near Esperanza were methodically rounded-up by mill supervisors for deportation as punishment for a cane field fire on September 28, 1995. According to the testimony of several of the abducted cane workers, CEA supervisors asked groups of workers to gather for a meeting at the end of the working day. The 40 cutters who arrived at the site designated for the meeting found themselves detained by guards carrying shotguns. They waited, corralled for a number of hours, until a bus arrived. They were forced to board the bus and were transported under guard toward the border crossing at Dajabón. Apparently the driver of the bus took a wrong turn in the darkness and ended up in the outskirts of the town of Mao, heading away from the border. The guards decided to dump the workers there. The Haitians were ordered out of the bus; fearing the worst, they tumbled out under the brunt of blows from the guards' shotguns and ran for their lives, scattering into the night. Over the next two days the workers straggled into the batey at Boca Nueva. Two were hospitalized with serious injuries, one requiring surgery.⁸⁷ The National Police arrested six employees of the Montellano mill, including the head of the guardacampestres, and charged them with kidnapping and physical mistreatment of the Haitians.⁸⁸

In another incident which garnered national press, soldiers destroyed eight wood-and-palm-frond houses built by Haitian workers in a private plantation called La Colonia, near Esperanza. Approximately 80 workers and family members lived on the 30 yard-square parcel. One of the workers whose structure was destroyed told us that housing was scarce on the plantation and that he built a house with a number of co-workers to avoid having to walk several miles each day to and from housing in a batey.

On Saturday, October 7, a group of soldiers arrived in a large truck and, without any warning, turned the truck into the fragile structures and proceeded to ram them until all had collapsed. Those inside had to flee with no time to grab identity documents, clothes or money. Once the houses had become a large pile of palm fronds, the soldiers methodically went through the debris, collecting passports, clothes, tools, beds and money. They then proceeded to detain any men, women or children who remained, forced them onto a bus, drove them to Dajabón and forced

⁸⁷ Interviews at Batey Boca Nueva, Esperanza, October 27, 1995; Rafael Díaz Gomez, "Desaparacen Once Haitianos," *El Nacional*, September 27, 1995.

⁸⁸ Rafael Díaz Gomez, "PN Somete Seis Implica[dos] En Caso Haitianos," *El Nacional*, October 11, 1995.

them across the border. A woman with four children was included in the group and the sack of rice she had for food was taken from her before she was deported. We heard that the houses were destroyed because the owner of the plantation thought that Haitians had stolen some supplies.⁸⁹

We also witnessed the daily efforts of the guardacampestres to intimidate the residents of the bateyes. On October 25, 1995, while we were meeting in a church in Batey Gotuel with a group of 40 women and children, two soldiers drove by on a motorcycle, firing several rifle shots into the air as they passed the church.

We spoke with several women in Anse-à-Pîtres, a village in Haiti just across the border from Pedernales, who told us they had been detained by Dominican soldiers after crossing into Pedernales to sell and purchase goods at the local market. Their goods and money were confiscated and they were forced back across the border. We were told that these arbitrary detentions occur regularly and were part of daily life on the frontier.⁹⁰

E. The Response of the Dominican Government

Migration policy in the Dominican government is nominally in the hands of the Director-General of Migration. Since "migration" usually refers to Haitians, the Ministry of Foreign Affairs plays a significant role as well. And while President Balaguer alone makes all substantive decisions, the Army controls the border, provides CEA security and has general day-to-day jurisdiction over the Haitian immigrant population. We were able to meet with the Director-General of Migration and the head of the Army during our visit to Santo Domingo.

The Director-General of Migration, Vitelio Mejía Ortíz, claimed that the Dominican government had no coherent border policy or official approach regarding the problem of the "illegal" Haitians in the country, and had no such policy since the expulsion decree of 1991. He emphasized, however, that on a day-to-day basis, the Army and Police are responsible for deporting illegal immigrants found on the streets or in the bateyes. Mejía said the Army conducts round-ups of Haitians on its own initiative and may or -- more likely -- may not inform Migration of specific deportations. Migration generally does not receive any information as to the identities of the repatriated Haitians.⁹¹

Major General Ivan Aquiles Hernández Oleaga, the head of the Army, echoed Mejía's statements. He conceded that the Army takes its own initiative on immigration control matters without consulting either the office of the president or the Department of Migration. He said the Army does conduct round-ups of Haitians in response to complaints or press reports and to demonstrate that the armed forces are fulfilling their responsibility to defend the border.⁹² He was fully aware of

⁸⁹ Interviews at La Colonia, October 27, 1995.

⁹⁰ Interviews at Anse-à-Pîtres, Haiti, October 22, 1995.

⁹¹ Interview with Vitelio Mejía Ortíz.

⁹² A press report in August 1995 provides an example of this kind of pressure. Representatives of a number of business organizations in the municipality of Tenares, near San Francisco de Macorís, sent a letter to the national police complaining about an increase in the number of Haitians in the area and asking the national police to take "appropriate corrective measures." The letter cited the "danger" of the presence of a large number of individuals of "customs, habits and pattern different from ours," noting -- more tellingly -- that many of the Haitians were also "selling merchandise of doubtful origin and undercutting local organized commerce." Tony Reyes, "Preocupa en Macorís Presencia Haitianos," *Listín Diario*, August 24, 1995, p. 9.

the arbitrary nature of the round-ups and the fact that Haitians (and Dominicans of Haitian descent) with valid passports, work permits or visas may be deported in such mass operations. But he blamed the "mistakes" on the low education levels of Army recruits "who would not know how to recognize" official immigration documents. Their orders are to round-up and deport a number of illegal Haitians and do so by detaining "Haitian-looking" (i.e., black) individuals under the assumption that they are illegal immigrants. Any abusive treatment of the Haitians was attributed to the necessity to use force to detain individuals who resist deportation.

Finally, on the corruption issue, General Oleaga conceded the existence of corruption in the military but characterized it as a problem of individual soldiers and not the institution. He noted the low salaries paid to soldiers and was not surprised that some might accept or request a payment from a Haitian in lieu of deportation, since "such payments might help them to feed their families."⁹³

⁹³ Interview with Major General Ivan Aquiles Hernández Oleaga, Jefe de Estado Mayor, Ejercicio Nacional, Santo Domingo, October 30, 1995.

Proposed Changes To Immigration Laws

In June 1995, the Director-General of Migration proposed a reform of Dominican nationality and immigration norms aimed at controlling the migration of Haitians into the Dominican Republic. The changes to the Dominican constitution would shift the basis of Dominican nationality from *jus soli* (birth in the country) to *jus sanguini* (birth to a Dominican national). Thus, according to Mejía, children born in the Dominican Republic to a Haitian couple would not be granted Dominican citizenship.⁹⁴ Revisions to the governing immigration law, the *Ley de Migración*, would codify the variety of decrees and regulations now governing Haitian temporary workers.

NCHR recognizes that the content of the Dominican Republic's nationality and immigration policies is, in principle, a matter for Dominican citizens and elected officials. However, given the long history of maltreatment of Haitian immigrants in the Dominican Republic, aided and abetted by entities of the state, we also believe it appropriate to comment upon the human rights implications of the changes in light of existing practices.

Our first concern is the timing of the proposals. Mejía's announcement of the government's intention to change the basis for Dominican nationality and to codify the regulation of Haitian workers came at the outset of preparations for the 1996 presidential election. The leader of the Partido Revolucionario Dominicano, José Francisco Peña Gómez, faced vehement anti-Haitian propaganda in the 1994 elections and is once again a candidate. Thus, the government's proposals, in the view of many with whom we spoke, may have been the first step in putting the "Haitian problem" back on the public agenda for the 1996 election, and a repetition of the racist demagoguery of 1994.⁹⁵

Second, the draft of the new immigration law to a large extent codifies the potpourri of decrees and regulations now governing migrant workers, and thus fails to address the complexity of existing migration and working patterns.⁹⁶ For example, seasonal migrant labor is addressed in Chapter VII, which deals with the admission of *jornaleros temporeros* (temporary laborers). Article 77 of the bill defines "temporary laborers" in the context of the "collective contracts" of the

⁹⁴ Maximo Manuel Pérez, "Gobierno de Haití y RD Acuerdan Regularizar Status Haitianos País," *Listín Diario*, June 28, 1995, p. 1; Manuel Jimenez, "Tratan Negar Ciudadanía a Hijos Haitianos Ilegales," *Hoy*, June 28, 1995, p. 1. Under the new law, children with one Dominican parent would be entitled to Dominican citizenship. Mejía stated that, pursuant to Dominican constitutional principles, the new nationality norms, if adopted, would not be retroactive.

⁹⁵ The draft migration law was actually prepared in 1991 but not taken up until 1995 and, as Mejía acknowledged, no legislative action was likely to be taken until after the 1996 elections.

⁹⁶ *Proyecto de Estatuto Migratorio*, Preparado para la Dirección General de Migraciones, la Secretaría de Estado de Relaciones Exteriores y la Procuraduría General de la República por Gino Romagnoli, Organización Internacional para las Migraciones, 1991.

CEA issued to cane cutters for the harvest season.⁹⁷ However, only a minority of Haitian migrant workers enter the Dominican Republic today to cut cane -- most work for coffee, rice or corn farmers or in the construction industry, where workers are not brought into the country on a collective basis. In addition, this section does not define the time period which would make the workers' status temporary -- the bill only refers to a "limited time." The notion of "salary" (Article 79 (d)) does not address the production-based payment system prevalent in agricultural industries.

The chapter also sets forth wholly unrealistic documentation requirements for often-illiterate and very poor laborers, mandating that workers provide health and penal certificates as well as passports (Articles 79 (b) and 80). All of this information is to be collected by the company hiring the workers and sent to the Department of Migration 30 days before the workers are to enter the country (Article 80); entry is prohibited unless the worker presents a visa sent from Santo Domingo. While this process is administratively logical (and reflects present technical administrative requirements), it is far too cumbersome for the practical operation of the labor market today in the sugar, other agricultural and construction industries.

The bill codifies most of the commitments made by the government to improve the conditions of Haitian cane workers -- transportation to and from the work site; housing for the worker and family; access to all the benefits of the Dominican Social Security system while the worker is employed; payment in cash in accord with the Dominican Labor Law (although the minimum wage is not mentioned); observation of all Dominican labor norms, such as length of the workday, overtime pay and days of rest; and full liquidation of all salary at the time when employment terminates (Article 79 (c)-(l)). However, it provides no requirement for individual contracts, no penalties against the employer for failure to fulfill these legal obligations and no mechanism for supervision and enforcement. In other words, the bill as drafted fails to conform to migratory reality, guaranteeing that its provisions will be ignored, and provides no real protections for seasonal laborers or punishments for employers, including the state-owned CEA, who violate its provisions.⁹⁸

Finally, the bill fails to address the status of the several hundred thousand undocumented permanent Haitian residents, many of whom were born in the Dominican Republic, speak Spanish, and have little contact with Haiti.

Return To The Bateyes Living and Working Conditions in the Haitian Labor Sectors

⁹⁷ Article 77 states that "all foreigners who enter the country as part of a contingent [of workers] specially contracted in a collective manner by entities, establishments or companies legitimately established in the country to provide services for a limited time are considered temporary workers."

⁹⁸ For additional criticisms, see a series of articles by Wilfredo Lozano, "Ocho Criticas al Anteproyecto de Ley de Migración," *El Siglo*, August 10, 17, 24 and 31, 1995.

Although our mission focused on issues related to the immigration status of Haitians and Dominicans of Haitian descent in the Dominican Republic, we also sought to update our earlier reports on living and working conditions in the bateyes. Our visit occurred during the tiempo muerto, the "dead season" between harvests when very little work is available on the sugar plantations.⁹⁹ We were, therefore, unable to directly investigate recruiting and working practices. We were, however, able to talk with the viejos, the cane cutters (and their families) who live in the bateyes all year, and representatives of the cane cutter unions and non-governmental organizations working to improve living conditions in the bateyes.¹⁰⁰ Our findings were not surprising, given the responses of the Dominican government to our prior reports -- regardless of a few small positive gestures by Dominican officials since 1992, very little has changed. Force continues to play a significant role in the recruitment and management of the cane workers. Working conditions remain dangerous and arduous and workers subject to constant mistreatment. CEA deception continues to cheat workers of income. And the small improvements which have come about in the abysmal living conditions in these camps are due to the efforts of non-governmental social service organizations and the labor unions, not the government.

A. The Sugar Industry

1. Crisis in the Sugar Industry

The Dominican sugar cane industry in the hands of the government has been in crisis for at least a dozen years, the outgrowth of decades of political mismanagement, corruption, the failure to invest in and modernize equipment and widely fluctuating -- usually falling -- international sugar prices. As domestic production has steadily fallen the CEA's financial problems have deepened. The difficulties reached the point where, in September 1995, the government found itself announcing a 60-day "suspension" of 12,700 sugar workers nationwide, claiming the layoffs were necessary to avert a financial crisis. Juan Hernandez, the CEA director, indicated that the layoffs would save the CEA about \$6 million. The layoffs affected Dominicans and Haitians who were waiting to receive the traditional end-of-harvest bonus and payment for the last three weeks of work. The announcement triggered four days of protests by sugar workers in which two people were killed and dozens injured. Workers erected street barriers of burning tires and pelted soldiers with rocks during riots the weekend after the announcement.¹⁰¹ The protests led to the intervention of President Balaguer on October 4, 1995. Balaguer reduced the suspension to one month and authorized the payment of RD\$40 million (US\$3 million) in salary and the gradual reintegration of the workers at the beginning of the next harvest.¹⁰²

On another front of the sugar crisis the colonos, (small sugar cane farmers who provide 60% of the cane refined in the CEA mills) stated that they would not cut any cane during the

⁹⁹ The principal activities during the dead season are cleaning and replanting harvested cane fields.

¹⁰⁰ The Dominican government recognized the right of the cane workers to organize with the legalization of cane-cutter unions in 1992. The unions with whom we spoke included the *Sindicato Nacional de Trabajadores Agrícolas de Plantaciones Azucareras y Similares* (SINATRAPLASI), the *Sindicato de Picadores de Caña del Ingenio Barahona* (SIPICAIBA) and the *Movimiento Socio-Cultural de los Trabajadores Haitianos* (MOSCTHA). Non-governmental organizations with whom we met include the *Movimiento De Mujeres Dominico-Haitianas* (MUDHA), the *Centro Cultural Dominico-Haitiano* (CCDH), *La Promoción de la Mujer del Sur*, *El Centro Buen Samritano*, *La Organización Para la Defensa de los Moradores de los Bateyes* (ODEMOBA) and the *Asociación de Mujeres Inmigrantes Haitianas* (ASOMITH).

¹⁰¹ "Two Killed in Protest by Sugar Workers," *Associated Press*, September 10, 1995; Telephone interview with Marcel Luis, MOSCTHA, September 12, 1995.

¹⁰² Máximo Manuel Pérez, "CEA Pagará Salarios," *Listín Diario*, October 5, 1995, p. 1.

1995-96 harvest -- scheduled to begin in December -- unless the CEA paid RD\$400 million (US\$30 million) due them from the 1992-93 and 1993-94 seasons.¹⁰³ The CEA reportedly owes an additional RD\$400 million to the state electricity corporation, RD\$190 million (US\$14million) to the Dominican social security institute and RD\$200 million (US\$15 million) to other businesses.

The financial condition of the CEA directly affects Haitian cane workers. The financial crisis implies both a continuing dependence on cheap Haitian labor and a reluctance on the part of the state to allocate CEA resources to increase cane cutter wages and invest the sizable amount needed to improve housing, sanitation and other living conditions in the bateyes. It also reaffirms the diminishing importance of the sugar industry to the Dominican economy as mineral, agricultural, textile and light manufacturing and assembly exports and tourism grow. As the sugar industry declines, Haitian manual labor will shift to the new labor-intensive markets. That shift is already well under way -- Haitian labor becomes more prevalent each day in non-cane agriculture and the tourism industry, and it remains unclear whether that shift will generate additional conflict if Dominican unemployment levels increase.

2. Recruitment Practices

The use of buscones -- paid recruiters -- inside Haiti declined dramatically after the 1991 coup, principally as a result of the increased supply of Haitian labor inside the Dominican Republic generated by the large coup-inspired immigration.¹⁰⁴

However, these recruiters continued to work with the army to arrest both Haitians crossing into the Dominican Republic and those found in the border zone in 1992 and subsequent years and to transport them to work in the cane fields.¹⁰⁵ We reviewed numerous press reports and spoke with cane workers, non-governmental organizations, sugar cane unions and human rights groups about this issue, and all confirmed the continued use of CEA buscones and the military to recruit Haitians for recent harvests. On December 13, 1994, for example, a bus full of Haitian workers contracted by buscones and soldiers in the border town Jimaní was involved in an accident at 2:00 a.m. on the highway to Santo Domingo; one Haitian was killed and 13 others wounded, including one of the soldiers guarding the group. Six days later, December 19, 1994, the press noted that 500 Haitians were brought from Haiti by buscones, handed over to the Dominican army for transport to the Ingenio Rio Haina, and detained under guard on five bateyes. One-hundred of the Haitians eventually escaped.¹⁰⁶

This practice has continued during the non-harvest season. On May 15, 1995, a group of five Haitian children were working pulling weeds for a small Dominican farmer near Jimaní when a group of soldiers stopped and asked them if they would like to work on a sugar plantation. When they declined they were forcibly taken to Neyba, 60 kilometers away, and imprisoned for 2 days without food. On May 17, the children were transferred to a prison in Jimaní and held for another 48 hours without food. On the night of May 18th, the five youths and 59 other Haitians detained in the same prison were taken by bus to the Ingenio Consuelo near San Pedro de Macorís to work in the cane fields.¹⁰⁷

¹⁰³ Tulio Navarette, "Colonos: Sin Pago No Hay Zafra," *Listín Diario*, October 5, 1995, pp. 1, 16.

¹⁰⁴ In fact, many of those repatriated by the Dominican army in the summer of 1991 returned to the Dominican Republic after the coup.

¹⁰⁵ See Americas Watch and National Coalition for Haitian Refugees, *A Troubled Year*, p. 20-21.

¹⁰⁶ Interview with Edwin Paraison, Baharona, October 21, 1995.

¹⁰⁷ Communication from Pedro Ruquoy, Centro Puente, Neyba, June 13, 1995; Teddy Sanchez, "Apresan Haitianos

Finally, it appears that the Army is using round-ups to obtain forced labor for the 1996 sugar cane harvest. A Dominican human rights NGO, the Dominican Human Rights Committee, issued a statement in January 1996 claiming that hundreds of Haitians had been detained by the army and transported to cut cane. The report stated that a group of 500 Haitians collected over several days had been transported in 13 minibuses from Santo Domingo to various bateyes pertaining to the Ozama sugar mill, noting that many of the Haitians had been rounded-up while working on construction sites near the capital.¹⁰⁸

3. Labor Issues

The use of labor contracts, mandated by presidential decree in 1990, varies from batey to batey, but is not widespread anywhere. The introduction of the contract has always been problematic -- it was initially written in Spanish for a mostly-illiterate Creole-speaking population and its terms were never explained to the workers who signed it. A more recent Creole version was incomprehensible.¹⁰⁹ And union representatives have complained that contracts are "signed" using fingerprints of the workers without any union members present to explain the contents. On a practical level however, the existence of the contract has meant very little for two reasons: first, it was only provided to seasonal workers recruited after 1991, leaving the much larger group of viejos and other agricultural workers without agreements and, second, there is no effective way for workers to enforce its provisions.

Pay remains a serious problem. Cane cutters are paid by the amount of cane they cut; the current rate is 30 pesos per ton (\$2.22). A veteran cutter can cut a maximum of 1.5 tons per day, working 12 hours to earn 45 pesos (\$3.33). Working a six-day week, the veteran can earn 1,080 pesos (\$80) per month. However, a cutter usually does not earn this amount. He often must pay the (Dominican) driver of the truck assigned to pick up the cane to transport it to the weighing station; if the cane sits overnight, it dries out and loses weight. A similar payment is made at the weighing station to get the cane weighed soon after it is cut. The cane cutter ends up with little control over the timing of the processing of the cut cane, and the mill owners routinely allow cane to sit to reduce payments. The CEA weighers continue cheating cutters by manipulating the weighing scales, dropping an estimated 10% of the cane weight.¹¹⁰ One of the first initiatives of the legalized cane cutter unions was to correct the weighing abuse by obtaining the right of the worker to be present inside the CEA weighing facility; the CEA, however, has found more sophisticated ways to underweigh -- by adjusting the sensitivity of the scale on which the cane is placed, for example.¹¹¹

In the end, then, even a skilled cutter earns significantly less than 1,000 pesos per month. This amount is less than the minimum wage of 1,200 pesos, which each cutter is guaranteed in the labor contract and under Dominican labor law. It is also far less than the estimated 7,500 pesos needed to provide adequate food for a family of four for one month in the Dominican Republic.

Indocumentados," *El Nacional*, June 23, 1995, p. 4.

¹⁰⁸ Generis García, "Denuncian Detenciones Haitianos," *El Siglo*, January 10, 1996, p. 1.

¹⁰⁹ See Lawyers Committee for Human Rights, *A Childhood Abducted*, pp. 39-42.

¹¹⁰ Interviews at Bateyes 5 and 6, Baharona, October 21, 1995.

¹¹¹ Interview with Joseph Cherubin, MOSCTHA. The Dominican government acknowledged the existence of these practices in a communication to the International Labor Organization in which it described the agreement entered into between the CEA, the Federation of Sugar Planters and cane cutter unions permitting union representatives to be involved in the weighing process. Communication from Judith Hoyles, International Labor Organization, Mexico City Office, December 7, 1995.

During the approximately six months of the year when no cane is cut, the permanent residents of the bateyes can earn very little and must struggle to find food to eat. The mission received reports of hunger and malnourishment in almost all of the bateyes; the most prevalent source of food was the sugar cane itself.

The cane cutter unions have been frustrated in their efforts to organize in the bateyes and to negotiate collective contracts with the CEA and private sugar mills.¹¹² Union organizers are often not permitted to circulate or organize meetings with large groups of workers. Cane workers are warned not to participate in union activities. Protests are repressed by the army, police and guardacampestres, and cane workers arrested, imprisoned and sometimes killed. For example, when a demonstration was held to protest a delay in the payment of salaries in Batey 5 near Baharona in September 1995, the army shot into the crowd, killing a cane worker, M. Alexander Richard.¹¹³

Frustrated leaders of the Sindicato de Picadores de Caña del Ingenio Baharona (SIPICAIBA) and the Sindicato Nacional de Trabajadores Agrícolas y Similares (SINATRAPLASI) sent a protest to the International Labor Organization in October 1995, denouncing the failure of the Dominican government to fulfill commitments made to the cane workers in 1990 and its continued violation of ILO conventions.¹¹⁴

4. Living Conditions in the Bateyes

We found no evidence that conditions in the bateyes have improved since our last report in 1992.¹¹⁵ Housing conditions in the ten bateyes we visited vary from uncomfortable to horrible. Dominican sugar mill workers (who drive trucks, weigh cane, run the mill equipment, serve as guards or run the bodegas in the batey) live in small concrete houses close to the mill; Haitian and Dominican-Haitian viejos generally live in the long, rectangular concrete or wooden barracks known as barracones, many of which date from the Trujillo era. Families share a tiny, two-room windowless space in these structures. Makeshift beds, clothing and cooking utensils are often stored on the floor together. Walls have not been cleaned or painted in ages and are filthy. Cooking is done on a collective fire outside the barracón. A third housing area features the newest (or oldest) Haitian residents who cannot lay claim to CEA housing. They build their own houses of carton, sheet metal or mud with palm fronds or thatch for roofs and earth for a floor.

Latrines are usually not available. Potable water is rare. Electricity, a luxury. Dirt roads become muddy lakes when it rains and entire bateyes are often cut off from the outside world -- and food and water -- for days at a time. Where sanitary services are available, they generally have been built by non-governmental organizations, not the government.

¹¹² CEA opposition is not the only resistance faced by organizers -- unions generally have a negative reputation among workers in the Dominican Republic. They are viewed as corrupt, representing political and economic interests rather than the concerns of workers.

¹¹³ Interviews with SIPICAIBA Executive Committees for Bateyes 5 and 6, Baharona, October 21, 1995.

¹¹⁴ Letters from SIPICAIBA and SINATRAPLASI to Monsieur Michel Hansenne, Director General of the International Labor Organization, dated October 20, 1995.

¹¹⁵ The most comprehensive description of life in these settlements remains the 1986 study by Frank Moya Pons, et al, *The Batey* (Fondo para el Avance de las Ciencias Sociales, Santo Domingo, 1986). A 1994 survey of conditions in a sample of nine bateyes indicated that 55% of the occupants cannot read or write, 50% have no employment, 38% consider the state of their housing bad or terrible and only 25% have access to state medical insurance. Movimiento Socio-Cultural de los Trabajadores Haitianos, *Diagnostico Preliminar de Salud en Nueve Bateyes Ubicados en el Distrito Nacional y la Provincia de Monte Plata* (Santo Domingo, December 1995).

Cane cutters in the CEA plantations are entitled to the public health services provided under the Dominican Social Services Law. Access to care, though, is difficult. Hospitals and clinics are usually located in cities at some distance from the isolated bateyes, transportation is not always available and permission to travel for medical reasons is not always given. Few braceros have the money necessary to purchase medicines. Inside the bateyes, health care is almost non-existent. In some bateyes non-governmental organizations have set up rustic medical clinics, but a physician is usually available only one day per week. Outside the CEA mills, access to health care is even more problematic -- private employers often do not register their Haitian workers with the Social Security Institute or fail to make the necessary premium payments. In both cases, the workers are denied access to even the minimal health services provided by the state.

Access to education is also hard. Where state primary schools exist, Dominican-Haitian children with proper documentation attend. Children of Haitian parents who have not been registered as Dominican citizens are denied access. A number of non-government organizations have attempted to address the education problems in the bateyes. For example, MOSCTHA now runs a number of primary schools. The Organización para la Defensa de los Moradores de los Bateyes (ODEMOBA) has initiated a breakfast program for the children of cane workers attending schools in or near the bateyes.¹¹⁶ ODEMOBA is also working with the Fondo Pro-Comunidad to construct primary and secondary schools.¹¹⁷

Women face particularly difficult conditions. Legally, women are not allowed to cut cane, although some do (relying on a male co-worker to process the cut cane for payment). They are permitted to live in CEA housing in the bateyes only if they are married to or living with a cane worker. If they separate from the worker and have no male children of cane-cutting age, they can be ejected from CEA housing. More pressingly, aside from earning wages cutting cane, few avenues to earn money are available. Many sell coal or sweets or do laundry for pay. Others abandoned by a male must turn to prostitution to feed themselves and their children. They are also subject to sexual violence from Dominican army, police and camp guards and Haitian workers, with little legal recourse.¹¹⁸

B. Other Economic Sectors

Until the 1970's, Haitian agricultural labor was concentrated almost exclusively in cutting sugar cane. But as the crisis in the sugar industry led to sharp declines in sugar cultivation and production, workers migrated from the bateyes to other agricultural areas -- principally coffee, rice, fruit and corn. Many of the Dominican campesinos who had previously worked these farms abandoned the countryside for better-paying opportunities in the cities, exacerbating a labor shortage which the Haitians were able to fill. Thus today Haitian manual labor has a massive presence in non-cane agriculture as well.¹¹⁹

¹¹⁶ Tulio Navarrete, "ODEMOBA Inicia Programa Desayuno en Escuelas Publicas de Bateyes," *Listín Diario*, October 3, 1995, p. 6.

¹¹⁷ Tulio Navarrete, "Construirán Escuelas Bateyes," *Listín Diario*, May 26, 1995, p. 9.

¹¹⁸ Interview with Sonia Pierre, MUDHA, Santo Domingo, October 24, 1995.

¹¹⁹ Wilfredo Lozano, "Agricultura e Inmigración: La Mano de Obra Haitiana en el Mercado de Trabajo Rural Dominicano" in Wilfredo Lozano, ed., *La Cuestión Haitiana*, p. 80. Lozano notes that many of the agricultural industries facing financial crises due to a combination of increasing factor costs and falling international prices -- coffee and rice in particular -- turned to the use of cheap Haitian labor rather than investing in labor-saving technology as a way to regain

Again, there are no official descriptions of the size of the Haitian population working in non-sugar agriculture. Wilfredo Lozano estimates that in the 1987-88 harvest season the total number of Haitian agricultural workers and family members was somewhere between a minimum of 61,000 and a maximum of 118,000 -- with about 44% working in coffee production, 40% in rice and 12% in tobacco.¹²⁰ We did not find any more recent estimates.

Working conditions in coffee, rice and tobacco cultivation are not as arduous as those of the cane fields and historically have attracted Dominican campesinos as well as Haitians. However, uncertain legal status and a position at the bottom of the Dominican labor scale combine to reduce Haitian worker leverage for negotiating decent salary and working conditions. Workers also face fraudulent practices similar to those common in the cane fields to induce long hours of work for very low levels of pay. In the coffee fields, for example, workers are paid by the number of boxes of coffee beans they collect per day. Although official regulations set the size of the boxes, plantation managers tend to require the use of larger crates. They also utilize a standard set of tricks to reduce payments, such as deducting an amount from the value of a box for beans which fall on the floor while the boxes are being counted (such "spills" account for an estimated 3-15% of the coffee beans collected in a given day).¹²¹

Haitians also are a major presence in the construction industry. They are highly visible, digging with picks and shovels on highway projects everywhere we traveled. The handful of construction workers we spoke to at roadside construction sites near Santo Domingo said they lived either in a nearby batey or in a Haitian neighborhood in the city. Not one had a labor contract, visa or Dominican identity paper of any kind. They were wary of the soldiers, aware that they could be caught in a round-up at any time.¹²²

C. The Government's Response

The Dominican government has made several efforts to address the abuses faced by Haitians and Dominicans of Haitian descent in the Dominican Republic. Nonetheless, most of these initiatives were launched to mollify criticisms from the United States, the Organization of American States and the International Labor Organization, and remain formal rather than substantive. As we noted in our 1991 report, "the Dominican government continues to deny that it is committing abuses by citing laws that it does not enforce and by treating the issue as no more than a public relations problem."¹²³

The promises contained in President Balaguer's Decree 417/90 remain unmet. The legal status of Haitian workers has not been "normalized": the registration procedure initiated by the Department of Migration in 1992 has reached only a small part of the Haitian population, provides no protection for the more-or-less permanent Haitian residents, most of whom neither live nor work on the sugar plantations to which the registration process is oriented, and subjects the immigration status of Haitian workers to the whims of the very employers who are doing all they

profitability. *Ibid.*, p. 83.

¹²⁰ *Ibid.*, p. 86.

¹²¹ *Ibid.*, p. 98. See also Girault, C., *La Comercialización del Café en la República Dominicana: un Enfoque Geográfico* (Santo Domingo: IICA, 1977).

¹²² Interviews at Santo Domingo, October 29 and 30, 1995.

¹²³ Americas Watch and National Coalition for Haitian Refugees, *Half Measures*, p. 27.

can to exploit them. The CEA has done little to develop the health, education, nourishment, social security, electricity, drinking water and housing programs for the sugar industry workers promised in the decree.

Despite the Labor Secretary's 1990 order prohibiting the CEA from using buscones, the practice continues, particularly in the frontier zone inside the Dominican Republic. Despite President Balaguer's alleged 1990 order to the army not to engage in round-ups or the recruitment of Haitian workers, the practice continues apace -- publicly, reported in the press, freely admitted by the head of the Army.

The few positive concrete initiatives have been inadequate. In 1990, the Labor Secretary appointed 39 inspectors to ensure that Balaguer's 1990 decree was enforced in the sugar mills (apparently the number of inspectors in 1995 had declined to 25). In reports to the International Labor Organization, the Dominican government has stated that "a number of penalties have been imposed on the administrators of sugar mills for breaches of the provisions of the Labor Code concerning wages, leave, working hours and, in one case, for resorting to the use of military personnel in the forcible recruitment of Haitian nationals for cane cutting."¹²⁴ We were told by a number of unions and Haitian-Dominican NGOs that they were aware that some CEA supervisors accused of maltreating Haitian workers had been fired or transferred to other locations, and press reports confirmed cases of discipline imposed against CEA employees and security forces. However, we were also told that these cases were relatively rare and occurred only in egregious situations which usually gained press attention.

Legalization of the cane cutter unions has also not materially changed the working and living conditions of the cane workers. While unions have set up organizations in many bateyes and are providing education, health and job training programs on a limited basis, union leaders report that the CEA has thwarted their efforts to organize the bateyes and bargain collectively on behalf of the workers. The unions find that they have no recourse when the CEA fails to fulfill its agreed-to commitments.

The only substantial success in the last four years is the dramatic decline in the number of children working in the cane fields. While young boys can still be found working with their fathers cutting and cleaning cane, the organized practice of recruiting children seems to have ended, although, as we have indicated, round-ups of Haitians to work on the plantations do still involve children.¹²⁵

¹²⁴ Communication from the ILO.

¹²⁵ See the example on p. [34] above.

Conclusions and Recommendations

A. Conclusions

As we have indicated throughout this report, the findings of our October 1995 mission to the Dominican Republic echo those of our four previous visits:

(1) Anti-Haitian animosity infuses government attitudes toward the Haitian immigrant population, underlying the now-quotidian military, police and CEA abuses and the constant fear of arbitrary deportation endured by Haitians and Dominicans of Haitian descent everywhere in the Dominican Republic.

(2) Despite repeated promises over five years, the Dominican government has done little to curb CEA abuses of sugar cane cutters. Working conditions remain onerous and dangerous, freedom of movement is strictly controlled, effective pay is far below an already-miserly minimum wage, labor contracts are rarely used and effectively unenforceable, CEA cheating in weighing and paying continues, union organizing is repressed and military units and armed guardacampesestres controlling the sugar plantations as if they were prisons, and the cane cutters, prisoners. Efforts by the Secretary of Labor to improve conditions -- primarily through the use of 25 inspectors to supervise 16 sugar mills and 400 bateyes -- have proved woefully inadequate. Some abusive CEA employees, guardacampesestres and police have been disciplined, but usually only in cases which have attracted extensive press coverage. Health and social services for cane workers and families remain largely inaccessible.

(3) Conditions in the bateyes are terrible. The most fortunate have electricity and well-water, but housing and sanitation facilities (if they are available at all) are still abysmal. The CEA claims it has no funds for adequate repairs or new facilities investments, so any improvements made usually result from the work of NGOs or unions.

(4) The immigration status of most Haitians is precarious. Some cane cutters were issued temporary worker immigration cards, renewable annually, but most workers we spoke with possessed only CEA identification or no proof of immigration status at all. The same CEA and private farmers who have treated Haitian workers harshly in the past are responsible for regularizing the status of these same workers now, with little government oversight and no effective penalties for not doing so.

Haitians who give birth to children in the Dominican Republic often face enormous hurdles in registering their offspring as Dominican citizens and thus permitting them to attend public schools and claim all the political and social rights of Dominican nationals. Long-standing Dominicans of Haitian descent also face serious discrimination when seeking to vote or obtain the social, health and educational services to which they are entitled under Dominican law.

Finally, the Dominican government refuses to recognize any obligation toward the large segment of the Haitian immigrant population which has lived and worked in the Dominican Republic for many years but has never received official immigration status. NCHR recognizes that a state has the right under international law to determine the conditions under which it will grant citizenship and residency status to immigrants and their children. However, the Dominican Republic's responsibility for this population derives from its having welcomed -- and often coerced or induced through deception -- the arrival of these immigrants, who carry out work in critical Dominican industries which Dominican nationals refuse to perform.¹²⁶ Moreover, the Dominican government itself has been the major employer of these viejos through its ownership of the CEA sugar mills and its role in the construction industry (which depends upon government public works contracts).

Immigration reform measures currently under discussion by the Dominican government would change the basis of Dominican nationality in order to deny citizenship to the children of Haitian immigrants born in the Dominican Republic. The reform measures, as currently drafted, fail to address actual migration patterns and practices in Dominican agriculture and completely ignore the long-time undocumented Haitian residents.

(5) Forced repatriations continue as official government practice. The military continues to conduct arbitrary round-ups and assists agricultural and construction employers to deport Haitian workers for economic reasons. Haitian "appearance" is usually the only requirement for deportation. Proper visas, Dominican cédulas, passports or CEA documents usually do not prevent repatriation -- the documents are normally taken and destroyed to prevent the individuals from returning. The massive repatriation decree of 1991 is still Dominican law.

Five years of recommendations to the Dominican, United States and Haitian governments have been largely ignored. The measures in fact undertaken -- the United States Trade Representative's investigation in 1990-91, the Dominican government's adoption of various decrees -- were curtailed for political reasons or, in the case of the Dominican government, never fully carried out.

We noted that the situation of Haitians in the Dominican Republic appears to be intractable for a number of historic, political and economic reasons. We discussed at some length the historic sources of anti-Haitianism and the transformation of that colonial antagonism into a virulent racism for political purposes by Trujillo and his political descendants, a racism that now permeates much of Dominican society.

Regardless of the racism, Haitian migrants form the basis of important formal and informal economic networks. Most obvious is the cheap labor Haitians provide to the crisis-ridden sugar cane industry, the agricultural sector as a whole, the construction industry and in other lines of work where inexpensive manual labor is a critical production factor. Under constant threat of deportation, these workers have no leverage to bargain for better pay or working conditions and must accept the feudal control imposed by employers. Thus, uncertain legal status is a mechanism for guaranteeing the availability of an easily controlled low-wage labor force for industries that might not remain competitive in domestic and global markets if labor costs and benefits were forced to rise. And, of course, the largest beneficiary of this state of affairs is the government itself, which

¹²⁶ See Americas Watch, National Coalition for Haitian Refugees, *A Troubled Year*, p. 7.

must bear the huge costs of the inefficient CEA and pay for road construction and other public works.

Informal economic networks are just as crucial to the maintenance of the status quo. The Army and National Police, in particular, benefit from the illegal "trade" in Haitian workers. A bus carrying Haitians from Port-au-Prince to Santo Domingo, for instance, must pay an "entrance fee" at the border to Dominican army officers in order to permit visa-less Haitians to enter. Additional "fees" must be paid to security officials at every one of the dozen-to-two-dozen army or national police checkpoints on the highway to Santo Domingo.¹²⁷ Haitians who are stopped randomly by national police or the military often must pay a fee in lieu of deportation. And Haitians who are caught in round-ups -- or removed from construction sites en masse -- are usually stripped by soldiers of any cash or belongings they might be carrying. Finally, soldiers are paid by CEA and private farmers and owners of other businesses which employ Haitians to collect and deport groups of workers. These revenues, we were told by a senior military official, are significant to large numbers of poorly-paid national police and soldiers.

Haitian immigrants, therefore, find themselves in a situation both paradoxical and ironic. The paradox lies in the abuse and discrimination received from individuals and groups in the economic sectors that could not survive without their labor. The irony is generated by the fact that as much as many Dominicans profess to "fear" the "Haitianization" of Dominican society and culture, a Gallup poll reveals the contrary -- in the traditional immigration pattern, Haitians become "Dominicanized," adopting the language, religion and customs of the Dominican Republic.¹²⁸

Proposals to solve the "Haitian problem" inside the country by repatriating Haitian workers and "Dominicanizing" the market for manual labor are unrealistic for several reasons.¹²⁹ First, they usually assume that the number of Haitians in the country is relatively small, and thus repatriation could be done in an organized way.¹³⁰ Second, they presuppose that Dominicans could be enticed to do the work now done by Haitians in the sugar fields and construction industry, even with improved pay and living conditions. Third, they presume that the corporations dominating the agricultural industries would give up the cheap labor that serves as the source of business profitability or, in the case of the inefficient, permits survival. Fourth, they conclude that the government

¹²⁷ Haitians seeking to get to Santo Domingo from Port-au-Prince usually pay the driver a fee theoretically sufficient to cover these costs. However, the payment of often-sizeable sums carries with it no guarantee -- a Haitian might be removed from the bus by soldiers or national police at any stage of the trip, stripped of all cash and deported anyway.

¹²⁸ Carlos Dore Cabral, "Los Descendientes de Haitianos No Hablan Creole Ni Practican Vudú," *Rumbo* (May 3-9, 1995), p. 42; Carlos Dore Cabral, "Los Descendientes de Haitianos No Son Una Masa Agrafa," *Rumbo* (June 7-13, 1995), p. 41.

¹²⁹ For example, historian Benardo Vega, president of the *Fundación Cultural Dominicana* and author of a two-volume work on Trujillo and Haiti, made this suggestion in 1990 and again in 1995. Vega's view reflects a deep pessimism about the ability of the Dominican Republic to integrate its Haitian residents in light of historical events since the Trujillo era. He argues that the presence of large numbers of Haitians in the Dominican Republic plays into the hands of the nationalist demagogues who incite anti-Haitianism for political gain (as happened with Peña Gómez in the 1994 presidential elections) and constrains the Dominican Republic in its foreign relations with Haiti. His argument is economic as well as political: the availability of cheap Haitian labor has retarded the growth of the Dominican economy, delaying the need to invest in the sophisticated labor-saving technology which would generate the modernization needed for sustained economic growth and permit a gradual rise in salaries. Vega recognizes that the most difficult problem would be identifying the Dominican-Haitians entitled to remain in the country. He has no good solution other than to give all Haitians the "opportunity to try to demonstrate that they have the legal right to reside in the country...and to use official advisors for this purpose." Bernardo Vega, "Las Deportaciones Civilizadas de Haitianos," *Listín Diario*, August 26, 1995, p. 6.

¹³⁰ Vega, for example, assumes a total Haitian population of 200,000.

would be willing and able to bear the higher costs of labor in the already-bankrupt CEA mills and the construction industry. Fifth, they posit that the military would be willing to give up a source of revenue which permits soldiers at all ranks to supplement income. And, finally, they do not deal with the particular difficulties faced by Dominican citizens of Haitian descent, many of whom have not been able to obtain proper documentation of their Dominican nationality, or consider the plight of the viejos, the ten-, twenty- or thirty-year residents who consider the Dominican Republic -- and not Haiti -- home.

The estimated 500,000 Haitians and Dominican-Haitians in the Dominican Republic pose more than just a set of formidable domestic problems for the Dominican government. Existing in a nebulous legal state under Dominican and international law, subject to deportation without notice, they also "constitute a veritable sword of Damocles for Haiti."¹³¹ Years of dictatorship and military repression caused tens of thousands of Haitians to flee to the United States, Canada and other Caribbean states; the largest refugee population, however, remains that of the Dominican Republic. And although Haiti has established an office to assist with the return of refugees, the resources the government can offer to its expatriates have been meager. In its current fragile economic state, Haiti would have great difficulty dealing with massive deportations from its neighbor on the scale of the 1991 expulsions. But until the status of the Haitian population in the Dominican Republic is officially determined and respected by the Dominican government, the threat will remain. And, as Balaguer demonstrated in 1991, the Dominican government has been willing to use its Haitian population to influence Haitian politics.

B. Recommendations

For the fifth time in seven years, NCHR requests the Dominican government to honor its obligations to its Haitian residents and citizens of Haitian descent contained in Dominican domestic law and the international human rights instruments to which it is a party -- the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the American Convention on Human Rights and numerous ILO conventions.

Forced repatriations without due process are prohibited under international law. Article 12(4) of the International Covenant on Civil and Political Rights requires that "[a]n alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall...be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose, before the competent authority or a person or persons especially designated by the competent authority." Regarding the claims of Dominicans of Haitian descent, Article 22(5) of the American Convention on Human Rights notes that "[n]o one can be expelled from the territory of the state of which he is a national or be deprived of the right to enter it" and, more pointedly, Article 22(9) states that "[t]he collective expulsion of aliens is prohibited." Finally, Article 13(3) of the Dominican Nationality Law recognizes the right of aliens to a hearing before deportation.¹³²

¹³¹ André Corten and Isis Duarte, "Five Hundred Thousand Haitians in the Dominican Republic," 22 *Latin American Perspectives* 94 (Summer 1995), pp. 94-95.

¹³² In addition, the Universal Declaration of Human Rights emphasizes in Article 9 that "[n]o one shall be subject to arbitrary arrest, detention or exile." Article 13(2) provides that "[e]veryone has the right to leave any country, including his own, and to return to his country." Article 15 states that "[e]veryone has the right to a nationality" and "[n]o one

Similarly, the International Covenants prohibit CEA recruitment practices, forced labor, restrictions on the freedom of movement of sugar cane workers and the employment of children and calls for the provision of fair wages and a decent living for workers and their families, safe and healthy working conditions and adequate rest periods and leisure time.¹³³ The Dominican Republic is also party to the principal ILO conventions establishing minimum standards for working conditions, pay and benefits. The ILO was, in fact, one of the organizations responsible for bringing the plight of the Haitian sugar workers to the attention of the world in the early 1980s. The ILO has been closely monitoring the Dominican government ever since.

In light of these specific obligations, we once again urge the Dominican government to take immediate steps to ameliorate the exploitation and abuse of its Haitian residents and Dominican citizens of Haitian descent. The Dominican Republic should:

- w Determine the size and composition of its Haitian populations with a census, conducted by an independent organization.
- w Provide for the expeditious nationalization of the children of Haitian immigrants born in the Dominican Republic by establishing a clear, consistent and practical procedure for demonstrating birth in the country.
- w Agree to normalize the immigration status of long-time Haitian residents by permitting those who can demonstrate -- again using a clear and practical standard of evidence -- continuous residence for a determinate period (perhaps ten years) to apply for and obtain permanent resident status.¹³⁴
- w Adopt administrative procedures for the detention and deportation of undocumented Haitian immigrants, including a provision for open deportation hearings. Immigrants without the legal right to be in the Dominican Republic should be turned over to Haitian immigration officials at the border.
- w Launch a program to improve living conditions in the bateyes, including the immediate provision of clean water, sanitation facilities and electricity to all bateyes, the renovation of existing and construction of new housing and the provision of health clinics and schools. Food cooperatives should be established to give workers access to a wide variety of healthy food.
- w Enforce the terms of a reasonable labor contract -- eight-hour work days, a five-day work week, the provision of clean water and food for the workers in the fields. Pay should be substantially raised -- doubled or tripled the present amount -- and a threshold wage established above the minimum wage regardless of the amount of cane cut. Workers should be paid weekly in cash.

shall be arbitrarily deprived of his nationality nor denied the right to change his nationality."

¹³³ See the *International Covenant on Economic, Social and Cultural Rights*, Articles 6, 7 and 10; *International Covenant on Civil and Political Rights*, Articles 8 and 12.

¹³⁴ A similar provision was included in a normalization and repatriation agreement between Haiti and The Bahamas signed on January 12, 1995.

- w Grant cane workers the right to collectively bargain through union representation for working conditions, pay and benefits. Union workers should be able to organize and hold meetings in the bateyes without threat of repression from the army or guardacampestres. A formal grievance procedure should be established through which workers and union representatives can bring complaints for non-compliance with the labor contract and abusive treatment.

- w Mandate, with serious sanctions for failure to comply, the issuance of labor contracts written in the preferred language of each worker (Creole, French or Spanish) to all Haitian workers, seasonal or long-time resident. The mandate should include the requirement that the contract's provisions be explained in detail to each worker by a designated union representative. Each person should be provided with an official identity card which serves as a residency visa and grants the worker access to Dominican social and health services.

- w Finally end the use of the Army in the forcible recruiting of Haitians in the Dominican Republic for work in the sugar cane fields. The Director-General of Migration should regain control over day-to-day immigration matters from the military, perhaps establishing a separate border national police under the direct control of the Director-General. Army deportations should likewise cease and all persons detained for immigration violations should be turned over to Migration for a hearing and -- if appropriate -- an orderly deportation to the Haitian immigration authorities.

- w Demilitarize the bateyes, removing the Army and National Police from any security role in the sugar industry. The security forces should crack down on the officially-tolerated corruption -- particularly the extortion -- practiced in the ranks. Sugar mill guards should be required to work without firearms.

1. Bilateral Agreements

Previous efforts to pressure the Dominican government to treat its Haitian and Dominican-Haitian populations in accord with Dominican and international law have largely failed.¹³⁵ The hope that the Dominican government may become more sensitive to these issues now rests with the generational political change implicated by the May 1996 presidential elections. However, since most of the actors involved in the presidential race have been involved in Dominican politics for some time, we have no reason to believe that reasserting the same arguments will necessarily produce greater success after President Balaguer has retired.

NCHR now insists that a broader approach is necessary. While emphasizing that the Dominican Republic remains obligated to meet its international human rights obligations independent of exogenous considerations, NCHR believes that durable solutions must involve Haiti and neighboring Caribbean states. The human rights violations we have outlined in this report are intertwined with migration and development issues that affect the Caribbean as a region. Addressing these issues requires the active participation of the major economic and political actors in the region, the United States and the European Community, and international and regional organizations concerned with development and migration issues.

¹³⁵ See the "Conclusions and Recommendations" chapters in our prior reports listed in footnote 2, above.

In our view, the first steps in improving the lot of Haitians in the Dominican Republic must take place at a bilateral level between the governments of Haiti and the Dominican Republic. The two states share important interests in trade, joint economic development projects (particularly in the border regions), tourism and democracy. These issues also directly affect migration flows on the island. The demand and supply of seasonal labor for Dominican agricultural industries should be regulated by a bilateral accord that incorporates enforceable worker protections. As a precondition to any labor accord, the Dominican Republic must agree to definitively resolve the legal immigration status of long-term Haitian residents and end the official discrimination faced by its citizens of Haitian descent.

As this report goes to press, the two republics have given encouraging indications of an interest in initiating bilateral discussions on at least some of these issues. Haitian President Préval's inauguration in February 1996 initiated a series of bilateral cultural, business and political contacts culminating in Préval's official state visit to Santo Domingo in mid-March. The foreign ministers of each state signed a joint communiqué establishing a bilateral commission to discuss trade and economic development issues. While the bilateral contacts at the outset of the Préval presidency signal the potential for a new relationship between the neighboring states, NCHR reiterates the need for a broad, well-prepared set of interconnected discussions on economic development, trade, migration and human rights. The joint communiqué, for example, referred to economic development and trade interests but was silent on migrant labor, migration, human rights and democracy. And while Presidents Préval and Balaguer are to be commended for opening Préval's term on a warm note, substantive policy decisions will have to await the new Dominican president elected in May.

2. Regional Assistance

Given the antagonistic history between Haiti and the Dominican Republic, the long-standing absence of political will on the part of the two states necessary to forge workable bilateral agreements and the regional nature of the economic and political causes of migration patterns in the Caribbean, NCHR believes that both states should seek the assistance of other nations and regional and international organizations.

The United States, the World Bank, the Inter-American Development Bank, the Organization of American States, the European Community, CARICOM, UNHCR, the United Nations Development Program (UNDP) and the International Organization for Migration all play extensive roles in the Caribbean and most are directly involved in, or affected by, Caribbean migration issues.¹³⁶ More importantly, the decisions of a number of these actors, particularly those of the United States, affecting any one Caribbean state tend to have ripple effects which can significantly

¹³⁶ Two United Nations organizations, UNDP and UNHCR, recently completed a difficult, but successful joint regional effort in Central America to address political, refugee and humanitarian problems left in the wake of the wars and civil strife that had marred the area for a decade. The International Conference on Central American Refugees (CIREFECA) process involved donor countries, intergovernmental organizations, NGOs and other agencies within the United Nations system. The CIREFECA process was "a new approach placing problems of displacement in a political and developmental context." It provided "a regional perspective in considering uprootedness" and offered "a regional and international platform for dialogue on humanitarian, developmental and political elements of national peace and recovery, introducing displacement into the political and development agendas." Finally, it generated "a framework for donor coordination on policies and modalities for channeling funds to international, national and indigenous NGO's, governments in the region and the UN system." UNDP and UNHCR, *CIREFECA: An Opportunity and Challenge for Inter-Agency Cooperation* (May 1995), pp. 8-9. The CIREFECA process suggests that cooperative efforts addressing intertwined migration, development, human rights and democracy issues in the Caribbean are practicable.

influence the rest.¹³⁷ This is particularly true when market-oriented macroeconomic restructuring and economic development initiatives insisted upon by the United States, the international financial institutions and the U.S. Agency for International Development inevitably promote, at least in the short run, an increase in rural poverty that exacerbates economic migration problems.¹³⁸

The United States and the European Community can bring economic pressure to bear on Haiti and the Dominican Republic to negotiate immigration and migrant worker agreements under the auspices of a neutral third party, such as the OAS, and have the resources to help finance (or encourage financing from international financial institutions) migration, economic development and resettlement programs. Third parties such as UNHCR, the ILO or IOM could take on monitoring and enforcement functions, perhaps reporting to a bilateral or multi-lateral commission.¹³⁹

Unless longer-range regional solutions are forthcoming, the migration emergencies which generate and sometimes exacerbate existing human rights problems will continue. For example, the U.S. Coast Guard intercepted more than 1,100 Haitian "boat people" bound for the United States in November 1995, a surge that corresponded to continuing economic difficulties and a rise in political uncertainty and violence prior to the December Haitian presidential elections.¹⁴⁰ It is important to note, however, that these sudden migrations do not emanate solely from Haiti. The Dominican Republic itself exhibits similar migration patterns, with Dominican economic migrants moving from the countryside to Dominican cities and then on to Puerto Rico and the United States. While the U.S. Coast Guard rescue operations in 1995 picked up a total of 1,969 Haitians sailing for Miami, 4,500 Dominicans were apprehended attempting to reach Puerto Rico across the Mona Passage in the same period.¹⁴¹

¹³⁷ For example, pressure by the US (and the IMF and World Bank) to replace Haiti's protectionist tariff regime with the low-tariff structure required by a liberal free-trade policy led to the reduction or elimination of many import restrictions. Thus, Haitians can now import many food and consumer items from the US more cheaply than from the neighboring Dominican Republic, with two economic consequences -- Dominican merchants are losing markets in Haiti and Haitian merchants are undercutting competitors in the Dominican Republic by reselling goods brought in from the US. Both results, however large or small the actual effects, generate tensions between the two states.

¹³⁸ Josh DeWind and David Kingly argued in 1986 that World Bank and USAID development strategies promoting a shift away from domestic agriculture toward export crops and assembly export production only intensified the impoverishment of the rural population and increased migration from Haiti to the U.S. and other Caribbean states. Josh DeWind and David Kinley, *Aiding Migration: The Impact of International Development Assistance on Haiti* (New York: Immigration Research Program, Center for the Social Sciences, Columbia University, 1986). In a recent paper, Philip Martin and J. Edward Taylor explain that "[f]ree trade may increase imports before exports rise, producing a currency crisis, devaluation, recession, and emigration, as in Mexico in 1995. Multinationals tend to use more imported components, so that breaking up local monopolies and attracting direct foreign investment can increase imports, the use of capital-intensive production techniques, and exports, without increasing the number of jobs. Finally, aid in the form of infrastructure can have the perverse effect of stimulating emigration, as when better roads meant to help farmers to market their crops also permits cheap imported food to reach even the countryside, destroying jobs and stimulating emigration." *Managing Migration: The Role of Economic Policies* (Paper prepared for the *Migration Policy in Global Perspective* conference at the New School for Social Research, September 8, 1995, revision dated December 21, 1995), p. 31. Regardless, Martin and Taylor argue that liberal economic policies can be effective in the longer run.

¹³⁹ The International Organization for Migration is assisting Costa Rica and Nicaragua with the implementation of a bilateral migrant worker accord, acting as a neutral intermediary in the recruitment, contracting, monitoring and repatriation of the seasonal workers. See *Convenio de Mano de Obra Migrante entre el Gobierno de Costa Rica y el Gobierno de la República de Nicaragua para Regular el Ingreso y Permanencia de Trabajadores Migrantes No Residentes*, dated January 6, 1993.

¹⁴⁰ William Branigin, "Surge of Haitian Boat Refugees Is Largest Since Aristide's Return," *Washington Post*, November 29, 1995, p. A28.

¹⁴¹ *Ibid.*

3. The United States and the European Community

The United States remains the largest foreign market for both Haiti and the Dominican Republic and can use sugar quotas, tariffs established under the General System of Preferences and the Caribbean Basin Initiative, and economic development and military aid to pressure the Dominican Republic to improve its human rights record.¹⁴²

The Dominican Republic's allotments of 226,000 short tons for 1992-93, 191,000 for 1993-94 and 241,851 for 1994-95 remained the highest allotment of any sugar-producing state, 17% of the total United States sugar quota. In 1991, the United States government failed to take full advantage of its considerable leverage as the Dominican Republic's largest trading partner to pressure the Dominican government to improve its human rights practices. On April 25, 1991, after a two-year review of Dominican labor practices, the United States Trade Representative determined that the Dominican government had "taken or [is] taking steps to afford internationally recognized worker rights," even though the CEA continued to use forced labor, as documented by NCHR and others. As a result, the Administration continued extending trade benefits under the Generalized System of Preferences, despite a U.S. law that prohibits the granting of such benefits to countries that violate labor rights, and refused to accept an America's Watch petition for an ongoing review.¹⁴³

Since September 1991, United States diplomatic efforts in the Dominican Republic focused on the Dominican government's (reluctant) role in the measures taken by the United Nations and the OAS to restore Aristide to the Haitian presidency. Neither the Clinton Administration nor the U.S. Congress has returned to consider the Dominican government's treatment of its Haitian residents.

This lack of attention is unfortunate given that the U.S. now has additional leverage through the Caribbean Basin Initiative's textile preferences granted to Caribbean states during the Reagan Administration. The Dominican Republic has developed a number of free trade zones from which international textile corporations can export products to the United States at favorable tariff rates.¹⁴⁴ The Dominican government claims that 200,000 jobs have been generated by the textile companies, jobs now threatened by even-more-favorable access granted to Mexico pursuant to the North American Free Trade Agreement. The Mexican tariff advantage has increased with the huge drop in the value of the Mexican peso since early 1995. The Dominican government has formally requested the Clinton Administration and the Congress to grant it parity with Mexico in order to preserve its textile export industry. In September, the Ways and Means Committee of the U. S. House of Representatives dropped the NAFTA parity bill from the 1996 budget for reasons having nothing to do with human rights concerns. The issue appears to be stalled until after the United States' presidential election in 1996.

The European Community (EC) is now the destination of almost a quarter of all Dominican exports.¹⁴⁵ The EC markets promise to expand once the Dominican Republic and Haiti fully

¹⁴² Nearly 53% of all Dominican exports were destined for the United States market in 1994 while imports from the United States constituted 40% of the Dominican total. *Economist Intelligence Unit Country Report for the Dominican Republic, Puerto Rico, Cuba and Haiti* (Third Quarter 1995), p. 21.

¹⁴³ See Americas Watch and the National Coalition for Haitian Refugees, *A Troubled Year*, pp. 36-43.

¹⁴⁴ Dominican earnings from industrial free zones have exceeded conventional exports since 1990, more than doubling their level in the years 1992-94. *Economist Intelligence Unit Dominican Republic Country Profile 1995-96*, p. 24.

¹⁴⁵ The European Union accounts for 23% of all Dominican exports and 16% of imports. *Economist Intelligence Unit*

gain access to the preferential trade terms and development funds offered through the Lomé Convention. The Dominican Republic has been attempting to gain full member status since the 1980s; its admission, however, is now tied to Haiti (the states must be admitted together) and progress in the development of democracy in Santo Domingo and Port-au-Prince. The EC, already active with development assistance to Haiti, can therefore play a role in encouraging the Dominican Republic and Haiti to jointly address migration and human rights issues within the context of the EC's development grants and technical assistance. This role is mandated by the text of the Lomé Convention itself -- member states pledge to uphold the provisions of the principal international human rights instruments, to eliminate all forms of discrimination and to uphold workers' rights, especially in the equal treatment of foreign and national workers.¹⁴⁶

A combination of pressure and support from these regional and international entities is critical to the establishment of a dialogue on refugee and immigration policy between Haiti and the Dominican Republic, The Bahamas, the United States and other Caribbean countries affected by the Haitian diaspora. At stake is the ability of tens of thousands of Haitian men, women and children to live lives free from persecution and critical poverty and the prospects for Haiti as a democratic state. Haiti's recovery will depend upon its ability to compete in the international marketplace. Economic recovery will therefore mean challenging its Caribbean neighbors in the quest for a fair share of international capital, technology, markets and consumer and tourism dollars. Competitive challenges generate political friction and can lead to retaliatory expulsions of expatriate Haitian populations, always a threat to Haitian political, as well as economic, stability. The way beyond this stability dilemma lies in interlocking regional agreements governing immigration, refugee, trade and economic development. And within this net of mutual interests, guarantees for protection of the human rights of Haitian populations in the Dominican Republic and other Caribbean states.

Country Report, p. 21.

¹⁴⁶ *Lomé Convention IV*, Preamble, Article V and Annex VI.