

A TROUBLED YEAR

Haitians in the Dominican Republic

October, 1992

**Americas Watch
National Coalition for Haitian Refugees**

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Americas Watch was established in 1981 to monitor and promote observance of internationally recognized human rights in Latin America and the Caribbean. The chair is Peter Bell and the vice-chairs are Stephen Kass and Marina Kaufman. Its Executive Director is Juan E. Méndez; Associate Directors, Cynthia Arnson and Anne Manuel; Research Associate, Mary Jane Camejo; Central American Representative, David Holiday; Consultant, Robin Kirk; Representative in Buenos Aires, Patricia Pittman; Associates, Vanessa Jiménez, Benjamin Penglase and Clifford C. Rohde.

Americas Watch is a division of Human Rights Watch, which also includes Africa Watch, Asia Watch, Helsinki Watch, Middle East Watch, and the Fund for Free Expression.

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Established in 1982, the National Coalition for Haitian Refugees is composed of 47 legal, human rights, civil rights, church, labor and Haitian community organizations working together to protect the rights of Haitian refugees under U.S. and international law, and to monitor and promote human rights in Haiti. Anthony Cardinal Bevilacqua is chair of the NCHR; Wade Henderson of the National Association for the Advancement of Colored People is vice-chair and Muzaffar Chishti of the International Ladies Garment Workers Union is secretary-treasurer. The Executive Director is Jocelyn McCalla; Associate Director, Anne Fuller; Research Associate, Ellen Zeisler; Associates, Ronald Aubourg and David Harris. In addition to periodic reports on human rights in Haiti, the NCHR publishes *Haiti Insight*, a monthly bulletin on human rights and refugee affairs. It is available upon request.

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This report was written by Mary Jane Camejo, Americas Watch Research Associate, Alejandro Garro, Lecturer in Law at Columbia University Law School, and Ellen Zeisler, Research Associate for the National Coalition for Haitian Refugees (NCHR). Guylène Viaud, a consultant to our organizations, assisted in the research. Kenneth Roth, Deputy Director of Human Rights Watch, Jocelyn McCalla, Executive Director of NCHR and Anne Fuller, Associate Director of NCHR, edited the report. It is based on a fact-finding mission to the Dominican Republic from July 22 to 25, 1991 by Garro; testimony gathered by Viaud in Haiti in July 1991; and a fact-finding mission to the Dominican Republic from February 24 to March 6, 1992 by Camejo, Zeisler, Viaud and Fuller. It is the fourth report on the Dominican Republic published by Americas Watch and the National Coalition for Haitian Refugees since 1989.

In Santo Domingo in July 1991, our representative met with the Deputy Secretary for Foreign Affairs, Fabio Herrera Cabral; the Secretary of Labor, Rafael Alburquerque; then State Sugar Council (CEA) Director, Arturo Biaggi¹; the Director of Immigration Affairs, José Ramón Mota Paulino; and the immigration officer in charge of Haitian affairs, Rómulo de los Santos. He also met with the U.S. Ambassador in the Dominican Republic at the time, Paul Taylor, as well as with members of human rights groups and with Haitians and Dominico-Haitians living in the Dominican Republic.

In February and March 1992, the delegation visited numerous *bateyes* (where cane cutters live while they work on the sugar cane plantations) at the Ingenios (sugar mills) Consuelo, Porvenir and Santa Fé near San Pedro de Macorís in the east; División Enriquillo of the Central Río Haina and Ingenio Ozama, outside Santo Domingo; and Ingenio Barahona in the southwest. The delegation met again with Secretary Alburquerque, CEA director Biaggi, the new U.S. Ambassador, Robert Pastorino, as well as members of the human rights community. Requests to meet with Immigration Director Mota Paulino were not granted.

For their invaluable assistance, we are also indebted to many individuals in the Dominican Republic who are committed to defending human rights in the Dominican Republic and who prefer not to be named in this report.

* * *

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¹ A new CEA Director, Juan Hernández Kundhart, was named in August 1992.

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INTRODUCTION

The Dominican government's human rights practices on its state-owned sugarcane plantations in 1992 were shaped by two events in the Dominican Republic and Haiti in 1991. One, between the months of June and September 1991, was the Dominican authorities' summary expulsion from the country of as many as 6,000 Haitians and Dominicans of Haitian origin, and the flight to Haiti of tens of thousands of others who sought to avoid forced deportation. The other was the bloody September 30, 1991 military coup in Haiti, which ousted the first democratically elected Haitian president, Jean-Bertrand Aristide; resulted in the mass killing of civilians; systematically trampled basic civil and political rights; and provoked a hemisphere-wide trade embargo². The military takeover in Haiti led thousands of Haitians and Dominico-Haitians to cross the border once again, to return to the country that only months earlier had grievously mistreated them. Once more, many were compelled to cut sugarcane on government plantations.

A. Expulsion of Haitians and Dominico-Haitians from the Dominican Republic

The mass deportation of Haitians and Dominicans of Haitian origin during the summer of 1991 was the Dominican government's defiant and cynical response to heightened international pressure from international human rights groups. The expulsions began abruptly in June 1991 after the forced labor practices became the focus of a report by "Primetime Live," a U.S. television news program. The exposé led later to U.S. congressional hearings.

During the mass "repatriation," bands of soldiers, often abusive and corrupt, raided Haitian communities throughout the Dominican Republic and rounded up anyone deemed to "look" Haitian, including Dominicans of Haitian origin ("Dominico-Haitians"). Victims were separated from their families, belongings were stolen, and personal documents were confiscated or destroyed. The victims were then forced onto buses which took them to makeshift immigration detention centers, without an opportunity to contact family members, arrange personal affairs, or collect personal belongings. Within days, they were transported by bus across the border to Haiti, with little attempt to determine their citizenship or immigration status. Domestic laws on the right to a fair hearing before deportation were openly and systematically flouted.

At the same time, tens of thousands (estimates range as high as 50-60,000) of Haitians and Dominico-Haitians fled to Haiti, a foreign country to many who spoke Spanish as a first language or had few if any remaining relatives there. Although the round-ups were initially aimed at Haitians and Dominico-Haitians living and working on sugarcane plantations, the authorities soon diverted their efforts to other sectors of the economy where Haitian labor had been accepted for many years. Many

² See "Return to the Darkest Days," December 1991, Americas Watch/National Coalition for Haitian Refugees/Physicians for Human Rights.

cane cutters began to leave "voluntarily" to avoid the arbitrary and abusive nature of these round-ups. The forced deportations and parallel exodus to Haiti ended only with the coup in Port-au-Prince.

Our organizations do not dispute that the Dominican Republic is legally entitled, with appropriate procedural safeguards, to deport aliens who are resident in the country in violation of Dominican immigration law. We recognize that the Dominican Republic is not bound to legitimize the illegal entry or the presence of any alien inside its borders, nor do we question the sovereign right of the Dominican Republic to promulgate laws and decrees concerning the entry of aliens and the terms and conditions of their stay, as long as those laws are not discriminatory.

However, the Dominican government cannot escape its share of responsibility over the years for its lack of control, and active encouragement, of the flow of Haitian migrant workers into the Dominican Republic. The Dominican government and its State Sugar Council (*Consejo Estatal del Azúcar*, CEA) did not require Haitian workers to obtain visas or immigration permits before hiring them to engage in the arduous work of harvesting sugarcane, yet it now alleges the lack of such documentation as a reason to expel them from the country summarily.

Such a policy is inherently unfair and inhumane. By failing to make any effort to regulate Haitian immigration -- indeed, by welcoming Haitians into the country to take jobs that Dominicans refused to perform -- the Dominican government allowed a whole generation of Haitians to establish roots in the country with the expectation that they would be allowed to stay. Rather than view themselves as temporary workers on a limited visa who would be required to leave upon its expiration, these Haitians constructed a life with every reason to believe that their presence would be permanent. Their expectation was only reinforced with the birth of children on Dominican soil who, according to the Dominican Constitution, are Dominican citizens. While we recognize that the Dominican government may recruit seasonal workers without conferring the right to permanent residency, the government has the duty to provide adequate notice to recruits of their limited immigration status. The failure to fulfill that duty places a heavy burden to refrain from the severe dislocation caused by deportations, let alone by the summary expulsions that occurred.

Moreover, the deportation process was inherently arbitrary. The random round-ups and lack of independent review meant that large numbers of people were swept up and deported despite having a right to Dominican citizenship or a strong claim to permanent residence. In the rush to rid the country of those deemed "Haitian," the Dominican Republic offered little or no opportunity for the individuals facing expulsion to prove their entitlement to continued residence. The problem was only exacerbated by the Dominican government's long-time reluctance to grant citizenship papers to the Dominican-born children of Haitian parents, leaving many in this generation without adequate documentation of their right to Dominican citizenship.

Quite apart from the individual injustice caused by these summary deportations, the expulsions were objectionable as a sign of contempt for human rights. The origin of the deportations lay not in considered concern about the unauthorized presence of foreigners but in a fit of pique about the growing international clamor over the government's use of forced labor. The expulsions represented an official thumbing of the nose at the distress justifiably felt by the international community over the government's flouting of international human rights standards.

B. Coercive Labor Practices

During the 1992 harvest, most of the CEA's recruits traveled from Haiti to the border "voluntarily," some because they had no hope of earning a living in Haiti after the coup, and others to flee the persecution and violence unleashed by the Haitian army. Thus, unlike past years when the CEA sent *buscones*, or recruiters, to Haiti, where they used force and deceit -- sometimes with the collaboration of Haitian authorities -- to secure a sufficient number of workers to supplement those willing to work voluntarily on CEA sugar plantations, recruitment in Haiti this year was unnecessary.

While the political situation in Haiti preceding and during the 1991-92 harvest made *buscones* virtually obsolete, many Haitians arriving on Dominican territory remained subject to the same abusive treatment at the hands of CEA employees and the Dominican army that has prevailed for years. Upon crossing the border, the Haitians were often taken into the custody of Dominican border guards and held in military posts or makeshift detention areas until there were enough recruits to fill buses that transported them to plantations. Once on the plantations, the recruits -- who were often inexperienced in the difficult work and unfamiliar with the language and their new surroundings -- were forcibly confined to the plantations for the duration of the seven-month harvest. Thus confined, they were forced to work in order to earn barely enough to feed themselves. Forced recruitment, restrictions of freedom of movement, arbitrary detention, and confiscation of belongings were persistent features of the Dominican sugar industry's forced labor practices during the 1992 harvest.

The violations this harvest year varied from *bateyto batey*. In some areas, the abuses were not as widespread as in previous years. In other areas, however, we came across Haitians who had been arrested by soldiers at the border and sent to plantations against their will; Haitians and Dominico-Haitians who had been arrested by soldiers and armed CEA guards while traveling on roads and forced onto plantations to cut cane; and Haitians and Dominico-Haitians who had been detained by armed CEA guards and held in CEA administration buildings on the plantations to compel them to cut cane. In many cases, the victims' belongings were confiscated by soldiers or CEA guards as an added incentive not to escape.

Local priests throughout the sugarcane regions -- as well as at least one unusually candid and sympathetic CEA supervisor -- continued to provide cane cutters who wished to leave their *batey* with letters requesting unimpeded passage. Our delegation was made vividly aware of the vulnerability of Haitians and Dominico-Haitians who travel outside the plantations when it was stopped at numerous military checkpoints between the border town of Pedernales and the southwestern city of Barahona. Each time, an officer or soldier singled out a Dominican of Haitian descent -- a CEA employee who was accompanying us -- to ask whether he was with the delegation.

The Dominican government did the bare minimum to comply with the provision of the 1990 decree promising to normalize the immigration status of Haitian cane cutters. In 1992, the Dominican government distributed to some cane cutters, in a few *bateyes*, a one-year, renewable work permit from the Dominican Department of Immigration, which allows them to work for the CEA. While this may be a useful form of protection for first-time Haitian employees, it hardly provides meaningful security for long-time cane cutters who have resided permanently in the Dominican Republic, and whose labor the CEA has accepted for many years. Even if they are lucky enough to obtain a one-year permit, they risk at the end of that year becoming subject to the Dominican government's recent deportation practices.

It remains clear that regardless of the immigration, residence or citizenship status of Haitians and Dominico-Haitians in the Dominican Republic, and regardless of announced reforms and intentions of the Dominican authorities, abusive treatment persists because of the government's failure to enforce its own decrees and laws. Offenders -- whether soldiers, plantation security guards or CEA employees -- continue to act and profit from the labor trade with impunity. Victims have no recourse.

C. Progress since the 1991 Harvest

Despite the ongoing abuses, the Dominican government did implement some meaningful labor reforms in its sugar industry in 1991 and 1992. Most notably, it legalized sugarcane-cutter labor unions with predominantly Haitian or Dominico-Haitian membership, which it had long argued were not covered by existing Dominican labor laws.³

The new Labor Secretary, Rafael Alburquerque, a respected labor expert, appears to be largely responsible for this initiative. Secretary Alburquerque has entered into discussions with numerous newly recognized cane-cutter unions to consider additional reforms of the CEA's labor practices. Chief among the reforms that have begun to be instituted is the weekly -- rather than biweekly -- payment of cash wages to cane cutters, based on the value of the vouchers they receive for each load of cane they cut. More frequent cash payment should reduce the need of cane cutters to cash their vouchers at a 10% discount at the sugar plantation grocery stores in order to have money to buy food.

Labor unions may help to prevent cane cutters from being compelled to work extraordinarily long hours or on Sundays; and they may be able to deter the CEA from underpaying the workers -- a perennial complaint.

Forced labor by Haitian children, a recurrent problem in the past, was apparently eliminated in 1992. The delegation neither found nor was told of any such cases by local monitors. Although we saw a few children picking up cane in the fields to help their families -- as Dominican children do in the cities, shining shoes or cleaning cars -- efforts by the authorities to curb the hard labor of cane cutting by children on the sugar plantations seemed largely to have succeeded.

Some improvements were made with respect to living quarters. Small, dark rooms in run-down, concrete or wooden barracks-style housing continued to be the norm. However, the CEA, together with private and foreign governmental development agencies, has built additional latrines on some *bateyes* and has modernized and expanded water systems on others. Projects to improve access to health care and family planning have been signed with the U.N. Fund for Population Activities and the International Cooperation Agency of the Spanish government.

Cane cutters' wages were raised from 18 *pesos* per ton -- about U.S. \$1.44 at the rate of exchange during the 1991 harvest -- to 25 *pesos* per ton (about U.S. \$2.00). Still, most cane cutters still earn barely

³ In 1992, both houses of the Dominican Congress passed a new labor law which promises to strengthen workers' rights to organize. The law will replace the current labor code, which dates back to 1951.

enough to feed themselves.

D. Stance of the United States

In 1991, the U.S. government failed to take full advantage of its considerable leverage, as the Dominican Republic's largest trading partner and principal purchaser of Dominican sugar, to continue to pressure the Dominican government to improve its human rights practices. On April 25, 1991, the Bush Administration ended a two-year review of Dominican labor practices. As a result, the Administration decided to continue extending trade benefits to the Dominican Republic under the Generalized System of Preferences (GSP), even though the CEA continued to use forced labor. U.S. law prohibits the granting of GSP benefits to countries that violate labor rights.

The Administration initially acted as an apologist for the Dominican government's mass deportations. The U.S. Embassy in Santo Domingo simply parroted the Dominican government's denial of allegations of rights abuses; stated without comment that President Balaguer's repatriation order was made in response to international human rights criticism; and reaffirmed the Administration's contention that steps were being taken to curb abuses on the sugar cane plantations. Later, however, the State Department's *Country Reports on Human Rights Practices for 1991* acknowledged the human rights violations that occurred during the forced repatriations.

Despite the Dominican government's continued tolerance of coercive practices in its sugar industry, there has been no movement by the Bush Administration or the U.S. Congress to restrict the Dominican Republic's share of the U.S. sugar import quota. Although the Dominican Republic continues to be allotted the highest segment, 16.7% of the total.

FORCED "REPATRIATIONS"

A. The Presidential Decree

On June 13, 1991, President Joaquín Balaguer issued Decree 233-91, ordering the "repatriation" of foreigners under age 16 and over age 60 who were working or living on state-run or privately owned sugarcane plantations. Those over 60 were to receive the benefits to which they are entitled under Dominican law. The cost of repatriation was to be borne by the Dominican government, and those repatriated were to be treated with "the utmost respect" (*las mayores consideraciones*). The Department of Labor was to ensure compliance with the decree, with the full cooperation of the Secretary of the Armed Forces and Foreign Affairs, the National Police, and the Department of Immigration.

The decree was issued in direct response to ongoing international criticism of the Dominican government's treatment of Haitian sugarcane cutters. It was issued two days after the Western Hemisphere Affairs and Human Rights Subcommittees of the U.S. House of Representatives held hearings on this issue, in which representatives from Americas Watch, the Lawyers Committee for Human Rights, and the Haitian Pastoral (*Pastoral Haitiana*) of the Dominican Episcopal Church testified, and to which the National Coalition for Haitian Refugees submitted written testimony. It also came a few weeks after ABC-TV broadcast a report on child labor in the Dominican Republic on its national program "Primetime Live."⁴

At a press conference in the northwestern city of Montecristi following his issuance of the decree, President Balaguer made clear that he had acted in response to international human rights pressure being exerted on the Dominican Republic. "In light of the ominous campaign that has been unleashed against the [Dominican Republic] from outside," President Balaguer explained, "we had to make a decisive change, adopt the patriotic and irreversible determination to allow in our territory only those foreigners whom we would be able to maintain on Dominican soil... The rest will necessarily have to be repatriated." Warning that the Dominican Republic might "lose its identity as a nation" if a massive Haitian presence continued to be tolerated, he called for all Dominicans to stand in "sacred union" against what he called a "peaceful invasion" (*invasión pacífica*) of Haitian migrant workers.⁵

In Decree 233-91, as in the October 1990 presidential decree which had promised reforms in the treatment of sugarcane workers, the Dominican government implicitly acknowledged the abusive practices for which it had been criticized. The International Labor Organization (ILO) had repeatedly

⁴ Primetime Live, ABC, May 2, 1991.

⁵ "Rechaza protesta de Haití," *Hoy*, June 21, 1991. The Director of Immigration, Gen. José Ramón Mota Paulino, and the Deputy Secretary of Foreign Relations, Fabio Herrera Cabral, reiterated this concern about a "peaceful invasion" of Haitians in interviews with our organizations' representative.

condemned the use of child labor since 1983. Although Dominican officials had previously denied tolerating child labor on state plantations,⁶ the Dominican government in October 1990 adopted measures forbidding the employment of children under fourteen years old in the sugar harvest. Still, the use of child labor, including forced child labor, had not ceased at the time of our visit in February 1991. By April 1991, however, the Department of Labor under its new chief, Rafael Alburquerque, reportedly had begun to cooperate with domestic non-governmental groups in the orderly repatriation of Haitian minors who were working the canefields against their will.⁷

On June 18, 1991, the first group of 29 Haitian minors was repatriated under Decree 233-91.⁸ The children, who had been forcibly or deceptively recruited to cut cane on Dominican plantations and all wanted to go home, were reportedly repatriated in an orderly fashion with the help of nongovernmental groups. Since the announcement of the decree, the office of the Secretary of Labor reportedly issued specific instructions to the State Sugar Council (CEA) expressly prohibiting the presence of unaccompanied minors in the sugar harvest.⁹ This aspect of the June 1991 decree was positive.

Decree 233-91 also ordered the repatriation of elderly Haitians. The provisions pertaining to Haitian workers over age 60 presented serious problems, since most had resided and worked in the Dominican Republic for much of their lives, and should have been entitled to greater consideration. These *viejos* ("old timers"), as they are known, had been welcomed by the Dominican Republic, worked the Dominican sugar harvest willingly year after year, and laid down roots, and raised or started families in the Dominican Republic. Apart from general discrimination against Haitians, Dominican authorities had done little or nothing to discourage expectations among *viejos* that they and their families would be able to live out their days in the Dominican Republic. The sudden, arbitrary expulsion of these Haitians was both inequitable and inhumane.

B. Arbitrariness Characterizes Expulsions

It soon became clear that the repatriation policy of the Dominican government included

⁶ See "Haitian Sugar-Cane Cutters in the Dominican Republic," November 1989, Americas Watch/National Coalition for Haitian Refugees/Caribbean Rights (AW/NCHR/CR); "Harvesting Oppression. Forced Haitian Labor in the Dominican Sugar Industry," June 1990, AW/NCHR/CR; "Half Measures. Reform, Forced Labor and the Dominican Sugar Industry," March 1991, AW/NCHR/CR; "A Childhood Abducted. Children Cutting Cane in the Dominican Republic," May 1991, Lawyers Committee for Human Rights.

⁷ "Repatriarán a Haití niños estén laborando ingenios," *Listín Diario*, April 29, 1991; "Sacar menores de bateyes es sólo una propuesta," *Ultima Hora*, April 30, 1991, at 3; "Van a evitar menores vayan a corte de caña en bateyes," *Hoy*, April 29, 1991.

⁸ "Disgusto matizó entrega de niños en frontera," *Ultima Hora*, June 19, 1991, at 16; "Incidentada primera repatriación haitianos," *Ultima Hora*, June 18, 1991.

⁹ Interview with Secretary of Labor Dr. Rafael Alburquerque, July 24, 1991.

sending to Haiti any undocumented Haitians, including Haitians between the ages of 16 and 60 whose expulsion was not covered by Decree 233-91.¹⁰ In practice, this meant that not only were undocumented Haitians summarily expelled, but also undocumented Dominico-Haitians -- Dominican-born children of Haitian origin who are entitled under Dominican law to Dominican citizenship -- were wrongfully deported.

The immense majority of Haitian workers in the Dominican Republic arrive in the country without Haitian identity documents, Dominican visas or work permits. This regular flow of illegal immigration has taken place over the years with the tacit consent, and often the active encouragement, of the Dominican government and state sugar-industry authorities. Similarly, many of the conservatively estimated 500,000 Haitians living permanently in the Dominican Republic lack Dominican or Haitian identification papers and Dominican residence permits¹¹ because their immigration status had never been regularized through proper documentation -- a fact acknowledged by the Dominican government.¹²

This lack of documented status invites arbitrary treatment by immigration authorities. Immigration Act No. 95 -- the current immigration law -- places on the alien the burden of establishing why he or she should not be expelled from the country.¹³ Yet many Haitians and Dominico-Haitians swept up during the summer of 1991 lacked the ability to meet this burden. Moreover, in many cases, any documents they may have had were arbitrarily confiscated or destroyed by the authorities.

In addition, the immigration law also provides that "no foreigner shall be deported without being informed of the specific charges against him, nor without being afforded a fair opportunity to refute those charges pursuant to the Regulations...."¹⁴ By and large, the Haitians and Dominico-Haitians who were expelled from the Dominican Republic in 1991 were denied the right to a formal hearing to plead their cases and submit evidence on their own behalf.

The 1991 repatriation policy was at odds with the explicit purpose of the earlier presidential

¹⁰ "Buscan en los bateyes haitianos serán repatriados," *El Siglo*, June 25, 1991 (quoting a government official: "The process [of repatriation] shall continue to include all Haitians, according to our immigration laws)." "Haitianos quéjense autoridades les impiden recoger bienes adquiridos y salarios ganados en empresas," *El Siglo*, July 8, 1991.

¹¹ Statistics concerning the Haitian population in the Dominican Republic are unreliable. Some estimate that there may be as many as 1,000,000.

¹² See preamble to Presidential Decree No. 417-90 ("Considering that it is of the utmost importance to the Republic to normalize the situation of the Haitian citizens in the country, most of whom are undocumented here and in their own nation....")

¹³ Immigration Act, Art. 15.

¹⁴ Immigration Act, Art. 13 (e) (as amended by Law No. 1559, 31 October 1947, Gaceta Oficial No. 6706).

decree, Decree No. 417 of October 15, 1990. Decree 417-90 instructed the Immigration Department to proceed "with the greatest speed" to "normalize" the immigration status of foreign workers.¹⁵ However, the Dominican government made little progress in implementing Decree 417-90 before announcing the repatriation campaign.

Under Decree 417-90, the Immigration Department placed public notices advising all those employing undocumented Haitians or Haitian citizens whose resident permits had expired to register their employees within ten days. Sanctions were threatened for those who failed to comply. Immigration authorities reported that 50,000 Haitians registered within the first few months of the regularization process. The Immigration Department did not indicate the type of immigration status granted to those who had been "legalized," nor the kind of documentation that they would be issued. In February 1991, the Director of Immigration at the time, General Rafael Tejeda Báez, was unable to say how long he expected the process to take or what immigration status the Haitians would be given.¹⁶ Four months later the newly appointed Director of Immigration, General José Ramón Mota Paulino, was unable to be any more precise.¹⁷

The government's registration drive raised problems at least for those Haitians and Dominico-Haitians living in the *bateyes* of the state's sugar-cane plantations. According to cane workers we interviewed in February 1991, immigration inspectors took from them any identification documents they may have possessed, promising that the documents would be replaced with official immigration papers. But few of those living in the *bateyes* received new identification or immigration papers. Without papers of any kind, they were all the more vulnerable to the repatriation decree.

While a small percentage of Haitians showed a willingness to register, the government's program under Decree 417-90 failed to reach the vast majority of undocumented Haitians who feared that registration would mark them for deportation. Decree 417-90 did not provide an amnesty and a government official indicated in July 1991 that amnesty would not be granted to illegal residents.¹⁸ Moreover, Decree 417-90 referred only to "Haitian nationals" and "Haitian citizens," and did not seek to regularize the status of the thousands of Dominico-Haitians who were born in the Dominican Republic but lacked documents showing the citizenship to which they were legally entitled.

¹⁵ Decree No. 417, October 15, 1990. Article 1 of this presidential decree instructed the immigration authorities to "regularize" the presence of all Haitian workers, determining their status as "temporary resident immigrants or as fixed-term day laborers." Article 2 forbade those aged 14 and under from working in the sugar harvest. The first paragraph of Article 1 refers to Article 14 of the Immigration Law, which provides sanctions for those who employ Haitian workers in any capacity and fail to report it to the authorities.

¹⁶ Americas Watch, National Coalition for Haitian Refugees, and Caribbean Rights, *Half Measures*, March 1991.

¹⁷ During our organizations' February-March 1992 mission, the delegation was not granted an interview with Gen. Mota Paulino.

¹⁸ Interview with Deputy Secretary of Foreign Relations, Fabio Herrera Cabral, July 24, 1991.

Because the government has affirmed that the program of "normalization" does not entail an amnesty, it appears that Haitians who registered can at best obtain temporary work status. During the 1992 sugarcane harvest, the Dominican immigration authorities began to distribute "seasonal operator" (*operario temporero*) cards to Haitian cane cutters that would allow them to remain in the Dominican Republic as long as they were employed by the CEA. The blue-colored card with a photograph, which is renewable annually, apparently had been distributed to only a tiny number of cane cutters by March 1992.

C. Failure to Recognize Dominican Citizenship

Many of those who were forcibly deported or who left the Dominican Republic "willingly" after the repatriation decree were born in the Dominican Republic. Under the terms of Article 11 of the Dominican Constitution, Article 9 of the Civil Code, and Article 7 (c) of the Immigration Act, persons born in the Dominican Republic are Dominican citizens.¹⁹

There has been debate as to whether the first paragraph of Article 11 of the Constitution, which denies Dominican citizenship to children born of persons who are "in transit," should be applied to children born to Haitians living and working in the Dominican Republic. Grouping this exception with the exception for the children of diplomatic representatives, certainly suggests that a substantially narrower exception was contemplated -- one limited to children born to tourists and other such short-term visitors.

Dominican attorney Carmen Amelia Cedeño Caroit, in a 1991 report, "*El Estatuto Jurídico de los Haitianos y sus Descendientes Nacido en República Dominicana*," notes that Article 11's mention of persons "in transit" refers to a definition contained in Migration Relation No. 279 of May 12, 1939, which says explicitly that "in transit privileges" will be conceded to "those foreigners resolved on entering the Republic with the principal intention of proceeding through the country to an exterior destination....It is not necessary," she concludes, "to search for similarities between transit and non-residence or illegality. Transit is a concept clearly defined in Dominican legal measures. It does not need interpretation." Moreover, senior Dominican government officials have acknowledged that the government should recognize the Dominican citizenship of children born in the Dominican Republic even if their parents are in violation of the immigration laws.²⁰

¹⁹ Article 11, paragraph 1 of the Constitution of the Dominican Republic defines as Dominican: "All persons born in the territory of the Republic, with the exception of the legitimate children of aliens resident in the country as diplomatic representatives or in transit through the country." The right to acquire Dominican nationality by the *jus solis* is confirmed in broader terms in Article 9, paragraph 1, of the Civil Code ("Dominicans are: 1) All those who were born or would be born within the territory of the Republic, regardless of the parents' nationality.") *See also* Article 7 (c) of the Immigration Act (as amended) ("Persons born in the Dominican Republic are deemed to be nationals of the Dominican Republic, regardless of whether they are also nationals of other countries. Therefore, they shall use documents required by Dominican authorities.")

²⁰ Statement of Deputy Secretary of Foreign Affairs, Fabio Herrera Cabral. "Herrera: decreto

However, Dominican citizenship is conditioned upon clear evidence of birth in the country. The head of the Department of Immigration's office of Haitian affairs, Rómulo de los Santos, told our representative: "The birth certificate is the only evidence that we will accept as proof of citizenship. Most of the *cédulas* (national identity cards) have been forged. If they tell me that they were born in the Dominican Republic, I ask them to bring their birth certificates."²¹ The problem is that, for a number of reasons, many Haitians and Dominico-Haitians fail to obtain birth certificates for their Dominican-born children.

According to the Dominican Civil Code, every birth must be reported and registered by the parents or any person assisting at the delivery.²² The code provides that a birth certificate "shall be drawn up immediately in the presence of witnesses."²³ Some Haitians have never sought birth certificates for their children out of a failure to appreciate the significance of a certificate, or fear that a request would lead to the family's deportation. But many Haitians who have sought birth certificates for their Dominican-born children have had their requests arbitrarily rejected by Dominican authorities of the civil registry.²⁴

The form of Dominican identification that many Haitians do possess, a *cédula de identidad*, or identity card, is issued through a national office to Dominicans (over age 18) with birth certificates and to foreigners with proof of legal residency. Since most Haitians in the Dominican Republic do not have birth certificates, their *cédulas* are likely to have been obtained illegitimately, and are, therefore, not recognized by the Dominican authorities for the purpose of determining their immigrant status. Dominican officials told our representative that a significant number of *cédulas* are regularly forged, or legitimate *cédulas* are obtained illegitimately and sold to Haitians by corrupt politicians, among others.²⁵ Many identity cards reportedly are given to Haitians for the purpose of allowing them to vote.²⁶

haitianos prueba 'buena fe' gobierno," *El Siglo*, October 17, 1990 (reporting Deputy Secretary Herrera Cabral's statement that "all children born in the Dominican Republic, even if children of foreigners, will be considered Dominicans.")

²¹ Interview with Rómulo de los Santos, in charge of Haitian affairs at the Department of Immigration.

²² Civ.C., Art. 55.

²³ Civ.C., Art. 56.

²⁴ "Es difícil registrar en la RD a los niños de padres haitianos," *El Nacional*, May 5, 1988 (describing the reluctance of Haitians to register their children because of fear of repatriation and the reluctance of Dominican officials to register them).

²⁵ Interview with Immigration Director, July 23, 1991.

²⁶ Interview with a long-time foreign observer resident in the Dominican Republic, July 24, 1991.

Thus, for reasons of fear of deportation, discouragement caused by real or perceived institutionalized discrimination, or rejection resulting from outright discrimination by Dominican authorities, Haitians and Dominico-Haitians in the Dominican Republic lack proper citizenship or residence papers. Although the Dominican government has verbally recognized the right of Haitians to have their immigrant status regularized, it has failed to abide by its own laws and decrees providing for such regularization to take place.

It is in this light that one must assess the Dominican government's policy of deporting thousands of Haitians and Dominico-Haitians because they lack birth certificates or other forms of proper documentation. At minimum, Dominican immigration authorities should grant each individual an opportunity to make his or her own case for Dominican residence or citizenship in a fair hearing that goes beyond a simple request for specific forms of documentation.

D. Round-ups

The army's once-common army practice of "rounding-up" Haitians in the Dominican Republic, which had subsided in the last few years, was revived in 1991 for a new purpose: to expel Haitians from the country rather than to force them to cut sugarcane on state plantations. The round-ups (*redadas*), which are inherently discriminatory and capricious, violate internationally accepted norms prohibiting arbitrary detention.

Dominican military patrols were under orders in the summer of 1991 to search for and detain workers of Haitian descent. The targets of the round-ups were dark-skinned people deemed to appear to be Haitian, regardless of age or sex. The Director of Immigration told our representative in July 1991 that an average of 700 to 800 Haitians would be repatriated every 72 hours, "without hurry but without pause."²⁷

Initially, as the sugarcane harvest was drawing to a close, round-ups of Haitian workers took place in areas surrounding the sugar plantations of Ingenio Consuelo and Central Río Haina, primarily in Batey Palavé. After a few weeks, the round-ups were increasingly aimed at Haitians living in the cities and working on construction sites or at other jobs. This selective process suggests that the Dominican government sought to retaliate against the critics of its use of forced labor without in fact depriving the CEA of desperately needed Haitian cane cutters.²⁸

²⁷ Interview with General José Ramón Mota Paulino, July 23, 1991. *See also*, "Haitianos quéjense autoridades les impiden recoger bienes adquiridos y salarios ganados en empresas," *El Siglo*, July 8, 1991; "El país ya ha repatriado cerca de ocho mil haitianos," *Hoy*, July 15, 1991.

²⁸ "Buscan en los bateyes haitianos serán repatriados", *El Siglo*, June 25, 1991. ("We start with the part that is less costly to the State, and the least repressive.... This phase is accomplished by picking-up those who are ambulating in the streets. . .," quoting a government official) *See also* "País pediría ayuda internacional para repatriar haitianos ilegales," *Hoy* (quoting Deputy Secretary of Foreign Relations, Fabio Herrera Cabral, stating that the repatriation process should not interfere with the hiring of Haitian cane cutters).

E. Reports of widespread abuses

The round-ups, which were widely reported in the Dominican press, involved a distinct pattern of abuse.²⁹ Military patrols were responsible for thousands of indiscriminate arrests; verbal and physical mistreatment; arbitrary confiscation and destruction of identification documents; and theft of personal belongings. In many cases, families were separated and those apprehended by the authorities were not given time to put their personal affairs in order.³⁰ Other reports indicated that visiting Haitian traders with goods for sale (textiles, shoes, cosmetics, perfumes, etc.) had their wares confiscated, even though duty taxes had been paid.³¹ Elderly Haitians, some of them seriously ill, were rounded-up by the Dominican security forces, taken to detention centers, and then transported to the Haitian border.³²

Dominican police and soldiers conducted a typical round-up on June 27, 1991, at around 5:00 a.m., in "Little Haiti," a neighborhood of Santo Domingo. Haitians were forcibly taken from their homes by soldiers, and some were violently pushed onto buses.³³ The round-up was carried out under the command of Colonel José Mercado, who reportedly ordered police agents to enter dwellings forcibly and remove merchandise and documents. The same day, Jean-Marie Joe Stines, Chargé d'Affaires in the Haitian Embassy in Santo Domingo, confronted Colonel Mercado, who reportedly responded that "he was entitled to do as he pleased" with the Haitians.³⁴

A number of Haitians whom we interviewed in "Little Haiti" described their fears and concerns about the round-ups:

o Magna, 35, who was born in the Dominican Republic, said.

"Many Haitians have *cédulas* (the national identity cards), but the

²⁹ On August 2, 1991, Americas Watch filed a complaint regarding the forced repatriations before the Inter-American Commission on Human Rights following the visit to the Dominican Republic by our representative in July 1991.

³⁰ "Creen arresto indiscriminado complicaría labor repatriación", *Nacional*, June 21, 1985; "Haitianos por repatriar se quejan trato," *Ultima Hora*, June 25, 1991; "La RD repatria a otros 150 haitianos; denuncian la sustracción de sus bienes," *El Siglo*, July 18, 1991.

³¹ "Mercaderes Pequeño Haití protestan por las redadas," *Nacional*, July 14, 1991; "Denuncian regalan mercancía ocupan a comerciantes Haití," *Nacional*, July 11, 1991.

³² "Creen arresto indiscriminado complicaría labor repatriación," *El Nacional*, June 21, 1991.

³³ "Con su carga de mercancías a costas los vendedores vuelven Pequeño Haití," *El Siglo*, July 24, 1991; "Sacan ocupantes pequeño Haití," *El Nacional*, June 27, 1991.

³⁴ Interview with Jean-Marie Joe Stines, Chargé d'Affaires to the Haitian Embassy, July 24, 1991. "Denuncian regalan mercancía ocupan a comerciantes Haití," *Nacional*, July 11, 1991.

authorities take the identity cards from them and take them to a detention center. The police would not take you away if you can show them a Haitian passport with a Dominican visa or a birth certificate. Some people were taken away without their families, and the families must go to the detention center with the birth certificate in order to rescue them."

o Ramón, 29, was also born in the Dominican Republic. He said that while the identity card was of no value in determining immigration status, the security forces would not take those persons who could show a voter-registration document (*registro electora*) proving that the person was eligible to vote. He explained that his Haitian sister, who has nine children born in the Dominican Republic, was told by Dominican security forces that, "she was given a last chance to put her things in order. 'Next time we come we will take you.'"

o Manuel, 33, was born in Haiti and has lived in the Dominican Republic for 24 years.

"I used to work on the plantation Boca Chica and later I did construction work in the expansion of Avenue Mexico. I have made my life here, but since they are repatriating all Haitians I also leave. One cannot defy the authorities. I do not know what I will do in Haiti, but I prefer to leave so they do not mistreat me."

o Alí, 44, who was born in Haiti and has lived in the Dominican Republic for 20 years.

"Some Dominicans report to the authorities where they can find Haitians, so the Dominicans may keep the merchandise that belongs to Haitians."

Employers took advantage of some of the Haitians who decided to leave the Dominican Republic. Marcos Pié, 29, a Haitian who worked for "Chambers & Company" in the construction business, told us that four months of wages were owed to him. When he told his employer of his decision to return to Haiti, the employer refused to pay him his overdue salary.³⁵

F. The Detention Centers

The rounded-up Haitians were taken initially to police stations and then to a building in Santo Domingo occupied by INFAS (*Instituto de Formación Agraria y Sindical*), a nongovernmental labor organization.³⁶ The INFAS staff was helpful in accomodating the Haitian detainees and candid in their

³⁵ Interview in "Little Haiti," Santo Domingo, July 23, 1991.

³⁶ Because INFAS is considered a nongovernmental organization, Dominican authorities expressed an interest in having it involved in the repatriation process. "Buscan en los bateyes haitianos serán repatriados", *El Siglo*, June 25, 1991.

comments to the Dominican press, which had access to the building. The staff conveyed the detainees' complaints of mistreatment at the time of their arrest.

According to the deputy director of INFAS, Alberto Castillo, the institution was willing to collaborate with the repatriation process "as long as the rights of Haitians were respected and their legal situation duly acknowledged."³⁷ The INFAS director, Espiridón Villa Paredes, pointed out that some of the round-ups were orderly, but that in many cases Haitians were taken away without time to advise families or collect belongings.³⁸ Some detainees reported having been beaten by military patrols at the time of their arrest.³⁹

The director told us that INFAS had made clear to the Dominican government that the repatriation of Haitians was not being carried out properly, and that Haitians should be given more time to put their affairs in order before being deported. Government officials responded that they would not stop the repatriation process.⁴⁰

By July, the authorities had stopped using the INFAS building and had began to transfer the detainees to the *Centro Sur de Desarrollo Agropecuario* (Southern Center of Agricultural Development, CESDA), a government center in San Cristóbal, several miles outside Santo Domingo. In the Dominican Republic's second city, Santiago, in the north, a children's home ("*Granja Buen Pastor*") in nearby Bella Vista was also set up as a detention center by the Dominican authorities.⁴¹

In July 1991, we requested permission to visit the CESDA detention center from the Director of Immigration, who referred the request to the Secretary of Labor.⁴² He in turn assured us that there would be no problem in granting permission for the visit, he said he would check first with the Director of Immigration. Despite repeated follow-up calls, we never received permission to visit the CESDA.

The civil or immigration status of the detainee was not a matter of much consideration during the round-ups. The screening (*depuración*) of detainees to determine whether they were legal residents was to take place at the detention centers. However, the opportunity for Haitians to prove their status was seriously curtailed because identity documents, which in any event were often considered illegitimate, had generally been confiscated or destroyed. Labor inspectors were supposedly present at

³⁷ "Migración empieza depuración de haitianos", *El Siglo*, June 21, 1991.

³⁸ Interview with INFAS Director, Espiridón Villa Paredes, July 24, 1991.

³⁹ "Repatriarán otro grupo haitianos", *El Nacional*, June 22, 1991.

⁴⁰ Interview with INFAS director, Espiridón Villa Paredes, July 24, 1991.

⁴¹ "El país ya ha repatriado cerca de ocho mil haitianos," *Hoy*, July 15, 1991.

⁴² General Mota Paulino said that the repatriation process under Decree No. 233 was in charge of the Secretary of Labor, hence a request to visit a detention center should be addressed to him. Interview of Americas Watch with General José Ramón Mota Paulino, July 23, 1991.

the detention centers to assist Haitians in claiming wages due them,⁴³ but most reports indicated that assistance was virtually non-existent.⁴⁴

The screening was the responsibility of immigration officials under the supervision of Rómulo de los Santos, the official in charge of Haitian Affairs for the Department of Immigration. De los Santos told us that "only those living in the Dominican Republic illegally would be returned to Haiti." He also contended that many Haitians were eventually allowed to return to their homes to join their families and collect their belongings.⁴⁵ In fact, it was reported that some Haitians who were able to show proper documentation were allowed to return home. But it is also true that the Dominican government forcibly repatriated Dominican-born people of Haitian descent -- that is, presumed Dominican citizens -- who were unable to produce adequate documentation.⁴⁶

6. Testimony of Deportees

The following testimony was gathered at the Centre Bon Repos, a hospital in Port-au-Prince which was used to house temporarily the thousands of deportees who were forced to leave or fled the Dominican Republic. The deportees remained there for days or weeks until they could be resettled with family members or in their home towns. Many -- Dominicans or Haitians with no remaining family members or ties to the country -- languished there longer, waiting for a place to resettle.

These deportees decried the abuses that they suffered at the hands of Dominican authorities -- expulsion from the country in which they were born or had lived most of their lives; destruction of their documents; separation from their families; and loss or theft of their belongings and wages owed to them.

o Renan Pierre, 27, was born in the Dominican Republic.

"I was born in Boca Chica. I was washing when two soldiers arrested me. I showed them my papers. They said they weren't worth anything and tore them up. I was taken to a warehouse in Boca Chica that was like a prison. There were five other Haitians there. We stayed there for three days before coming here. My wife, my house, and everything I owned, I left in Boca Chica."

o Melce Saint-Vil, 18, was born in the Dominican Republic.

⁴³ Interview with Secretary of Labor, Rafael Albuquerque, July 24, 1991.

⁴⁴ "Continúa depuración haitianos para repatriar residentes ilegales," *El Siglo*, July 24, 1991, at 8.

⁴⁵ Interview with Mr. Rómulo de los Santos, July 23, 1991.

⁴⁶ "Proceso," *Listín Diario*, June 30, 1991.

"I was born in Santo Domingo. I was a housewife in San Pedro de Macorís. I was bringing food to my husband who is a mason in Santo Domingo. We were arrested, me, my husband and my baby who is one year old. We spent three days in San Cristóbal before coming here. They didn't hit us. The Haitians who refused to come were hit. We left everything we owned in San Pedro de Macorís."

o Clema Jean Pérez, 30, spent most of his life in the Dominican Republic:

"I left Haiti with my parents when I was 7 months old. I was living in Santo Domingo and worked there as a housepainter. I was sick and was coming out of the hospital when soldiers asked me if I was Haitian. I showed them my papers. They arrested me. I was taken to San Cristóbal where I spent six days before coming to Haiti. I learned that my wife had also been arrested and sent here. I've lost track of her. Everything I owned was left in Santo Domingo."

o Jacques Jean-Baptiste is from Lascahobas, Haiti. He is 31 and had lived in the Dominican Republic for 15 years.

"I went there at the time of the harvest and cut cane for eight years. Then I went to Santo Domingo to learn a trade. I worked in construction.

"I was on my way home when some Dominican soldiers asked me for my papers. I showed them my I.D. (*cédula*) and my birth certificate. They tore them up. They arrested me. I was taken to (San Cristóbal) and kept in jail for seven days. Then I arrived here. I don't know anyone. I left everything I had in Santo Domingo.

o Benita Alexandre is from Jean Rabel, Haiti.

"I left Haiti in 1986 and went to the Dominican Republic. I didn't go there to cut cane and I paid my fare. I have my passport and my *cédula*.

"I was selling candy and drinks near the Santo Domingo airport. Last Monday I was on my way home and saw Dominican soldiers coming out of my house with my three kids aged 7, 12 and 13. When I asked them what was going on the soldiers told me that all the Haitians were going to be sent home. 'That's what President Aristide wanted.' I showed them my papers. They sneered at me and said I'd be deported with or without my papers. When I tried to protest two soldiers grabbed me by the wrists and pushed me into a waiting bus. We were taken to San Cristóbal. There were about sixty other Haitians in the bus. We spent the night in San Cristóbal in a large enclosed courtyard. There are three houses in the courtyard and they were filled with Haitians. The next day

we were taken to Haiti. I didn't have time to take a few of my belongings. I was in shock. I left my house. We have nothing but the clothes on our backs. I was selling merchandise on credit so I lost my money."

o Emmanuel Fleury, 26, has spent most of his life in the Dominican Republic.

"I left Haiti when I was six. I was working in a bar in Santo Domingo. I heard people say Haitians were being arrested to be sent back home. I went to see somebody in the Dominican Immigration. He sold me this form for 200 *pesos* and explained to me I wouldn't be arrested if I had this paper. And I've had it since the 8th of July. Soldiers did question me four times and every time I showed them this paper they let me go.

"A Dominican friend thought I should go home because I can't stay on with this paper, every time I'll have to pay 200 *pesos*. So the day before yesterday I went to see some soldiers who were in a bus searching for Haitians. I told them I wanted to go back home. They told me to get in the bus. When it was full with Haitians we were taken to San Cristóbal where I spent two days before coming here. San Cristóbal is the assembly place. It's a large enclosed courtyard. Soldiers watch us. There are several small houses where we spend the night, all crowded together on sheets. There weren't enough mattresses. They feed us. They wait for enough Haitians to fill four or five buses before taking us here. It's humiliating.

o Yanick Muris is from Baptiste, Haiti.

"I lived in Santo Domingo for eight years. I was leaving the market when soldiers said I looked like a Haitian. I didn't answer. They arrested me. I asked them what I'd done wrong. They answered I'm Haitian and have to go back home. It's the law, they said. I spent three days in San Cristóbal. My family, including a three-month-old baby, are left in Santo Domingo."

o Joreste Nazaire is from Côte-de-Fer, Haiti, and has lived in the Dominican Republic for 22 years.

"I don't know how old I am. I left Haiti in 1969. I'm a mason. I was working in a place where they make various types of cinder blocks. I was eating my lunch when people from Dominican Immigration accompanied by soldiers came up to me. They asked me if I was Haitian. I said yes. They told me I was going to be sent back home. I asked for permission to go home to get a few things. They came with me. I took what I could carry and they brought me to San Cristóbal. I spent nine days there. Dominican guards stole my belongings. In San Cristóbal, it wasn't a jail but it didn't make much difference. We were on top of one another and treated like dogs. They gave us plain rice to eat. There were no mattresses and we slept right on the floor."

- o Meriles Charfiles, 20, has spent most of his life in the Dominican Republic.**

"I'd been in the Dominican Republic for 15 years. I'd gone there with my parents. I was a yard worker. Dominican soldiers arrested me in the neighborhood. They said all the Haitians had to leave Santo Domingo. I tried to run away but they caught me and pulled me by the arm, brutally. They pushed me into a bus. I fainted and when I came to I found myself with a good number of Haitians in San Cristóbal. My boss owes me money. I don't know where to go in Haiti."

- o Reynold Jean-Baptiste, 26, is from Haiti.**

"I come from Belladere and spent six years in the Dominican Republic. I was a cane cutter. The working conditions were hard. I escaped to Santo Domingo from a *batey*. I had been working as a mason's helper. I wanted to cross the street. About six Dominican soldiers aimed their guns at me. They said I'm Haitian and they were going to arrest me and send me to my President. They took me to a large bus as if I was a thief. They told me I was going to stay in San Cristóbal for a few days before being sent home. I spent nine days in San Cristóbal. I have only the clothes on my back."

- o Carlo Pierre, 27, came from Lascahobas, Haiti, and had spent two years in the Dominican Republic.**

"I'm a mason and was working in the capital. Some Dominican soldiers told me that if I'm Haitian I have to go back home. They arrested me and took me to Saint Christophe (San Cristóbal). I was there for three days. It's not a jail but we were closely watched. Nobody could escape. They fed us but the food wasn't good. They gave us plain rice without oil. There was no water. We felt humiliated...I left all I had in Santo Domingo."

FORCED RECRUITMENT

Since the September 30 coup in Haiti, thousands of Haitians have traveled to the Dominican Republic to flee the terror and seek a way to earn a living. Many previously had lived and worked in the Dominican Republic but left during the 1991 forced "repatriation" campaign. As a result of this coup-inspired migration, the 1992 harvest has differed from past harvests in that CEA-employed recruiters, known as *buscones* were not needed to enter Haiti to recruit Haitians and then lure them across the border to cut cane. Unfortunately, abuses connected with the recruiting of Haitians once they enter the Dominican Republic continue to abound.

A. Forced recruitment at the border

As Haitians cross the border during the 1992 season, Dominican border guards, together with *buscones* working mainly at the border, immediately took them into custody, often holding them in military posts, makeshift shelters, or outdoor detention areas. When a sufficient number of Haitians had been collected, they were placed on buses and transported to the sugarcane plantations. In most cases, they were not allowed to choose where they wanted to go, even if they sought to return to a certain plantation where they previously had worked. No work contracts were provided, as they sometimes had been during the 1991 season in accordance with the 1990 presidential decree. If the recruits were given any documents at all, they received small, colored cards -- often blue or green -- that were meant to be used for malaria-control. These cards were often confiscated by CEA supervisors and guards to discourage the Haitians from leaving.

The Dominican authorities also resorted to other methods of recruitment. Haitians and Dominicans of Haitian origin, whether residing temporarily or permanently in the Dominican Republic, were subject to arbitrary detention by soldiers and CEA guards, who forced them to plantations to cut cane. Some cane cutters were jailed by CEA supervisors in CEA offices or outdoor detention areas to force them to work longer hours.

The *buscones* at the Haitian-Dominican border played a crucial role in recruitment, despite government and CEA assertions that no recruiting was taking place in 1992.⁴⁷ Often a *buscón* offered transportation to someplace other than a *batey*. The Haitians paid *buscones* for the transportation and the *buscones* in turn often paid Dominican border guards to let them through. In some cases, the Haitians willingly accepted work cutting cane but were unable to go to the *batey* of their choice, where they may have had personal ties such as family or friends.

o Eudice Metelles, 18, from Thomassique, arrived at Batey La Pista, Central Río Haina,

⁴⁷ Interview with Secretary of Labor Rafael Alburquerque, March 5, 1992; interview with CEA Director Arturo Biaggi, March 6, 1992.

División Enriquillo in January 1992. He went to the Dominican Republic to visit his cousin, as he had done several times in the past, and was detained by Dominican soldiers at the border and forced to go to a *batey*.

"I was going to visit my cousin who lives in Pedro Santana [a town on the border] when a captain at the border arrested me.

"I was held for two days at the military post in Pedro Santana, because when I got there I was the only one. Then soldiers put us on the bus and when we left the bus was full.

"The CEA chief gave us a little green card and aspirin. When we got to the *batey*, the [CEA] chief took away our cards.

"I usually come to the Dominican Republic to visit my cousin, but this time they sent me here to live in misery."

o Eric Saul, 31, from Jacmel, returns to the Dominican Republic every year to cut cane during the sugar harvest. He usually returns to Batey Alejandro Bass, Ingenio Porvenir. However, after crossing the border on January 10, 1992, he was unable to choose his *batey* freely. Instead, he was detained and forced against his will to a *batey* not of his choice, Batey La Duquesa in Ingenio Río Haina. There, his belongings were confiscated.

"Normally I can choose which *batey* I want to go to, but not this year. At the border, they sent me to "Immigration." They first took me to someplace hidden, with soldiers all around. They watched me so I couldn't leave. They put my name on a list."

o Lemoine Jean-Louis, 42, from Jacmel, returns to the Dominican Republic every year to cut cane during the harvest. In January 1992, he was sent by soldiers to a *batey* not of his choice. He spoke to us in Batey San Luís, Ingenio Ozama, outside Santo Domingo.

"I wanted to come to this *batey* because my things were here. But at the border, they sent me to a *batey* at Boca Chica. There were a few soldiers dressed in olive green and they put the Haitians in a truck. I saw a CEA man give money to the soldier. At Boca Chica I wanted to escape to come to Batey San Luís where my things were, but the chief told me I had been bought and that I had to stay. I escaped from there at night."

o Gilbert Austin, 50, from Hinche, was cutting cane at Batey San Luís, Ingenio Ozama, near Santo Domingo.

"I arrived in the Dominican Republic on December 21. I had to spend one month and seven days at the border town of Bánica. The Dominican soldiers at the border wouldn't let the Haitians leave the area. They said the Haitians had to wait until the month of December [the first month of

the harvest] to enter the country.

"There was a shelter near the border that was meant to hold the cane cutters. It had a roof and a floor, but no walls like in a real house. There were about 350 people in this shelter. The Dominican man there had orders to hold us there until the harvest began. They didn't give us any food or money. We could pick peanuts for two *pesos* (approximately 16 cents) per day. I have three children so I had to work to try to feed them. Some days there wasn't enough money for food for the whole family, so I didn't eat.

"Finally a bus came and took me and my family to Batey Consuelo in San Pedro de Macorís. I worked there for eight days before I saved enough money to come to this *batey* where I usually work.

"I come to the Dominican Republic for every harvest, but this time I had to spend all this time at the border and I lost many of my things to soldiers who stole from me.

"Haitians aren't free to work in the Dominican Republic. Here you can go from one *batey* to another, but not to the capital. If Aristide returns tomorrow, I'd go back to Haiti."

o Jean Claude Aladin, 22, from Jacmel, fled Haiti in January 1992. In Haiti, he had spent one month hiding in the woods after the section chief (a sheriff attached to the army) and soldiers in his town shot at him for refusing to burn his T-shirt with a picture of President Aristide. We spoke with him on Batey Alejandro Bass, Ingenio Porvenir, near San Pedro de Macorís.

"I decided to go to the Dominican Republic because I didn't have enough money to take a boat to the United States. I didn't have any idea I would be cutting cane. I thought maybe I could find a job in construction or something like that.

"After arriving at the border, I spent eight days in Pedernales. A *buscón* came and said he would bring us to Santo Domingo. He didn't say anything about cutting cane. The *buscón* gave us to the military. There were 25 of us together and five armed military people dressed in olive green. The military held us in some sort of patio. Someone in my group spoke Spanish to them. They told him we had nothing to fear and that the trucks would come soon. Each one of us paid \$15 Haitian (US\$ 9.40) to the *buscón*. He kept the money and gave us each a paper that said which *batey* we were going to, and that if we got sick we could get medical care. The soldiers fed us some bad rice while we were there.

"The bus came and brought us here to San Pedro de Macorís. We told the superintendent we didn't want to go to a *batey*. He took our things

away so that we wouldn't escape. Some of the people in my group escaped from the *batey* at night when the guards were sleeping.

"I will return to Haiti if Aristide comes back. If he doesn't come back, I am obligated to stay because of persecution in Haiti. If I don't cut cane, I won't have a place to stay."

o **Milius Sincere, 35, from Jacmel, previously had worked in construction in Santo Domingo. He returned to the Dominican Republic on January 6, 1992 and was forced to cut cane at Batey Alemán, Ingenio Santa Fé, near San Pedro de Macorís.**

"At the border, at Jimaní, soldiers asked us if we were looking for work, but they didn't say anything about cutting cane.

"A soldier in olive green put us on a bus. When the bus was full, they brought everyone here. I thought I might work somewhere else, maybe in construction. But I didn't have a choice. I only knew I was going to cut cane when they brought me here.

"There is other work but only in the capital and that is far from here. It's too hard cutting cane. I would not have come if I had known I wouldn't find a job other than cutting cane. When I have enough money I will try to go to Santo Domingo to look for other work."

B. Forced recruitment in Haiti

While most recruitment for the current sugarcane harvest was undertaken at the Haitian-Dominican border by *buscones* using deception and soldiers using force, there was some evidence of forced recruitment in Haiti. Two Haitian brothers with whom we spoke in Batey 9, Ingenio Barahona had been abducted near their home not far from the border in mid-January. They were forced by Dominican soldiers to cross the border and sent to Barahona.

o **Solon Louis-Jean, 18, of Fond Verrettes, was returning home after working in his garden in Haiti when Dominican soldiers abducted him and his half-brother and forced them across the border. Louis-Jean is missing a hand.**

"Five Dominican soldiers arrested me and my brother in Haiti. They told us they were taking us to work in the Dominican Republic. I told him I was handicapped and could not work. He said he would find work for me to do.

"We walked four hours to Limón. At Limón there was a depot with more than 50 Haitians waiting. The soldiers guarded us so that no one could leave. Then they took us by bus to two different *bateyes*. Some of the Haitians on the bus were there on their own accord. About 25 people got

off at each stop. The first stop was Batey 7, the second was Batey 9 and that's when I got off. When we arrived at the *batey* some soldiers gave us machetes.

"I cannot leave the *batey* because I have no money to pay the bus fare and it is too far to walk. Since I'm handicapped I can't earn money cutting cane. I get a few *pesos* from working in peoples' gardens and from time to time friends and neighbors give me some food to eat."

o Lema Maxi, 21, and the half brother of Solon Louis-Jean, was abducted at the same time.

"The soldiers [who abducted us] said I had to work for them. I wanted to tell my parents I had to leave, that they were taking me away, but they wouldn't let me. I can't leave the *batey* now because I haven't got any money."

C. Round-ups of Haitians and Dominico-Haitians in the Dominican Republic

All Haitians and Dominicans of Haitian descent living in the Dominican Republic, especially in the countryside, are susceptible to arbitrary arrests or "round-ups" by soldiers or CEA guards (*guarda campestre*) who forcibly recruit workers to cut cane. Occasionally, cane cutters who were working willingly on privately owned lands were rounded up and forced to work on CEA plantations.

1. Batey Verde, División Enriquillo, Ingenio Río Haina

A group of Haitians and Dominico-Haitians, most of whom had been rounded up by soldiers on February 24, 1992, were being held in the custody of an armed CEA guard at Batey Verde, Central Río Haina, when we visited on February 27. This section of Central Río Haina, División Enriquillo, lies to the north of Santo Domingo, near Sabana Grande de Boyá. The detainees were being held in the shade of a tree next to a small CEA guard post off one of the main *batey* roads. CEA employee Ramón Tapia, who identified himself as second-in-command of the *guarda campestre*-- "in charge of surveillance and security" -- and was bearing a rifle, guarded the group. Five years before being employed by the CEA, Tapia had served in the army.

Tapia, who had quickly put away his rifle as the delegation approached the holding place, said some of the Haitians had been rounded up near their homes at least one hour east of the *batey*, in the region of Bayaguana, where most of them tried to supplement the wages they earned cutting cane on privately owned fields by also growing some crops on small plots of land. When asked why the six men were being held and whether they could go home, Tapia responded, "They have to stay here. This is their home. They have to cut cane. They can't just go to the hills and deforest our country. Their cane or their country. (*Su caña o su país*)... They can only leave to cut cane. This is our mission -- that the Haitian works on a *batey*."

Explaining that they had been arrested by soldiers, Tapia acknowledged that "they are brought

to the *batey* to hand them over to 'the cutting' ('*para entregarlos al corte*')... When you leave your country, you do what you're told."

Tapia allowed the delegation to speak with the detainees. Four of them had had their clothing taken away and were forced to wear CEA "company clothes," consisting of khaki trousers and shirt. According to Tapia, their clothes were being held so they would not be stolen. But the Haitians said the CEA clothes were a stigma that marked them as prisoners and made them easily recognizable should they attempt to flee. They also said the confiscation of their belongings by the CEA guard provided an added deterrent to escape.

The detained Haitians in Batey Verde were forced to cut cane from 7:00 a.m. to 4:00 p.m. In the afternoons, they were forced to return to the guard post, where their belongings were kept, and at night they slept in barracks-style housing across the road from the *guarda campestre* post.

- o Nicolás Bautista, a 26-year-old Dominican of Haitian origin, was arrested by a CEA guard on the road in La Lena, where he lived and worked his own garden in addition to cutting cane in privately-held fields. He was on his way to Bayaguana to bring clothes to his wife who was in the hospital. His wife, he said, had no way of knowing what had become of him.

"I was on my way to the hospital when a *guarda campestre* with a rifle stopped me and brought me here to make me cut cane. He took away my valise and my tools."

- o Tapia, the CEA guard, returned Bautista's belongings to him -- including the valise filled with his wife's clothes, which he showed us -- while we were present. He was then told he was free to go.

- o Fanel Ulysse, who lives in nearby Hidalgo, was wearing the khaki "company clothes."

"I've been here since the *guarda campestre* took my clothes three days ago. I don't make enough to survive just cutting cane [for a private plantation], so I also have a small garden. That is why I am being punished."

- o Cédnar Alixt was not forced to wear a company uniform, but had on the same clothes he was wearing when he was arrested. He pointed to the holes in his clothing and complained that at the time he was rounded up, he was not permitted to fetch a change of clothing.

"I was speaking with my wife at my house in Piraco when I was arrested. The soldiers told me they wanted me to cut cane.

"I wanted to change my clothes, but this is all I had on when they arrested me."

- o Jean Hilaire, 19, was arrested in Bayaguana, where he cuts cane part time for a private plantation and also works his garden. Hilaire was forced to wear CEA "company clothes"

during the day, but was allowed to change into his own clothing in the evening, once he returned to his room directly in front of the *guarda campestre* post. He complained that each day he was forced to wear the same soiled clothing. Hilaire said that although he was born and raised in the Dominican Republic, his mother was Haitian and therefore he would always be subject to the whims of Dominican soldiers.

"I consider myself Haitian. I cannot leave the zone. If I try to leave, I will just be arrested again."

o **Sauveur Jean, 29, was born in Thiotte, Haiti.**

"Dominican soldiers arrested me on the road by Juanito near where I live. We've been held here three days. We are slaves here. They don't give us anything to eat. Look how thin I am."

o **André Pierre, 45, from St. Michel de l'Attalaye, Haiti, came to the Dominican Republic in December 1991. When we talked to him he was wearing a khaki uniform. He had a wound above his brow which he said was from being hit with a rifle at the time of his arrest.**

"I was in Batey Santa Cruz on Friday (February 21), working in my garden, when a *guarda campestre* arrested me. He hit me on the head with a rifle. The *guarda campestre* told me I had to cut cane.

"When I got here, the *guarda campestre* took away my things."

The day after our visit, a representative of the Christian Reformed Church spoke with the local CEA administrator about the detainees at Batey Verde. The administrator reportedly responded that "Haitians should cut cane." The following day, however, four of the original six with whom we spoke reportedly were released. Unfortunately, in the meantime, according to the Christian Reformed Church representative, others had been detained.

2. The case of Antonio "Chulo" Luís

On February 29 we met with 32-year-old Antonio Luís, known as "Chulo." Born and raised in the Dominican Republic and of Haitian descent, Chulo was living on Batey 8 in Ingenio Barahona, in the southwest, where he was working as a *Jefe de Grupo* (Group Leader). Chulo, who had a *cédula* (and a Dominican birth certificate), had worked for the CEA for eleven years. He had cut cane for about six years, but for the previous five years had been employed by the CEA in a supervisory position.

In January, at the beginning of the sugar harvest, Chulo's task was to transport Haitians who pick cotton in the off-season to the *batey* where they live and work during the sugar harvest. However, Chulo himself fell victim to the abusive recruitment practices carried out by the CEA in coordination with the Dominican army.

o **Chulo told us his story at Batey 8 in Baharona:**

"On January 11, I was driving a CEA pick-up full of Haitians going from Los Cocos, Enriquillo, where they had been picking cotton, to Batey 8 in Barahona, where they would work cutting cane. My wife and child were with me. Another CEA employee was driving another pick-up full of Haitians. There was a total of 19 of us in the two pick-ups.

"At the military post at Enriquillo, the soldiers stopped us and forced us to go to Pedernales la border townl. We were accompanied by soldiers.

"At Pedernales, the captain took my things: a pig, a mirror and a wash basin, worth about 1,000 *pesos* (about US\$80.) At that point, I knew they were going to sell me.

"We spent the night and the next day in Pedernales. Then at around 9:00 that night we started walking, four hours, to 'Pa' Azucena."

"Soldiers with flashlights made us walk two by two. A soldier told us, 'Nobody says a word.' Thorns scratched me from my feet up to my hips during the 25 kilometers we were forced to walk. There were about 30 Haitians in my group. The soldiers hid us in the woods, surrounded by a fence with barbed wire, at the border.

"We had to spend four nights there. We slept out in the open, on the ground, while the Dominican soldiers guarded us. They fed us some rice and dried fish, and gave us malaria cards. In the end, there were hundreds of Haitians kept there in the woods during those four days. Nineteen of us from Barahona; but most of the rest came from Haiti. It was a Sunday when I was taken there, and it wasn't until Wednesday at midnight that they started to move us out. All that time we spent outdoors.

"On Wednesday, at around 2:00 a.m., four buses arrived. They divided us up and put about 125 people on each bus. The captain told us to get on the buses. I was separated from my family. There was one soldier on each bus. The one on my bus told the driver where to go. He also told us that we had been bought. They took me to Ingenio Cristobal Colón (a privately-owned plantation in the east) and they took my wife and child, who went on another bus, to a *batey* at Santa Fé (a CEA-run plantation in the east, near San Pedro de Macorís).

"At Ingenio Cristobal Colón they expected me to cut cane. They paid for me. The people from the mill paid the soldiers. I told them, 'You wasted your money on me because I'm from Barahona and I'm going back there.'

"Sixteen who were sent there went to cut cane because the soldiers told them they were sold and paid for and there was nothing else for them to do but cut cane.

"I spent one day sitting with my arms crossed, refusing to move, even though the chief told me I had to cut cane. The soldiers told us that Haitians were only good for cutting cane. Some of the other people in my group who cut cane at first, escaped later. The head of the plantation let me go late that night after spending one day there. I offered fifty *pesos* (approximately US\$4) to get a ride to pick up my wife in Ingenio Santa Fé in one of the buses going back to the border. But the driver refused to take me, saying that I had already been sold. So I got to Santo Domingo on my own and then I paid sixty *pesos* (approximately US\$4.80) to take the bus to Barahona.

"When I got to Barahona, I wanted to go to Santa Fé to find my wife and child. [A local priest] in Barahona gave me a letter (see "Restriction of Freedom of Movement," below) to allow me to go fetch them. The trip to Santa Fé took me 24 hours. When I got there, I showed the CEA people the letter the priest had written for me, but they didn't care. They told me to stay there and expected me to work for them cutting cane. So again I was forced to escape. I found my wife and child and we escaped. We had to walk throughout the night."

The delegation visited the holding place called Pa' Sucena on the border near Pedernales. It was a large, wooded area, perhaps an acre, covered with recently used campfires and surrounded by a fence with barbed wire. A small army post stood several hundred yards away. On one side of the enclosed holding place was the home of an army officer.

FORCED LABOR

Once the Haitian recruits arrived at the sugar cane plantations in 1992, it was very difficult for them to leave during the course of the seven-month harvest unless they successfully escaped. Armed CEA guards and soldiers regularly patrolled the *bateyes* to prevent escapes. If a cane cutter left the plantation without permission, he risked being stopped by soldiers at the ubiquitous checkpoints and forced back. Haitian cane-cutters, even *viejos*-- the old-timers -- who sought to travel needed to obtain a written note from a supervisor or, more commonly, the local priest, which could be presented to soldiers who stopped them on the road.

Regardless of whether the Haitian cane cutter came to the *batey* willingly or forcibly, some CEA officials continued to confiscate their personal belongings so that they would be more reluctant to try to leave the *batey*. Malaria cards, the "document" the CEA provided to some recruits at the time of recruitment, were often confiscated. Some CEA supervisors also took it upon themselves to punish cane cutters who did not work by imprisoning them or otherwise mistreating them.

Compelled to remain on the plantations, the Haitians had no choice but to work to make enough money to eat. The only work available was cane cutting. These practices combined to form the system of coercion that continued to underlie the state sugar industry in 1992.

A. Restriction of Freedom of Movement

o An unusually candid CEA employee at Batey Verde, Central Río Haina, who was surveying the cane fields on horseback, confirmed to us that soldiers frequently went out to the hills to recruit Haitians forcibly. "They shouldn't do it, but they do," he said. "This always happens during the harvest."

Describing the restrictions on the Haitians' freedom of movement, the CEA employee showed us a letter he had just written for a cane cutter who sought to travel outside the *batey*. In translation, it read:

"In brief, we write to whom it may concern regarding Mr. ____, Cédula No. ____, who is a longtime worker in this department, Div. Enriquillo, Ingenio Río Haina. We ask the authorities to take consideration since he is going to the city of La Romana, where his daughter is very ill."

"If they [the army] find him on the way," the CEA employee explained, "they can grab him and mistreat him."

o The priest's letter that Antonio Luís ("Chulo") refers to in his testimony (see "Round-ups of Haitians and Dominico-Haitians," above) was written to ensure his free travel from his home in Barahona to Ingenio Santa Fé. The text follows in translation:

To the Transit Authorities:

After greeting you attentively, I ask you for the free passage of Mr. Antonio Luís, resident of Batey #8 of Ingenio Barahona. He needs to go to the eastern part of the country to attend to some personal business, after which he will return to the zone of Barahona to reintegrate himself into cutting cane.

Thank you in advance for your attention to this matter and may God bless you.

o On Batey Alemán in Ingenio Santa Fé, Oriné Gedéon, 27, who came from Jacmel on January 5, 1992, said that while he did not fear for his life should he attempt to leave the *batey*, he felt that such an effort would prove fruitless.

"Nobody stops me from leaving. But if a chief sees you with a suitcase, they can stop you and make you go somewhere else."

B. Confiscation of Personal Belongings

In addition to the six Haitians whose belongings were confiscated after being arrested near their homes and forced to cut cane on Batey Verde, Central Río Haina, at Sabana Grande de Boyá I see "Round-ups of Haitians and Dominico-Haitians, above), we came across the following cases:

o Eric Saul, 31, of Jacmel, Batey Alejandro Bass, Ingenio Porvenir.

"They gave me a little green card at the border and when I got to Batey La Duquesa in Haina, the superintendent and the *guarda campestre* took it away along with my things, so I wouldn't leave. I also had 200 *pesos* (approximately US\$16) and \$6 Haitian (US\$4) which they took away. They gave me a paper saying what they had taken. I gave the receipt to a pastor who said he would try to get my things. I haven't gotten anything back.

"I escaped from Haina. I left because the conditions there were difficult and because they took my clothes and money away. I asked for my things back, but I never got them."

o Jean-Claude Aladin, Batey Alejandro Bass, Ingenio Porvenir:

"I left Haiti in January. It was the first time I came here. I was a member of a pro-Aristide peasant organization. The section chief in my town was after me so I couldn't stay.

"...The bus came and brought us to San Pedro de Macorís. We told the superintendent we didn't want to go to a *batey*. He took our things away. Some of the people in my group escaped from the *batey* at night when the guards were sleeping.

o Lemoine Jean-Louis, Batey San Luís, Ingenio Ozama:

"The *mayordomo* (CEA supervisor) had taken all my things except for one pair of pants and one shirt so that I couldn't escape [from the *batey*]. So I was not able to retrieve my suitcase when I escaped."

C. Detention and physical mistreatment

CEA guards, *guarda campestres*, and superintendents who oversee the cane cutters' work at times jailed and physically assaulted cane cutters to compel them to work longer hours, or on Sundays, or to punish them for attempted escape.

o Enoch Noel, 17, from Jacmel, came to Batey La Pista, Central Río Haina, at the beginning of the 1992 harvest after escaping from a *batey* in the southwest to which he originally was deceptively recruited by a *buscón* in December 1989. The superintendent at Batey La Pista confiscated his belongings and locked him in a makeshift jail three times for refusing to cut cane.

"The day after I arrived the superintendent on the horse stole my things and told me I was here to cut cane and nothing else. I had a fever that day but the superintendent thought I just didn't want to work. He took me to the jail at [Batey] Juan Sánchez. I spent one night in prison. The next day the superintendent came back and handed me a machete and ordered me to go cut cane. He told me my things were lost.

"Another time I was imprisoned it was noon; I had already cut cane that morning and was resting."

The jail to which Enoch Noel referred is a small CEA administration building at Batey Juan Sánchez, Central Río Haina, which is normally used as the office where the cane cutters receive their wages.

o Christian Reformed Church (CRC) members reported similar cases of detentions by CEA employees to compel labor by Haitians and Dominico-Haitians at the same plantation. On February 9, 1992, Antonio Pierre, age 21, Miguelito Luis, 24, Benosa Oje, 19, and Francisco Jean, 18, were arrested by Esteban de León, a CEA *guarda campestre*, and placed in the small office in Batey Juan Sánchez. The four were released several hours later, after CRC leaders complained to the authorities.

o Lemoine Jean-Louis of Batey San Luís, Ingenio Ozama, told us of similar practices at his plantation.

"There are paid Haitians who survey the area and if they catch you

escaping, they put you in prison. Sometimes if they catch you, they beat you. I left at night because I didn't want to be beaten. I didn't want to take any risks."

o In another incident on May 2, 1991, reported by the Social-Cultural Movement of Haitian Workers (*Movimiento Socio-Cultural de los Trabajadores Haitianos*, or MOSCTHA), superintendent Alejandro Castro of Batey Proyecto Velásquez, Ingenio Río Haina at Monte Plata, attacked with a machete two Haitians who were sitting under the shade of a tree. Castro earlier had reportedly threatened to burn down the evangelical church at the *batey* so that the parishioners would cut cane on Sundays. Although they tried to run away from the superintendent, Sinua Jean Louis was slashed on the fingers and Quesne Charles was cut on the head and fingers.

THE DOMINICAN GOVERNMENT'S RESPONSE

The Dominican government continues to reject and try to discredit international criticism of its human rights practices, even as it alternates between trying to improve its image through limited reform and lashing out at the victims of its abusive practices.

Some insight into the Dominican government's reaction to international criticism of its forced labor practices is provided by a document submitted by the Dominican ambassador to Washington, José del Carmen Ariza, to Representative Robert Torricelli, chairman of the House Subcommittee on Western Hemisphere Affairs, on July 15, 1991 -- one month after the congressional hearings on human rights in the Dominican Republic and the issuance of President Balaguer's repatriation decree. Ambassador Ariza first asserted that his government was "pleased to report that a methodical review of the status of foreign workers has been undertaken so that those who are improperly in the country can be repatriated in an orderly, humane and prompt manner." He explained that "the present 'controversy' over the alleged mistreatment of Haitian cane cutters in the Dominican Republic arose out of a petition filed by Americas Watch in May 1989"; and went on to discuss what he described as the "extensive" and "thorough" investigation of Dominican labor rights conducted by the U.S. Trade Representative (USTR).

He concluded by announcing the Dominican government's "vindication," based on the USTR's finding that the "Government of the Dominican Republic had taken steps to afford 'internationally recognized worker rights' to all workers in the country, including Haitian cane cutters." He also quoted a statement of the U.S. Embassy which had appeared in the USTR's report that "there has been a marked reduction in the number and level of both private and public complaints of abuse in this area for the last two seasons." He then stated:

"[T]he Government of the Dominican Republic was quite pleased with the Report and was confident that the favorable April 25 decision [by President Bush to maintain trade benefits] would have ended the criticisms of the country... Unfortunately, for whatever reasons, certain interest groups have failed to recognize the USTR decision and have maintained, if not stepped up, their essentially groundless attacks, not only in the Executive Branch, but in Congress and in the media as well. As a result, actions have been taken which have had a serious adverse impact on the Dominican economy, discouraging tourism, investment and, in essence, harming the very people the proponents of such actions claim they are trying to help. Such actions include (1) Americas Watch asking USTR to initiate a new investigation; (2) actions by the Committee on Foreign Affairs of the House of Representatives to restrict Economic [Support] Funds; (3) the broadcast of the "Primetime Live" segment on Haitian cane cutters; and (4) the recent Subcommittee hearing arising out of the "Primetime Live" program."

The document went on to repeat arguments that have been made over and over again by

Dominican authorities as abuses continue. Its rhetoric -- citing international and Dominican law, blaming isolated individuals rather than government policy for abuses that occur -- bears little semblance to reality.

In only one instance did Ambassador Ariza speak of prosecuting those who violate human rights, when he referred to those who may be "discovered" to tolerate forced child labor. Our organizations would welcome information regarding any such prosecutions.

In meetings with us in July 1991, Dominican officials denied widespread charges that Haitians were being mistreated during the deportation process. The head of Haitian Affairs at the Immigration Department, Rómulo de los Santos, told us that "no country in the world allows a detainee time to fetch his shoes, but if any of them tell me of a serious problem, I take note of it and let him arrange his affairs."

When asked why the deportees were not being given the procedural safeguard of a hearing in which they would be able to refute charges and submit evidence, the Director of Immigration, General José Ramón Mota Paulino responded, "What would they be able to refute if they do not even know their names?"⁴⁸

When asked whether it would be feasible to provide an identity card or temporary residence permit to every Haitian migrant worker in the country -- a step that would discourage abusive labor practices by facilitating Haitian recourse to governmental institutions -- the Deputy Secretary of Foreign Relations, Fabio Herrera Cabral, responded that the Dominican government was not willing to provide illegal aliens with any documentation: "To give them an identity card (*tarjeta*) would amount to legalizing their status; if they entered the country without documents, they should leave without documents. The Dominican Republic cannot afford to assimilate 800,000 Haitians."⁴⁹ This statement flatly contradicted the vow of Decree 417-90 to normalize the immigration status of Haitian sugar industry workers.

While the legalization of cane-cutters' labor unions represented a significant positive step in 1992, the failure to distribute work contracts, as stipulated in Presidential Decree 417 of 1990, was a disappointment. The explanations given by Secretary of Labor Rafael Alburquerque in a meeting with us in March 1992 were that: 1) the CEA did not recruit workers from Haiti for the current harvest but relied only on the workforce that remained in the Dominican Republic throughout the year; and 2) 90% of Dominican workers lack written work contracts, which are usually available only to high government officials and business executives. We found ample evidence that, in addition to using Haitians who remained in the Dominican Republic throughout the year, the CEA hired Haitians and Dominico-Haitians who returned from Haiti after the coup. Moreover, Decree 417 did not exempt workers who live in the Dominican Republic year round from the requirement that work contracts be provided. Rather, it suggested that all cane cutters should receive work contracts.

⁴⁸ Interview with General José Ramón Mota Paulino, July 23, 1991.

⁴⁹ Interview with Deputy Secretary of Foreign Relations Fabio Herrera Cabral, July 24, 1991.

When asked about recruitment for the 1992 harvest, Arturo Biaggi, the CEA director until August 1992, conceded that if Haitians wanted to come to cut cane, they could enter the country and find work. He stated that at the beginning of the 1992 harvest "4,500 Haitian cane cutters" were available to work. By mid-harvest, he went on, the CEA was employing "12,000 Haitian cane cutters...plus 3,000 Dominican workers." The additional 7,500 cane cutters were recruited "not just from Haiti, but from different parts of the country." Ingenio Barahona, he said, was not short of workers because it is so close to the border that people were able to cross easily.

Mr. Biaggi denied that cane cutters were forcibly recruited in 1992. "This year we haven't used one soldier to recruit one Haitian."

Over the years, the Dominican government, as well as some members of the press, have repeatedly attacked the international human rights organizations that monitor Dominican practices, accusing them of being partisans of Haiti and its governments. The Dominican government has also charged that these organizations -- including ours -- are aligned with and attempting to protect U.S. domestic sugar producers. We reject these retorts categorically, for the reasons set forth below.

First, Americas Watch and the National Coalition for Haitian Refugees, at times in conjunction with Caribbean Rights and other organizations, have issued twelve reports on human rights in Haiti since 1983. We have strongly and repeatedly condemned human rights violations committed by military and paramilitary forces under the governments of Jean-Claude Duvalier, Henri Namphy, Prosper Avril, Ertha Pascal-Trouillot, Jean-Bertrand Aristide and the current military authorities. We doubt that the various Haitian governments that we have criticized over the years would conclude that we are their partisans.

Second, we in no sense share the agenda of the U.S. sugar industry. Unlike that industry, we have no interest in reducing the amount of sugar imported into the United States. We take no position on whether imports should be reduced, increased or stay the same. Our sole concern is that the right to export sugar to the United States not be extended to countries that use forced labor to harvest their sugar. If the Dominican government were to cease to compel Haitians to cut sugar cane, we would have no interest in reducing the sugar quota allotted by the U.S. government to the Dominican Republic. However, as long as the CEA continues to rely on forced labor, we believe that the United States has a duty to stop importing Dominican sugar. In short, we have never advocated and have no reason to advocate preferential treatment for U.S. sugar producers.

Nor do we seek to undermine the Dominican economy by pressing for monitoring of Dominican labor practices by the U.S. Trade Representative, as required by U.S. law when systematic violations occur. We would prefer that Dominican labor rights practices improve to the point where U.S. trade benefits will not be in jeopardy and international criticism will no longer be merited. However, so long as the Dominican government continues to abuse the rights of Haitian residents, we will continue to criticize its practices. When possible, we will not hesitate to invoke economic pressure to bolster those criticisms as a spur to improvement in Dominican human rights practices.⁵⁰

⁵⁰ The Dominican government has also at times suggested that our organizations do not criticize U.S. government policies. Again, this is far from the truth. For example, our reports have repeatedly criticized U.S. policy toward Haiti when the U.S. government has failed to use its

U.S. POLICY

A. U.S. Trade Representative

The United States is by far the Dominican Republic's largest trading partner, purchasing approximately 67% of Dominican exports annually. In fiscal year 1991, the U.S. imported \$2.02 billion worth of products, including \$551 million under the Generalized System of Preferences (GSP) and the Caribbean Basin Initiative (CBI). The Dominican Republic continues to be allotted the largest segment, 17.6%, of the U.S. sugar import quota, or 232,555 metric tons of sugar.

In fiscal year 1991, the Dominican Republic received \$1.7 million in military assistance and training; \$13.9 million in developmental assistance; and \$4.6 million in food aid under PL480, Title II. Projected figures for fiscal year 1992 include \$1.4 million in military assistance and training; \$11 million in developmental assistance; \$6.7 million in Economic Support Funds (budgetary support); \$4.3 million in food aid under PL480, Title II; and between \$200,000 and \$400,000 in anti-narcotics assistance. For fiscal year 1993, the Bush Administration has requested \$1.2 million in military assistance and training; \$17.22 million in developmental assistance; \$5 million in Economic Support Funds; and \$14.858 million in PL480 food aid.

On April 25, 1991, after a two-year review of Dominican labor practices, the Bush Administration determined that the Dominican government "[has] taken or [is] taking steps to afford internationally recognized worker rights." As a result, the Administration decided to maintain trade benefits to the Dominican Republic under the Generalized System of Preferences (GSP), despite a U.S. law that prohibits the granting of such benefits to countries that violate labor rights. That determination was made on the basis of a report by the GSP Subcommittee of the Office of the U.S. Trade Representative (USTR) Carla Hills, which was issued in April 1991. The decision put an end to the USTR's review of Dominican labor rights practices.

significant political and economic leverage to promote human rights or to signal its abhorrence at gross abuses. We have also joined lawsuits against the U.S. government challenging its violation of international law governing the protection of Haitian refugees. Indeed, we have criticized the U.S. government for inadequately promoting human rights in the Dominican Republic.

Americas Watch and its parent organization, Human Rights Watch, have also criticized a number of other human rights practices of the U.S. government, including abuses by the U.S. Border Patrol along the Mexican-American border, substandard conditions in U.S. state and federal prisons, the U.S. government's abdication of responsibility in combatting police abuse, U.S. government-imposed restrictions on the press surrounding the Persian Gulf War, and violations of the international laws of war in the conduct of the air war in the Persian Gulf. Human Rights Watch and its regional divisions also regularly criticize U.S. human rights policy toward other abusive governments.

The GSP Subcommittee's findings on the treatment of Haitian cane cutters were based at least in part on reports by the U.S. Embassy in Santo Domingo which have yet to be made public by the Bush Administration. This failure to disclose the Embassy's reports, which purported to analyze labor practices on Dominican sugarcane plantations, raises questions about the quality of those reports and about the extent to which the Administration's determination reflects actual human rights conditions, as required by U.S. law, as opposed to extraneous political considerations.

The April 1991 GSP Subcommittee report, which covered a range of labor rights concerns in the Dominican Republic, included a number of statements in its section on "Allegations of Worker Rights Violations of Haitian Sugar Cane Cutters" which tried to put the best face on what remains a poor human rights situation. For instance, in discussing the portion of the October 1990 Dominican presidential decree that required written contracts to be given to all Haitian sugarcane workers, the subcommittee stated that "the act of registering Haitian workers and providing them written work contracts, when fully implemented, would remove a large measure of the social and legal uncertainty which can make them vulnerable to forced recruitment." That statement was true as far as it went. But the Subcommittee never went on to acknowledge that while forced labor has long been formally illegal under both Dominican and international law, the Dominican government has lacked the will to enforce those laws.

In another statement, the GSP Subcommittee cited the U.S. Embassy in Santo Domingo to report:

"There has been a marked reduction in the number and level of both private and public complaints of abuse in this area for the last two seasons....[I]ndividual complaints about small numbers of people forcibly recruited or deceived by private agents [continue to be reported], but in general...the problem [appears] significantly smaller."

By referring in vague terms to a "small number" of people forcibly recruited or to a problem that appears "significantly smaller," the Embassy's statement gave the impression of progress without any concrete substantiation. How many people were forcibly recruited for the 1991 harvest, according to the Embassy? How much of an improvement does this represent over the prior year? The statement did not answer these questions, nor has the Bush Administration clarified these issues subsequently despite explicit requests from Congress. The assertions were particularly surprising since they followed excerpts from reports by our organizations and the Lawyers Committee for Human Rights which suggested that forced labor continued to be a serious problem on Dominican sugarcane plantations.

The GSP report then stated:

"Concerning this apparently contradictory information, the Subcommittee believed it likely that both the U.S. Embassy statement and the Americas Watch report were describing different aspects of the same situation: The Embassy view of a general improvement was based on its long-term, country-wide point of view, while the Americas Watch opinion of continued violations was based on the interview of a small number (approximately three dozen) of Haitian cane cutters over a short period of time (January 28-February 6, 1991)."

We take exception to this effort to dismiss our reporting, especially since neither the Embassy's report nor the basis for its conclusions has been disclosed. During the 1991 mission mentioned in the

GSP report -- the fourth such mission to the Dominican Republic by our organizations -- the delegation visited numerous *hateyes* on five sugar plantations in three different regions of the country. We are particularly suspicious when the GSP Subcommittee describes the Embassy's monitoring as "long-term," since at the time of our visit to the Dominican Republic in 1989 the human rights officer at the Embassy had not even visited a *hatey*.

In a brief meeting at the U.S. Embassy in Santo Domingo in July 1991, then-U.S. Ambassador Paul Taylor expressed his satisfaction with our 1991 report on labor rights in the Dominican Republic, noting that the report acknowledged the positive steps taken by the Dominican Republic to ameliorate conditions on the sugarcane plantations. The ambassador declined to provide an opinion on the deportations then under way, on the grounds that diplomacy called for a modicum of discretion. Instead, Ambassador Taylor elliptically asked us whether we were willing to take responsibility for the repatriation of Haitian migrant workers, as if legitimate criticism of ongoing Dominican abuses made us responsible for further Dominican abuses committed in pique over the criticisms.

In a March 1992 meeting with us, the new U.S. ambassador, Robert Pastorino, and several other Embassy officers remained unwilling to make available their report on labor rights on CEA plantations relied on by the GSP Subcommittee. We were told that the report remained confidential because it was based in part on private meetings with Dominican government officials.

Nevertheless, we were encouraged by the Embassy's increased attention to the *hateyes*. Ambassador Pastorino said that in the two months since he had arrived in Santo Domingo, he had visited several *hateyes* on three occasions with U.S. Congressional delegations led by Congressmen Robert Torricelli, Charles Rangel and Donald Payne. The Embassy's new human rights officer told us that he was aiming to visit different *hateyes* around the country at least three times a month.

In its 1991 report the GSP Subcommittee concluded, "Given the seriousness of the issue of forced recruitment and labor...the Subcommittee believed the situation should continue to be monitored closely in the future." However, the U.S. Trade Representative ended its review of the Dominican Republic in April 1991 when President Bush announced his decision to maintain GSP benefits. Later, the USTR rejected a new petition from Americas Watch requesting continued review of worker rights during the 1991-92 period. In so doing, the USTR missed an opportunity to continue to try to influence the Dominican government to cease its reliance on forced labor.

The USTR's refusal to accept the Americas Watch petition for ongoing review of Dominican labor practices was particularly disturbing in light of the Dominican government's rescission of one of the positive steps cited by the USTR to justify ending formal review. The GSP Subcommittee report relied upon by the USTR for her decision stated: "By legalizing the immigration status of Haitian workers...the [October 1990 presidential] Decree would remove the barriers which have stopped illegal immigrants from seeking legal protection of their worker rights as provided for in the Dominican labor code." The GSP Subcommittee misleadingly substitutes the word "legalize" for "regularize" -- the word used in the decree -- thereby overstating the decree's significance. In any case, shortly after the USTR decision, the Dominican government began its mass expulsion of Haitians, effectively reversing the October 1990 decree. A Haitian who knows that he may be summarily expelled from the Dominican Republic is hardly in a position to approach Dominican authorities for enforcement of his right not to be compelled to work in the sugarcane fields. Nonetheless, even after this reversal, the USTR refused to continue formal

review of Dominican labor practices.

The Administration's decision to maintain GSP trade benefits was made seven weeks before the Dominican government announced its repatriation decree. The U.S. decision appears to have emboldened the Dominican government by giving it a seal of approval for promises rather than significant concrete steps to end labor rights abuses. In his July 1991 letter to Congressman Robert Torricelli, the Dominican Ambassador to Washington, José del Carmen Ariza, cited the GSP report as evidence that his government was respecting worker rights. "Particularly noteworthy in the April 25 Report," the Ambassador wrote referring to the GSP report, "is the emphasis on numerous recent reports from the U.S. Embassy in Santo Domingo regarding improvement in the treatment of Haitian cane cutters. The Report cited with approval the Embassy's reporting, which stated that 'There has been a marked reduction in the number and level of both private and public complaints of abuse in this area for the last two seasons.'"

When the ongoing use of forced labor in the Dominican Republic continued to be the subject of criticism by the U.S. Congress and media, as well as by human rights organizations, the Dominican government embarked on the massive expulsion of Haitians and Dominico-Haitians. Its apparent calculation that it could take this step with impunity was reinforced by the USTR's refusal in August 1991 to accept Americas Watch's petition for further review.

The U.S. Trade Representative's decision to end its review of the Dominican Republic, based on flawed and misleading U.S. Embassy reports, was a decision to ignore clear legal prescriptions in pursuit of commercial and other foreign policy objectives. This flouting of the law undermines the credibility of the GSP labor rights review process. Only the U.S. Trade Representative's renewed formal scrutiny of Dominican labor practices, coupled with a determination to cut GSP benefits for the Dominican Republic if the use of forced labor continues, will motivate the Dominican government to take the necessary steps to end this practice.

B. U.S. State Department

In prepared testimony of June 11, 1991 before the House Subcommittees on Western Hemisphere Affairs and on Human Rights and International Organizations, a State Department representative, Joseph Becelia, director of the Office of Caribbean Affairs, did virtually nothing but tout five "meaningful steps" taken by the Dominican government to address labor rights concerns. The steps were later aptly summarized by Florida Congressman Harry Johnston as: "the first one is a commission, the second one is a decree, the third one is an announcement, the fourth one is an announcement, and the fifth one is an announcement." The strongest language Mr. Becelia used to describe ongoing forced labor in the Dominican Republic -- after describing at some length each of the five "meaningful steps" -- was: "notwithstanding this progress, we are concerned about continuing allegations that worker rights are not fully protected in the Dominican Republic." He went on to promise to continue to monitor worker rights in that country.

While the vows of the Dominican government to improve its labor rights practices represented important first steps toward respecting these rights, these promises by no means substitute for the action required to eliminate forced labor altogether. As the State Department witness conceded in an

exchange with Representative Robert Torricelli, chairman of the House Western Hemisphere Affairs Subcommittee, the steps taken by the Dominican government have not ended the Dominican Republic's dependence on forced labor.

***Mr. Torricelli:* Is it your judgment that Haitians are not at this moment being forced to do labor against their will in the Dominican Republic?**

***Mr. Becelia:* No, I wouldn't want to draw that conclusion, Mr Chairman. I would not venture to make that opinion.**

***Mr. Torricelli:* So is it your judgment that at this point children of a minor age are not being forced to do labor in the Dominican Republic?**

***Mr. Becelia:* No, I would not subscribe to that hypothesis either. I would not say that this is not taking place, if that answers your question.**

***Mr. Torricelli:* Of course, you would agree that basic labor rights are not being recognized, obviously.**

***Mr. Becelia:* I would agree that there are abridgements of internationally accepted labor rights.**

The Bush Administration's initial comment on the deportations by the Dominican government were in a report to Congress following the June 11 congressional hearings. The State Department stated:

"This report contains the U.S. Embassy in Santo Domingo's comments on the allegations of child slavery and other abuses of Haitian Braceros (canecutters) made in the May 30 ABC "Primetime Live" program. The Government of the Dominican Republic (GODR) strenuously denies the allegations, and in response to the ABC program and other international criticism, President Balaguer has ordered the repatriation of all undocumented aliens working in the sugar fields under age 16 and over age 60. Based upon our continuing review of the Bracero issue, we believe that the GODR does not have a policy of exploiting Haitian youths in slave-like conditions. To the contrary, the GODR is taking meaningful steps to curb abuses, although much remains to be done."⁵¹

It is inexcusable that the Bush Administration blandly described the deportations without condemning the Dominican government's act of responding to legitimate criticism of human rights abuses by retaliating against the victims of those abuses. Indeed, the Administration deceptively portrayed the deportations by repeating the decree's formula that they were directed against only Haitians under age 16 and over age 60, when in fact Haitians of all ages were arbitrarily detained and summarily expelled. The Administration's lack of criticism was undoubtedly understood by the

⁵¹ U.S. Department of State as submitted for the record of the hearing before the House Committee on Foreign Affairs Subcommittee on Human Rights and International Organizations and on Western Hemisphere Affairs, June 11, 1991.

Dominican government as tacit acceptance of the deportations. The U.S. reticence was all the more disturbing because the deportations, by destroying whatever security the Haitians might have felt in the Dominican Republic, undermined the conditions for seeking legal redress for abuse that the USTR had cited as a basis for finding improvement in Dominican labor practices.

The State Department's *Country Reports on Human Rights Practices for 1991*, published in January 1992, included one paragraph on the repatriations, noting some of the attendant abuses.

"On June 13, President Balaguer issued a decree ordering the repatriation of all foreigners (primarily Haitian) under the age of 16 and older than 60 who were working in the Dominican Republic's sugar industry. According to Dominican immigration officials, about 6,000 Haitians were involuntarily repatriated before the program was suspended the day after the September coup in Haiti. Some Dominican citizens were among those expelled. At times during the repatriation process, families were separated and deportees were forced to abandon their personal property and were not allowed to collect back pay, severance pay, and pensions. In addition to those involuntarily repatriated, some 50,000 to 55,000 Haitians left, mainly to avoid the possibility of losing their possessions."

Although the State Department neglects to point out that the 6,000 Haitians it asserts were involuntarily repatriated did not fall neatly into the age groups indicated in the decree -- that in fact Haitians and Dominico-Haitians of all ages were expelled -- and fails to convey the arbitrariness and abusiveness of the round-ups at gunpoint by Dominican soldiers, its description of the repatriations is generally accurate, if spare.

The State Department report was less thorough than the previous year in its section on the "Prohibition of Forced or Compulsory Labor." Nevertheless, it did summarize the main concerns raised by domestic and international human rights organizations:

"There were credible charges in the 1990-91 sugar harvest that the Government and CEA forcibly recruited Haitian seasonal agricultural workers and then restricted them to work on specific sugar plantations. In some cases, workers told of holding facilities under military guard, having personal effects confiscated, and being physically and psychologically abused by CEA employees to restrict them to the plantations. There were also charges that the Government used the military and police to round up Haitians residing in the Dominican Republic and compelled them to work in the cane fields."

In its section on "Acceptable Conditions of Work," it also discusses long working hours and abuses in the payment of wages to cane cutters, explaining,

"Since workers are paid by the weight they cut (plus bonuses for extra production), and CEA employees often manipulate the figures, many cane cutters work extra hours to increase their income...."

"Twenty CEA employees were dismissed for cheating workers, but the practice

continues, and not all CEA employees are disciplined for it. In the 1990-1991 harvest, CEA paid the cane cutters in vouchers, which were often exchanged by merchants at exorbitant discount rates to reduce the value of the worker's income. CEA announced plans to modify that procedure in the 1991-1992 harvest."

While it is true that these abuses affect all cane cutters and should be criticized and corrected, they are particularly egregious when they affect workers who have been compelled by force to cut cane for the CEA. This subtlety seems to be lost on the State Department when it states that "problems found in many Haitian worker villages, such as disease and a lack of schooling, medical facilities, running water, and sewage systems, are also found in many parts of the country and are not suffered uniquely by Haitians." Although this is likely true, since many Haitians cutting cane in the Dominican Republic are effectively in the custody of Dominican authorities, the Dominican government has a legal duty to ensure that basic needs are met.⁵²

C. U.S. Congress

We commend the House Subcommittees on Western Hemisphere Affairs and on Human Rights and International Organizations for taking an active interest in the plight of Haitian cane cutters in the Dominican Republic. We especially applaud Chairman Torricelli's forceful statements at the June 11, 1991 hearing highlighting the unfortunate contradiction between the Bush Administration's acknowledgment that forced labor continues to be used in the Dominican Republic and its decision to remove the Dominican Republic from the GSP review process.

Chairman Torricelli stated:

"If a message is going to be sent to the Dominican Republic, let it be this. I am not interested in good intentions, I am not impressed by any additional promises. There is not a person in this country who would want one dollar of our taxpayer's money to go to any government that condones any of these activities at any level.

"As long as I am chairman of this subcommittee and able to muster a majority, it will never happen again, not a dollar. This next year is either going to witness the most remarkable progress in human relations in Dominican history, or it will mark the end of American assistance to the country.

Congressman Torricelli traveled to the Dominican Republic on January 13 and 14, 1992, and visited two plantations, one privately owned, one CEA-run. On his return, he issued a press release in which he praised the improvements that had taken place. "We saw no evidence of child laborers, and the government says it is committed to seeing workers receive prompt payment," he said, referring to

⁵² See U.N. Standard Minimum Rules for the Treatment of Prisoners, setting forth minimum standards of care for those in government custody.

the weekly cashing of vouchers that had replaced the bi-weekly system. His failure to voice concern over the continued use of forced labor represented a dramatic departure from his earlier statements.

We urge Congress to follow up on its June 1991 inquiry and to take appropriate steps to signal its displeasure not only with the continued use of forced labor in the Dominican Republic, but also with the Dominican government's policy of indiscriminate expulsions of Haitians. In addition to pursuing the cut in aid promised by Chairman Torricelli, we urge Congress to consider taking steps to ensure that the Dominican Republic is not permitted to export sugar to the United States if it continues to employ forced labor to harvest its sugarcane. A threatened reduction in the Dominican Republic's share of the U.S.'s sugar import quota would be an appropriate -- and, we believe, highly effective -- source of leverage to pressure the Dominican government to take steps to end its use of forced Haitian labor.

CONCLUSIONS AND RECOMMENDATIONS FOR THE DOMINICAN GOVERNMENT

Article 13 of the Universal Declaration of Human Rights states that, "everyone has the right to freedom of movement and residence within the borders of each State" and "to leave any country, including his own, and to return to his country." Similar provisions are found in Article 12 of the International Covenant on Civil and Political Rights and in Article 22 of the American Convention on Human Rights.

Dominican soldiers, CEA supervisors and CEA guards should refrain from arresting or physically mistreating Haitians and Dominicans of Haitian origin for the purpose of forcing them to work. Those who are responsible for forcible recruitment for the CEA (or private sugar mills) should be disciplined or prosecuted. If those who tolerate child labor or cheat cane cutters on the weight of their cane can be disciplined, then those who detain Haitians and Dominicans of Haitian origin, confiscate their personal belongings and force them into the cane fields should also be prosecuted. Only by prosecuting offenders will the Dominican government be able to curb these practices. And only when offenders are punished can the Dominican government credibly claim that it is not a policy of the government to engage in abuses.

Newly recognized cane-cutters' unions should diligently monitor such cases and bring complaints before the Dominican authorities, and before international labor unions, when appropriate.

The Dominican government must not expel Haitians residing in the Dominican Republic, regardless of their immigration status, without granting them the due process of law that is guaranteed not only under Dominican but also under international law. The right to a formal and meaningful hearing, at which there is an opportunity to demonstrate one's entitlement to Dominican citizenship or residence, is due to every person facing deportation. Collective expulsion is contrary to international law.

The Universal Declaration of Human Rights states under Article 9 that "No one shall be subjected to arbitrary arrest, detention or exile." Article 13(2) provides that "Everyone has the right to leave any country, including his own, and to return to his country," and Article 15 states that "1. Everyone has the right to a nationality. 2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality."

Similarly, the International Covenant on Civil and Political Rights, to which the Dominican Republic acceded in 1978, provides in Article 12(4) that "No one shall be arbitrarily deprived of the right to enter his own country." Article 13 states that:

"An 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, except where compelling reasons of national security otherwise require, 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."

The American Convention on Human Rights, which the Dominican Republic also ratified in 1978, has similar provisions on the right to a nationality. Article 22(5) states that "No 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." Article 22(9) provides that "The collective expulsion of aliens is prohibited."

These provisions of international law impose a duty on the Dominican government to provide individualized hearings to those facing deportation to ensure that lawful residents or even Dominican citizens are not expelled. The hearings must provide alleged aliens with a meaningful opportunity to establish their claims to temporary or permanent residency or conditional or final naturalization. Indeed, this duty under international law is recognized and set forth in Article 13(3) of the Dominican Immigration Law and Section 13 of the Regulations.

The Dominican government should also establish a clear immigration policy with regard to undocumented Haitians. First and foremost, if workers are asked to submit their papers to the authorities as part of the government's registration drive to comply with Decree 417-90, temporary permits or documentation should be provided so the workers are not left without any form of documentation. The current policy of providing cane cutters with temporary work permits – while extremely faulty in its implementation -- is an appropriate intermediate step. We would encourage the Dominican government to pursue its efforts to provide all migrant workers with such documentation. Whereas it may be in the interest of the Dominican government to encourage only seasonal residence of Haitians and to discourage their permanent residency in the Dominican Republic, the government must assume the responsibility to provide them with adequate notice of their immigration status and pertinent permits documenting that status. The government should also widely disseminate information about the rights and privileges afforded by immigration documents.

The Dominican government should devote particular attention to regularizing the immigration status of Haitians who reside in the Dominican Republic year-round and who have spent many years living and working there. The Dominican government should promulgate and publicize reasonable regulations setting forth the conditions under which Haitians can become permanent residents and eventually naturalized, if they choose. Children of Haitian descent who were born in the Dominican Republic should have their Dominican nationality recognized as provided by the Dominican Constitution.