

Report

New Forms of Human Rights Abuses on Vicini Company Sugar Cane Plantations

Current Harvest (2008-2009)

Dominican Republic

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Executive Summary:

The exploitation of sugar cane workers in the Dominican Republic is flourishing.

Despite years of documentation by the US State Department, Amnesty International, the UNHCR, governmental agencies, humanitarian groups, reporters and individual witnesses, not much has changed except the manner in which human rights violations occur. On Vicini-owned sugar cane plantations, violations are more covert than ever, thriving in the absence of respect, accountability and legal repercussions.

Among the new forms of oppression and exploitation experienced by sugar cane cutters are:

- **Failure to Withhold Social Security:** The Vicini Company is no longer making payroll deductions for social security (IDSS), leaving workers with no rights to basic benefits.
- **Sub-Standard Salary:** The Vicini Company is maintaining the *status quo* of poverty by paying the same low price per ton of sugar cane as in 2007-2008.
- **Weight Fraud:** Cane on the Vicini Company plantations is now “eyeballed” and estimated, or the actual weighing occurs at night without the witness or validation of the cutters, thereby resulting in diminished wages.
- **Human Trafficking:** A new wave of trafficking in the current harvest season has reversed the dramatic three-year decrease in this insidious practice. Thousands of these trafficked persons are employed by the Vicini Company.
- **Deprivation of Proper Healthcare:** Non-payment of ARS contributions (Administradoras de Riesgos de Salud or health centers) by the Vicini Company has resulted in deprivation of workers’ entitled private healthcare benefits.
- **Arbitrary Terminations and Denial of Benefits Payments:** The Vicini Company continues to fire veteran workers at whim and refuses to pay the benefits for which these workers have made long-term contributions.
- **Refusal to Issue Work Contracts:** The Vicini Company refuses to issue written contracts that are guaranteed under Dominican law and has failed

to comply with a November 2008 court ruling ordering the Vicini Company to formalize, in writing, the contracts requested by their workers in a class action suit.

Understanding that the effects of these human rights violations gravely impact not only the workers themselves, but their families and children as well, we call upon authorities in the Dominican Republic and the international community with even greater urgency to recognize and rectify these abuses immediately, and to establish systems for proper monitoring of compliance, as well as accountability and penalty for violation.

Introduction:

It is imperative that the severe deterioration and abuse of human rights on the CAEI/ Vicini Group* sugar cane plantations during the current harvest be brought to the immediate attention of the public, as well as national and international media. It is also imperative that the Dominican government hold accountable those who are responsible.

While the violations enumerated below are focused on Haitian cane cutters themselves, the gravity of the trickle-down effect cannot be ignored. When salaries are impacted by fraud or arbitrary termination, when benefits are withheld, when adequate healthcare is denied, it is no longer the workers alone who suffer, but their families and, especially, their children.

*CAEI (Consortio Azucarero de Empresas Industriales)/Vicini Group will be referred to hereinafter as the Vicini Company.

Author's Note:

During the ten years I lived and worked among the Haitian cane cutters within the *bateyes* of my parish, I witnessed the abuses that were and still are the shameful foundation from which these newer, and sometimes more covert, forms have evolved. Information for this report was culled from various sources, including interviews with workers, as well as eyewitness accounts by journalists and human rights advocates. The violations described below are divided into seven categories.

1. Failure to Withhold Social Security:

[Copies of actual paystubs are attached at the end of this report for your review.]

A significant and alarming difference is revealed when two representative paystubs from the Vicini Company's Cristóbal Colón Mill are compared. During the 2004-2005 harvest, the Company—acting as custodial agent—made IDSS (Dominican Social Security Institute) deductions, while during the current 2008-2009 harvest no Social Security withholdings were made. The egregious consequence is that workers are now deprived of medical insurance, pension, disability, worker's compensation, protection against hazardous worksite conditions, and infant care—all of which are mandatory by law.

Moreover, amounts deducted in previous years were a virtual farce. To date, not a single elderly pensioner among the sugar cane cutters for the Vicini Company has been successful in collecting a pension (most appeals have been *in process* since 2003). Attorneys for the cane cutters, led by Dr. Noemi Mendez, possess complete files for over 350 workers. Yet when paperwork is filed with the IDSS, they are told that no records exist and claims cannot be honored, in spite of the fact that deductions were routinely taken from these workers' salaries by the Vicini Company up until the 2008-2009 harvest season.

Essentially, by *withholding* money for pensions, but never actually disbursing them, both the Vicini Company and the Dominican State have been effectively stealing from the workers. The victims of this theft are consequently forced to end their days in the *bateyes* [plantation shantytowns], condemned to a level of misery beyond what they endured during their productive years.

Where ARE the millions of pesos that the Vicini Company has been withholding from the sugar cane cutters for decades?

The IDSS is hereby urged to conduct an inquiry into the whereabouts of these monies and to oversee a transparent distribution of deducted amounts owed to individual workers and/or their families.

2. Sub-Standard Salary:

According to the paystub for the 2008-2009 harvest, the Vicini Company pays 110 Dominican pesos per ton of cut sugar cane. This is equivalent to \$3.05 per ton, which is both an insult and tantamount to robbery. Even worse, it is the same, *already* sub-standard price per ton that was being paid for last year's harvest. If the average worker cuts one ton per day and his average day is 12 hours long, the wage translates to approximately 25 cents per hour.

Official minimum wages established by the government based on a 10-hour work day are 150 pesos per day (or \$4.17) for rural/farm workers and 95 pesos (or \$2.64) for cane cutters, which is 37% less. There is another inherent inequity in the system when it comes to the sugar industry. Assuming that a cane cutter manages to cut only one-half ton of sugar cane in a given day, his salary from the Vicini Company would be 55 pesos, and not the government minimum of 95. Injured, ill and elderly cane cutters are particularly vulnerable under this system.

Why does the Vicini Company continue to exploit laborers by refusing to provide a decent standard of living through adequate compensation? Why

does the Dominican State set the minimum wage for sugar cane cutters below that of other agricultural laborers?

The Ministry of Labor is hereby urged to develop and enforce a just and equal salary scale for *all* laborers in the agricultural sector without discrimination against sugar cane cutters, and to monitor regional offices for verification of and adherence to wage standards.

3. Weight Fraud:

Cheating the cane cutter is a practice with a long history in the sugar industry. And nothing has changed on the Vicini Company plantations *except* the method. This year, weighing abuse continues in two new ways:

a) First, the sugar cane is often not weighed at all, but unloaded and estimated by sight. This procedure is intrinsically unreliable and lends itself to fraud.

b) Second, when the sugar cane *is* actually weighed, the Vicini Company does so at night. Implicit in this insidious practice is the absence of the cane cutter. Two conditions are in place to prevent a worker from witnessing the weighing of his daily harvest: (1) it is late and the exhausted worker needs to return to his *batey*; but; (2), his *batey* is *now* very far away. The Vicini Company currently transports cane cutters to work in plantations that are located a great distance from their *bateyes*. Unable to return “home” on foot, workers must wait to be transported by tractor-pulled carts.

As a result of such underhanded tactics, ox handlers, foremen, weighers, superintendents, and administrators are free to manipulate figures and divvy up the earnings they have swindled from the cane cutters. The number of bogus vouchers arriving at the payment offices on Saturdays, with forged identities or bearing the names of non-existent persons, testifies to the extent and audacity of this form of abuse. Many cutters are never paid for the sugar cane they themselves have harvested because someone else has already claimed their pay. The fraud can take place either at the weighing station or the sugar mill, where a worker’s specific tonnage cut can be falsely registered under another name or ID number by company employees who are free to operate much like an internal “mafia.”

Finally, weighing abuses continue to be exacerbated by the well known practice in the *bateyes* of scale tampering. It is common knowledge that—however sophisticated—even newer digital scales can be, and frequently are, “adjusted.”

Why is the Vicini Company permitted to facilitate and encourage the level of poverty for cane cutters through fraudulent or manipulative weighing methods?

The Ministry of Labor is hereby urged to investigate the extent of fraudulent behavior in the weighing of, and remuneration for, cut cane, and to punish offenders by means of fines, termination of employment or imprisonment.

4. Human Trafficking:

The trafficking of human persons has been repeatedly denounced in years past by organizations such as the Catholic Church, the US State Department (Human Rights Reports), Amnesty International, Human Rights Watch, etc., as well as by individuals such as myself. These denunciations have applied equally to plantations belonging to the state-owned CEA (Consejo Estatal de Azúcar), as well as those belonging to the Campollo (Barahona sugar mill), Fanjul (Central Romana sugar mill), and Vicini (Cristóbal Colón sugar mill) families

Trafficking had begun to decrease dramatically during the previous three harvests in response to pressure from the media—not because rule of law had suddenly prevailed on the sugar cane plantations. The Vicini’s powerful legal firm of Patton-Boggs effectively bullied individuals and institutions into refraining from further action. Additionally, a relentless lobbying campaign sponsored by the Vicini and Fanjul families in concert with the Dominican Government attempted to discredit the reputations of any persons or parties who focused attention on the gravity of the trafficking issue.

To compensate for the reduction in trafficked Haitian laborers, the Vicini Company introduced some mechanization practices and filled the remaining manpower gap by recruiting workers from other regions in the Dominican Republic. This plan was rife with problems. For one thing laborers who spoke Spanish and had some knowledge of their rights were soon discovered to be less “manageable” than trafficked Haitians, who were intimidated and therefore easily manipulated.

Consequently, this despicable practice is once again a sad reality in the Dominican sugar industry. Thousands of young men, recently arrived from Haiti, began to appear during the weeks prior to the 2008-2009 harvest. Of the

usual 25,000 to 30,000 who cross the border, 10 to 15 percent (or anywhere from 2,500 to 4,500 workers) are taken to Vicini plantations.

Though the majority consists of single men, entire families are also trafficked. It should be noted that children brought in with their parents, as well as those subsequently born in the Dominican Republic, are particularly at risk. Child labor in the *bateyes* is a common occurrence, especially during the planting season.

When any attempt at conversation is made, it soon becomes clear that the new Haitian arrivals are frightened, and have been indoctrinated by company agents and traffickers. They do not mix with other residents of the *bateyes*, cannot speak a single word of Spanish, and are forbidden to leave the plantation for the duration of the harvest. When pressed for an answer as to how they suddenly “appeared” one day out of nowhere, all they will reveal is that *buscones* [traffickers] from the capital were involved. Apparently new operatives have been deployed, since the Vicini Company’s traditional *buscones* have not been observed leaving the plantations to go into Haiti or even to the Haitian border.

It seems that, although the companies proclaim their labor needs are declining as a result of mechanizing the harvest process, it remains much more lucrative to smuggle manual labor in from Haiti.

Who ARE these new traffickers? Clearly, it is impossible for thousands of men to cross the border without the complicity of the National Army, Navy, CESFRONT, the National Police, the Directorate General for Migration, and other state institutions, as well as the sugar companies themselves.

An official investigation conducted by qualified authorities and under the direction of Dr. Franklin Almeyda Rancier, Secretary of the Interior and Police, is hereby requested so that human trafficking can be stopped immediately.

Simultaneously, the United States Embassy is urged to engage the expert entity responsible for preparing the Human Rights Report, published annually by the State Department, to investigate these events *independently*. In this manner, said reports will gain credibility, especially among those who suffer directly from these abuses.

Along the same line, it is suggested that a concrete way to identify abuses and rectify errors would be for United States Embassy officials to visit the *bateyes* and speak with the cane cutters directly—and *not* with guides who

are employees of the Vicini Company, as was done in 2008, but rather with personnel who have no interest in the Company and who are sufficiently qualified to conduct such visits.

A visit that does not extend beyond the Cayacoa—the exhibition *batey* of the Vicini Company—would be entirely ineffectual.

5. Deprivation of Proper Healthcare:

While the Vicini Company boasts that the right to healthcare is one of its “advances and improvements,” the facts say otherwise.

Any sugar cane cutter who does not contribute to his private medical fund will not receive medical attention from any ARS (Administradoras de Riesgos de Salud) [Health Centers], beyond the largely ill-equipped “token” clinics that appear in some *bateyes*. The Vicini Company claims that medical care is a “gift” to the worker and alleges that it contributes to the ARS without deducting the cost from the worker’s paycheck. However, a recent meeting between personnel of the Cristóbal Colón sugar mill and the directors of the “Pedro María Santana” hospital in San José de Los Llanos (part of the Public Health system) would suggest otherwise. Under discussion was the hospital’s growing frustration with the flood of patients the sugar mill was bringing to its health center.

If the sugar mill’s claim is true, that the Vicini Company is up to date with its ARS payments, then why do workers receive attention at a public health hospital, thereby burdening the Dominican state? Why are they deprived of the private healthcare to which they are entitled?

The Ministry of Public Health is hereby urged to investigate these abuses and the accompanying embezzlement of state funds.

6. Arbitrary Terminations and Denial of Benefits Payments:

During the last season, approximately 200 Vicini Company workers were fired at whim, for no apparent reason. Although it is the Company’s legitimate right to do so, it is of some concern that workers who receive pink slips are immediately denied access to the sugar mill offices. Blocked by security, they are unable to collect the benefits owed them after years of work and IDSS deductions. Some of those fired were elderly; some were close to me and continue to be active in

the ongoing struggle for workers' rights alongside Dr. Noemi Mendez; most, however, are part of the contract litigation discussed in Item 7, below.

Relative as much to terminations and denial of benefits as it is to the contractual litigation (Item 7) is a new ploy on the part of the Vicini Company to “thin the ranks” of those actively participating in the lawsuit against them. They are now offering one-time “benefits” payments to fired workers in what can be considered nothing short of a payoff. Cane cutters who have been with the company for 15-20 years are presented with checks amounting to 4,000-6,000 pesos (or \$111.10-\$166.67), when in fact the Labor Office itself estimated that their due compensation amounted to over 65,000 pesos (or \$1,805.00)—over ten times the Vicini’s “benefits” settlement.

Workers in the grip of fear and desperation over the sudden loss of their jobs are all too familiar with the dire poverty that will ensue. In a manifestation of classic “slave mentality,” some are so conditioned to believe that nothing can possibly improve for them, that they accept less than a tenth of what is their due. The Vicini Company, in turn, is all too familiar with the advantages and profitability of possessing the classic “master’s” mentality.

Why does the Vicini Company fire veteran workers and smuggle illegal Haitians across the border? Is this part of a Company plan to deny contracts to long-time workers in order to keep payroll costs lower? Why are fired workers denied their rightful benefits payments? Why are some being offered amounts that account for less than ten percent of their contributions? Where is the other 90-plus percent of the monies deducted from these workers' salaries by the Vicini Company?

The Ministry of Labor is hereby urged to conduct a thorough investigation with regard to these issues.

7. Refusal to Issue Work Contracts:

According to the Code of Dominican Labor Law, a written work contract is guaranteed to any worker who makes a legitimate request. Required to be signed in quadruplicate, one copy must be provided to the company, another to the worker, and two copies must be filed with the offices of the Ministry of Labor.

Since March 16, 2000, workers of the Vicini Company have been respectfully and repeatedly requesting contracts. In August 2006, five hundred workers formally authorized a group of lawyers to negotiate the signing of contracts on

their behalf before the Secretary of the Ministry of Labor and subsequently before the Labor Court of San Pedro de Macorís.

Although the Vicini Company tried by every means at its disposition to boycott this process, on November 7, 2008, the Honorable Magistrate, Doctor Ana María Elizabeth Pérez Zapata, in a historic decision, favored the workers, explicitly stating the following on page 39 of her ruling:

[...] SECOND, the Ingenio Cristobal Colón C x A is ordered to meet with the workers' representatives to formalize in writing the work contracts requested by the plaintiffs, stipulating in these contracts years of service to the company, salaries, Christmas bonuses, participation in work benefits, medical insurance, and other benefits. – [...]

Why has the Vicini Company refused to carry out this judgment in favor of the workers whose standard of living they continuously claim to want to improve? Why have they also appealed the decision before the Labor Court of San Pedro de Macorís in an attempt to deprive thousands of workers and their families of a fundamental right?

The Dominican state is also urged to take all necessary measures to assure the Vicini Company's compliance with the original ruling.

Not only does the Vicini Company continue to ignore its contractual obligations, but it seems to have pressured the United States Embassy in the Dominican Republic to disregard subsequent violations. In 2005, the US State Department Human Rights Report stated:

"[...] The Diocese of San Pedro de Macorís presented a draft work contract to the Vicini Consortium and other companies in the year 2001. These companies did not adopt the contract [...]"

Subsequent Human Rights Reports (2006-2008) make no reference to the work contracts. If this inconsistency had been due to an initial error in 2005, then a retraction would have been in order; if not, the violation should have been included in reports from 2006 onward, since the refusal to issue written contracts is an ongoing violation of a legally guaranteed right.

Coercion by the Vicini Company has extended, via written communiqués, even to European diplomatic corps members in the Dominican Republic.

Most recently, many of those same 500 workers, who first sought legal representation in 2006 and who are now in the final stage of litigation, are being fired *en masse* by the Vicini Company (refer to Item 6, above).

How is it that the Vicini Company is free to violate the Code of Dominican Labor Law time and time again with total impunity?

The Ministry of Labor is strongly urged to investigate and prosecute the Vicini Company for infringements against Dominican law with regard to the issuance of labor contracts. It is also urged to examine the Vicini Company's coercive tactics, and retaliative terminations, in this regard.

Conclusion:

It is said that time waits for no man, but on the sugar cane plantations of the Dominican Republic that phrase seems to present a contradiction. Time stands still there. Time *does* wait. Generations upon generations of Haitian sugar cane cutters have felt the searing sting of racism and the shame of objectification; they have lived the bitter realities of poverty, statelessness, fraud, degradation, hunger and servitude. Men, women and children still suffer from both the causes and the effects of abuse. Not much has changed. Machetes are still the tool of choice; rags are still the preferred attire.

No more.

Challenges cannot be met with cowardice and averted eyes when the flagrant abusers of human rights try to stare their accusers down.

Recommendations:

Specific recommendations have been supplied at the end of each of the seven abuses described. All these people and agencies—avowed champions of justice and human rights—must act swiftly, humanely and judiciously.

In addition, I extend an open invitation to any organization, government official, journalist, celebrity or individual whose heart has been stirred, or whose indignation has been sparked, to join me in advocating for the rights of Haitian workers whose bitter labors in the sugar cane fields of the Dominican Republic make *our* lives a little sweeter.

If real change is to occur it must begin with respect for the dignity we all share as members of the same human family.

Father Christopher Hartley

Note: For further clarification, feel free to contact me at the following email address: Press.MisionMisericordia@gmail.com

Appendix:

Payroll stubs corresponding to the harvest seasons of 2004-2005 (showing IDSS- Social Security deduction) and 2008-2009 (with no IDSS deduction).

CERTIFICACION
DE PESO DE CAÑA
INGENIO 2320 PICADOR
CRISTOBAL COLON ZAFRA 2004-2005
 Col. Hato de Palma Cod. 62
 Nombre: Jansuise **0078**
 Ficha Número 201634
 454
 Chucho 05 Día 05 Mes 12 Año 04 Peso Neto T/M 190 Precio por Ton/Met. 5300
 IMPORTE RDS 10450 CAÑA CORTADA Verde Quemada
 Seg. Soc. RDS 261 TIPO DE CORTE Pila Chorro
 NETO A PAGAR RDS 10189 PROCEDENCIA DE LA CAÑA
 Campo No. 674 Pisatin No. 0078
 Firma del Pesador [Signature] **10189** 42434
 FECHA CIERRE DE QUINCENA

01:INGENIO CRISTOBAL COLON Zafra : 2008/2009
Picador Fecha Corte de Pago: 27/01/2009 Colonia: 33: Sabana tosa Volante No. : 01947
 Toneladas : ****13.40 Valor Bruto : 1,474.00 Seguro Social: 0.00
 Cant. Tickets : 3 Valor a Cobrar : **1,474.00 ***** UN MIL CUATROCIENTOS SETENTA Y CUATRO CON 00/100
 Pagador Picador **500306** NARCISO YAN

Colonia	Guia	Ticket	Fecha	Tons.	Precio	Colonia	Guia	Ticket	Fecha	Tons.	Precio		
Sabana tosa	000342	000088	23/01/2009	4 Verde	7.60	110.00	Sabana tosa	001909	000288	26/01/2009	4 Verde	2.80	110.00
Sabana tosa	001909	000289	26/01/2009	4 Verde	3.00	110.00							